

CHAPTER 28.

PUBLIC FORESTS.

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Cross Reference: See definitions in 24.01.

28.01 Forestry supervision. The state conservation commission shall execute all matters pertaining to forestry within the jurisdiction of the state, direct the management of state forests, collect data relative to forest use and conditions and advance the cause of forestry within the state.

28.02 State forests lands. (1) **DEFINED.** State forests lands include all lands granted to the state by an act of congress entitled, "An act granting lands to the state of Wisconsin for forestry purposes," approved June 27, 1906; all lands granted to the state by an act of congress entitled, "An act granting unsurveyed and unattached islands to the state of Wisconsin for forestry purposes," approved August 22, 1912; all lands donated to the state by the Nebagamon Lumber Company for forestry purposes; all lands acquired pursuant to chapter 450, laws of 1903, chapter 264, laws of 1905, chapters 638 and 639, laws of 1911, or pursuant to sections 1494-41 to 1494-62, both inclusive, Wisconsin statutes of 1915, and all lands subsequently acquired for forestry purposes. The commission may designate as state forest lands any lands within state forest boundaries which were purchased with other conservation funds and where forestry would not conflict with a more intensive use.

(2) **ACQUISITION.** The commission may acquire lands or interest in lands by grant, devise, gift or purchase within the boundaries of established state forests or purchase areas; and outside of such boundaries for forest nurseries, tracts for forestry research or demonstration and for forest protection structures, or for access to such properties.

(3) **DISPOSITION OF IMPROVEMENTS.** Buildings not required for administrative or other public use may be razed for salvage material. Otherwise they shall be sold.

(4) **SALE OF STATE FOREST LANDS.** (a) Lands outside state forest boundaries may be sold pursuant to s. 24.085.

(b) Lands within state forest boundaries may be sold pursuant to s. 24.085, after public hearing in the county courthouse of the county in which the lands to be sold are located, following at least 2 weekly notices in a newspaper having general circulation in the county, and in the official state paper, for the following purposes only:

1. To a local unit of government when required for a public use.
2. To others for the purpose of making land adjustments due to occupancy resulting from errors of survey.
3. To convey good quality, arable land.
4. To settle land title disputes.
5. To public utilities and co-operative associations when needed for power and telephone substations, transformers, booster stations and similar installations.
6. When no longer needed for conservation purposes.

(5) **EASEMENTS.** The commission may grant easements for a right-of-way for public or private roads or public utility lines, or for flowage rights where it finds that any such use at the designated location does not conflict with the planned development of the forest. Easements for public roads shall be granted for a nominal sum; in all other cases the appraised value shall be required in payment.

(6) **CERTAIN LEASES FORBIDDEN.** No lease shall hereafter be issued or any existing lease extended or renewed by the commission on any unsurveyed and unattached islands in inland lakes north of the township line between townships 33 and 34 north, and granted to the state by an act of congress, approved August 22, 1912, entitled "An act granting unsurveyed and unattached islands to the state of Wisconsin for forestry purposes,"

except that the commission may extend or renew any such leases in existence June 25, 1925, to public charitable, religious, educational or other associations not organized for profit, and except that the commission may extend or renew any such leases in existence June 25, 1925, on islands upon which improvements have been made.

History: 1955 c. 255.

Sales of forest lands, as defined in 28.02 contained in 24.11 (3) since enactment of ch. (1), are no longer subject to the restrictions 474, Laws 1949. 39 Atty. Gen. 306.

28.03 State forests. (1) **DEFINED.** State forests shall consist of well blocked areas of state owned lands which have been established as state forests by the conservation commission.

(2) **NAMED.** The state forests are designated as follows:

- (a) "American Legion State Forest" in Oneida county.
- (b) "Brule River State Forest" in Douglas county.
- (c) "Flambeau River State Forest" in Sawyer, Rusk and Price counties.
- (d) "Kettle Moraine State Forest" in Sheboygan, Fond du Lac, Washington, Waukesha, Jefferson, Ozaukee and Walworth counties.
- (e) "Northern Highland State Forest" in Vilas and Iron counties.
- (f) "Point Beach State Forest" in Manitowoc county.

(3) **COMMISSION MAY NAME.** The commission may designate by appropriate name any state forest not expressly named by the legislature.

28.035 American Legion State Forest. (1) The state forest located in townships 38 and 39 north, ranges 7, 8 and 9 east, Oneida county, shall be named the American Legion State Forest.

(2) The conservation commission shall enter into an agreement with the Wisconsin department of the American Legion for hunting in the state forest lands described as lots 3, 4, 6 and 7 of section 8 and lots 2 and 3 of section 17, township 38 north, range 7 east, Oneida county, which are used in connection with Camp American Legion and which said department is now maintaining on this location as a restoration camp for sick and disabled veterans of World War I and World War II and their dependents.

28.04 Management of state forests. (1) **PURPOSE.** The primary use of forests is silviculture and the growing of recurring forest crops, with scenic values, outdoor recreation, public hunting and stabilization of stream flow as extra benefits. Forests are productive properties which contribute to employment in the woods and mills, provide commodities essential to national defense and consumers' needs, and earn returns on the investment. However, full recognition must be given to the principle of multiple use, including designation of special use tracts ranging from natural areas receiving a high degree of protection to recreation sites with appropriate facilities.

(2) **WORK PLANS.** Maps and records for each state forest shall be compiled, covering land ownership, forest planting, cultural cutting, timber sales and special use areas. Based on these records, plans shall be projected for future work, with forest inventories and growth studies leading to determination of the allowable annual cut which can be taken while building up a normal forest growing stock of high quality. The allowable annual timber cut shall require approval by the commission.

History: 1953 c. 425.

28.05 Timber sales. (1) **LIMITATIONS.** Cutting shall be limited to trees marked or designated for cutting by a forester in the professional series of the state classified civil service or by a commission-designated employe equally qualified by reason of long, practical experience. The commission is authorized to sell products removed in cultural or salvage cuttings and standing timber designated in timber sale contracts, but all sales shall be based on tree scale or on the scale, measure or count of the cut products.

(2) **PROCEDURE.** Sales of cut products or stumpage having an estimated value of \$500 or more shall be by public sale after published notice in a newspaper having general circulation in the county wherein the timber to be sold is located. Sales with a value of \$1,000 or more shall require approval by the conservation director.

History: 1951 c. 247 s. 10; 1953 c. 425.

28.06 Forest nurseries. (1) **LIMITATION.** Only planting stock of species and sizes suitable for forest and woodlot planting shall be produced in state forest nurseries. The commission may employ labor at prevailing local wages for nursery operation or reforestation.

(2) **DISTRIBUTION.** In addition to use of planting stock on state lands, the commission may distribute stock for growing forest products, for establishing windbreaks or shelterbelts, for control of soil erosion, and for game food or cover, but not for ornamental or landscape planting. Prices of planting stock shall be approved annually by

the commission and shall be based on the cost of production and packaging. To encourage forest planting free stock may be allotted to any nonprofit organization.

(3) **EXCHANGE.** For the purpose of adjusting forest planting programs, exchange of stock with counties or the United States forest service is authorized.

(4) **RESALE OF NURSERY STOCK.** Any person who shall sell forestry stock secured from the conservation commission shall be punished by a fine of not less than \$50 nor more than \$100.

History: 1953 c. 425.

Employment of seasonal labor by the forestry division of the conservation department is subject to the provisions of ch. 16, Stats. (1) authorizes employment for a period not exceeding 500 hours per year. Such employment is subject to the provisions of the workmen's compensation act and the unemployment compensation act. Employees are not covered by the Wisconsin retirement system. The prevailing wage is to be determined by the director of personnel. 39 Atty. Gen. 351.

28.07 Co-operation. The commission may co-operate with the college of agriculture of the university of Wisconsin and with departments of this or other states, with federal agencies or with counties, towns, corporations or individuals, to the best interest of the people and the state, in forest surveys, research in forestry and related subjects, forest protection and in assistance to landowners to secure adoption of better forestry practice.

28.08 Income. All income from state forest lands shall be paid into the state treasury to the credit of the reforestation fund.

28.09 Governor authorized to enter into agreements with president of United States; scope of agreements. (1) The governor in the name and on behalf of the state of Wisconsin is authorized to enter into such contracts or agreements with the president of the United States as the president may deem necessary or advisable in carrying out the provisions of an act of congress entitled "An act for the relief of unemployment through the performance of useful public work, and for other purposes," approved March 31, 1933, and any other act of congress amendatory thereof or supplementary thereto.

(2) Such contracts or agreements may include the following conditions and provisions which the state of Wisconsin hereby accepts, agrees to and promises to perform:

(a) If, as a result of any conservation work projects on state, county or municipally owned land, the state derives a direct profit from the sale of any such land or the products thereof, the proceeds shall be divided equally between this state and the federal government until the federal government has been repaid the amount of its investment in such work, computed at the rate of \$1 per man per day, with a maximum limitation of \$3 per acre of land purchased.

(b) No work is to be done on privately owned land except as may be necessary in the public interest for regional or state-wide forest protection against fire, insects and disease or simple flood control measures to arrest gully erosion and flash run-offs at the headwaters of streams.

(c) When the public interest requires work to be done on privately owned land as provided in paragraph (b) hereof, the state of Wisconsin assumes responsibility for the reasonable protection of work done either by the landowners or otherwise and agrees that if a contract with the landowner is obtained, such contract shall provide that this state reserves the right to remove at its option and without recompense to the landowner, any structure or other thing of removable value resulting from the work done, including products of trees planted to arrest erosion.

(d) The landowner may be required under the contract provided for in paragraph (c) to protect the soil saving dams and other works and to practice specified cultural methods for the prevention of soil erosion, and if he fails to meet these requirements, the conservation commission may cause to be constructed such terraces and other works as will repair the damage done through the landowner's noncompliance with the contract. The cost of such construction shall be collected, paid and accounted for as a special state charge against the land specified as the basis of the original contract and shall be paid into the conservation fund and used as a revolving appropriation to carry out the provisions of this paragraph.

(3) In addition to the conditions and provisions assented to in subsection (2), such contracts or agreements may contain such other conditions or provisions, which this state solemnly pledges itself to carry out, as the governor may deem necessary or advisable to enable this state to secure the benefits to which it may be entitled under any of said acts of congress.

(4) Whenever any contract is entered into by the state of Wisconsin with a private landowner as provided for in subsection (2), the recording of such instrument under the provisions of chapter 235, and the publication of notice of such agreement in a news-

paper published in the county where the land is located, once each week for 2 successive weeks, shall be deemed constructive notice of such agreement to any mortgagee of the lands covered by said agreement. Upon the failure of such mortgagee to object thereto by written notice served upon the director of conservation within 2 weeks after the completion of said publication, the mortgagee shall be conclusively deemed to have assented thereto.

28.10 County forest law. The county board of any county may by resolution acquire land by tax deed or otherwise for the purpose of establishing county forests.

28.11 Administration of county forests. The county board of any such county shall have power:

(1) To enact an ordinance designating a committee to have charge of county forests, specifying the powers and duties of such committee and of county officers, including entry of lands under the forest crop law, establishing regulations for use of county forests by the public and providing penalties for their enforcement.

(2) To appropriate funds for the purchase, development, protection and maintenance of such forests and to exchange other county-owned lands for the purpose of consolidating and blocking county forest holdings.

(3) To enter into co-operative agreements with the conservation commission for protection of county forests from fire.

(4) To establish reserve strips along roads and waters and to enter into long-term co-operative leases and agreements with the conservation commission or the lakes states forest experiment station for the use of tracts of county forest for forest management research.

(5) To establish transplant nurseries for growing seedlings, from the state forest nurseries, to larger size for planting on county forests, but no ornamental or landscape stock shall be produced in such nurseries.

(6) To establish forest plantations and engage in silviculture and forest management.

(2) does not authorize counties to acquire than blocking out county forests. 40 Atty. lands by exchange for any other purpose Gen. 57.

28.12 Withdrawal and sale of county forest lands. The county board by resolution may authorize withdrawal of county forest lands from entry under the forest crop law and sale to the state or to any local unit of government at an agreed price. In the case of sale to any other purchaser the following provisions shall govern:

(1) All applications for the purchase of county forest lands shall be addressed or referred to the committee designated by the county board to administer county forests.

(2) The committee shall advise the conservation commission, which shall provide for an examination and report on the character of the land, the volume of timber and any other special values, and shall set a minimum valuation based on such report. In transmitting its valuation, the commission shall give its recommendations for or against sale of the property.

(3) Any county board resolution authorizing withdrawal and sale of county forest lands to any purchaser other than the state or a local unit of government shall require a two-thirds vote of the membership of the board and shall instruct the county clerk to publish a notice of sale, listing the lands, the minimum bid, the amount of the payment accompanying the bid and the time and place for opening of bids by the committee designated to administer county forests. In case a successful bidder withdraws his bid the accompanying deposit shall be forfeited to the county.

(4) When forest crop lands are withdrawn and sold to any purchaser other than the state or a local unit of government, the county shall reimburse the state in the amount previously paid out on the withdrawn lands under s. 20.280 (80) to (85) and any such receipts shall be credited to the same section.

(5) In cases of withdrawal of scattered county forest crop lands the conservation commission shall waive reimbursement where it finds that such withdrawal will result in county forest boundaries conforming with best use of the land.

28.13 Timber sales. Every timber sale shall be based on the tree scale, or the scale, measure or count of the cut products as reported by a scaler acceptable to the county board committee charged with the administration of county forests. Any timber sale in excess of \$500 shall be by sealed bid or public auction after publication of notice of sale in a newspaper having a general circulation in the county. Timber sale contracts with an estimated value below \$500 may be authorized by the committee. Any sale with an estimated value of \$500 or more shall require indorsement of the county finance com-

mittee and where such estimated value exceeds \$1,000, the approval of the conservation director shall also be required.

History: 1953 c. 425; 1955 c. 314.

County boards have no authority to make specific grants to towns from funds received for the sale of county-owned timber, even though for the purpose of restoring roads damaged in county lumbering operations. 43 Atty. Gen. 65.

28.14 State aid. (1) Any county having established and maintaining a county forest under the provisions of ss. 28.10 to 28.14 and having entered the same under the forest crop law shall receive from the state an amount equal to 10 cents for each acre of land within the county forest, to be used for the purchase, development, preservation and maintenance of such county forest. The conservation commission shall pay to such county the amount due to it as a state aid on or before March 31 of each year, based on the acreage of such lands as of the preceding June 30. Any county accepting forestry aid funds paid pursuant hereto thereby consents that the conservation commission may construct and use forest fire lookout towers, telephone lines and fire lanes or other forest protection structures on any county forest lands and the chairman or vice chairman of the county board, or any authorized committee thereof, of such county shall execute any easements on or over such lands which the conservation commission may require for forest protection.

(2) No lands may be purchased from state-contributed funds unless they will improve blocking of lands already entered under the forest crop law. Should any such purchased lands be sold, the county shall restore the purchase price to the county forestry fund.

History: 1955 c. 174.

28.20 Community forests. Any city, village, town or school district may acquire land, engage in forestry and appropriate funds for such purpose. In the case of a city or village or its school forest, the forest property may be located outside the city or village limits.

28.21 Management. Any municipality, by registering its forest with the conservation commission, shall be eligible to receive free planting stock from the state forest nurseries and the services of foresters in preparing and carrying out planting and forest management plans. No trees shall be cut except those marked or designated for cutting by a state forester. Products of the forest may be devoted to public use.

28.22 Timber sales. All sales shall be based on the scale, measure or count of the cut products. Any sale with an estimated value of \$250 or more shall be by published notice and public sale.

28.23 Income. All income from community forests shall be paid into the treasury, but may be assigned to the support of any legally authorized activity.