

2003 DRAFTING REQUEST

Bill

Received: **01/06/2003**

Received By: **mglass**

Wanted: **As time permits**

Identical to LRB:

For: **Donald Friske (608) 266-7694**

By/Representing: **Tim Gary**

This file may be shown to any legislator: **NO**

Drafter: **mglass**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - parks and forestry**

Extra Copies:

Submit via email: **YES**

Requester's email: **Tim.Gary@legis.state.wi.us** ✓

Carbon copy (CC:) to: **Joseph.Kreye@legis.state.wi.us** ✓

Pre Topic:

No specific pre topic given

Topic:

Various changes to laws regarding managed forest land

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1	mglass 02/12/2003	wjackson 02/13/2003	rschluet 02/14/2003	_____	sbasford 02/14/2003		S&L
	mglass 03/06/2003			_____			
	mglass 04/29/2003			_____			

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/1	mglass 05/06/2003	wjackson 05/07/2003	chaskett 05/07/2003	_____	mbarman 05/07/2003	amentkow 05/08/2003	S&L
/2	mglass 05/08/2003		jfrantze 05/08/2003	_____	mbarman 05/08/2003	mbarman 05/08/2003	

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~~816~~ PG
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Gibson-Glass, Mary

From: Gary, Tim
Sent: Thursday, December 19, 2002 4:16 PM
To: Gibson-Glass, Mary
Subject: MFL changes for drafting

Representative Friske would like to have recommendations by the Governor's Council on Forestry drafted into 3 bills. The recommendations can be found with support materials that may answer drafting questions of legislative intent. If you have questions, please feel free to call on DNR attorneys Jim Christenson or Eric Ebersberger, Rep. Friske or me.

The issues are referenced by numbers in the document on page 2.



GovCouncilMflFinalR
eport.doc

Jim *61318* *Eric-60228*

- easy* 1.1 - Omnibus
- 1.2 - Omnibus, but delay implementation until 2005
- drafted* 2.1 - Omnibus
- 2.2 - Omnibus
- 3.1 - Omnibus
- 6.1 - Omnibus
- 6.2 Omnibus
- 7.1 - Omnibus
- 7.2 - Omnibus
- 8.1 - Omnibus
- 8.2 - Omnibus
- 9.1 - Omnibus
- more* 6.3 - Separate Draft
- up* ~~10.1 - Separate Draft~~ → *do not draft*
- 2.3 - Do not draft
- 4.1 - Do not draft

Tim Gary

Legislative Assistant for
Representative Donald Friske (35th)
312 North Capitol
PO Box 8952
Madison, WI 53708-8952
Toll Free:(888) 534-0035
(608) 266-7694
FAX: (608) 828-3635
Email: Tim.Gary@legis.state.wi.us
<http://www.FriskeNet.net>

GOVERNORS COUNCIL ON FORESTRY

Special Committee Report, Approved December 5, 2002

- Review of Wisconsin's Managed Forest Law (MFL) -

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GOVERNORS COUNCIL ON FORESTRY – SPECIAL COMMITTEE REPORT

Executive Summary

This report is a product of a special Managed Forest Law Review Committee appointed by the Wisconsin Governor's Council on Forestry at its September 2002 meeting. The full Governor's Council on Forestry approved the report unanimously at its December 5, 2002 meeting.

Committee members include:

Council members-

Gene Francisco (Chair)
Senator Roger Breske
Representative Don Friske
Tom Schmidt
Eugene Schmit
Cathy Nordine
Jim Holperin

Interest group members –

Nancy Bozek, Wis Woodland
Owners Association
Colette Mathews-Wis County
Forest Association
Laura Jean Blotz-Wis Real
Property Listers Association
Jennifer Sundstrom-Wis Counties
Association
Allison Bussler-Wis Counties
Association
Rick Stadelmann-Wisconsin Towns
Association.



Summary of Recommended Actions:

<u>Reference</u>	<u>Recommendation</u>
1.1	Raise the non-refundable MFL application fee from \$100 to \$300 to encourage follow through with MFL entry. Use this additional revenue for contracting with consultant foresters to prepare MFL plans.
1.2	Require that certified plan writers prepare all MFL plans.
2.1	Move application deadline to July 1 (18 months before effective date).
2.2	Require a <u>recorded</u> deed be submitted with the application. This requires a change in administrative code (NR.16 (2)(a)) and not in statute.
2.3	Require landowner to supply copies of pertinent Certified Survey Maps (CSM) with the application. This may only require a change in administrative code.
3.1	Provide a penalty/fine for failure to complete a mandatory practice.
4.1	Dedicate some new DNR forester positions (project) to eliminate the large number of backlog practices or contract with consultants to establish backlog practices.
6.1	Modify the formula that determines the distribution of funds collected for the Yield and the Withdrawal taxes. Re-distribute funds currently going to the State to municipalities and counties.
6.2	Modify the calculation of the acreage share tax to more closely reflect the changes in actual property taxes paid on non-tax law forest land.
6.3	Modify the Resource Aid payment formula. Gradually reduce the number of acres required to qualify from 40,000 acres of tax law lands to 20,000 acres.
7.1	Change the closed acreage fee to 20% of average tax per acre on class 5 and 6 lands in towns and villages.
7.2	Increase the allowable acreage to be closed to public access to 160 acres per municipality.
8.1	Create a withdrawal fee of \$300 to be retained by the DNR to cover administrative costs associated with a withdrawal.
8.2	Increase the MFL transfer fee from \$20 to \$100 with the funds going to Forestry Account.
9.1	Allow a Town to certify to the DNR Forestry Division that personal property tax is not paid. DNR would be required to withdraw the lands from the MFL. Landowners would not be allowed an appeal hearing on this type of action.
10.1	Seek additional funding in the 03-05 budget to allow all field forester offices to have a high speed Internet connection.



Committee's Review Process

The **objectives** of this review are to:

- 1.) Review the Managed Forest Law (MFL) In the context of the Forestry Division's ability to meet the burgeoning workload, Forestry Account Legislative Audit concerns, and concerns expressed about its impact on local tax revenue.
- 2.) Recommend changes in the MFL that improve efficiency in application processing, enforcement and contract compliance as well as perceived inequities in the distribution of taxes, fees and aides.

Review Process:

The MFL Review Committee assessed MFL background material and input from an internal Forestry Division team during two meetings held in October and November 2002. The Committee identified adjustments in the MFL that require statutory/administrative rule amendments, budget initiatives or internal Forestry Division procedural changes.

The Committee identified the following eleven (11) issue areas that are recommended for improvement

Issue Areas:

1. Managed Forest Law Plans
2. Application Process
3. Law Enforcement
4. Backlog Mandatory Practices
5. Yield Tax, Cutting Notice/Report
6. Compensation to Municipalities and Counties
7. Open and Closed Lands
8. Transfers and Withdrawals
9. Buildings on MFL Parcels
10. Record Keeping
11. Internal Forestry Process/Policy



BACKGROUND

The Managed Forest Law Program:

The forest tax laws were initiated by the Legislature in the 1920s in response to the negative impact tax policies were having on the practice of sound forestry. Taxing the land based on the value of standing timber, the income from which would not be received potentially for decades, caused many landowners to destructively harvest their forest to pay their taxes. The Legislature created the Forest Crop Law in 1927, the first law in the nation to defer a portion of the property tax until such time as income was realized from the sale of timber. The Woodland Tax Law followed in 1953, and the Managed Forest Law in 1985.

The tax laws have had a tremendous impact on forest management of private forest lands within the state. These laws have been extremely successful at encouraging the sustainable management of Wisconsin's private forest lands. Current participation in the forest tax laws covers approximately 2.67 million acres, roughly 32,000 contracts and approximately 27,000 landowners. This is the largest land management program in the state in which management plans have been developed and landowners are committed to following them. As of 2002, the MFL program has 2.23 million acres or 83% of all tax law acreage. The remaining acreage is under the Forest Crop Law, which has been closed for new entries since 1986. The Woodland Tax Law expired in 2000, the year the last remaining contracts expired.

Timber harvesting on tax law lands must have prior approval by and be reported to the Department of Natural Resources when complete. Management recommendations include forest management, watershed protection, recreation, wildlife, endangered resource, aesthetic, and other management considerations.

Landowners must consider their objectives for owning the land and then, based on those objectives, make a commitment for the next 25 or 50 years. With that commitment, the landowner receives an average of 80% property tax savings annually, according to a Legislative Audit in 1994.

From 1994 to 1998, forestry accepted applications to convert Forest Crop Law lands to Managed Forest Law on an accelerated basis due to special legislation. Sixty percent of the FCL lands (900,000 acres) were converted to MFL through this process.

The DNR has documented the activity differences between the FCL and MFL and found the MFL administrative activity to be 3.4 times higher than FCL on the same acreage. These activities include cutting notices and reports, transfers and withdrawals. The intensity of activity is present both at the field level with increased harvest activity, questions from landowners, land transfer, etc. and with increased administrative activity in the Forest Tax Section (FTS) within the Bureau of Forest Management in the Division of Forestry.

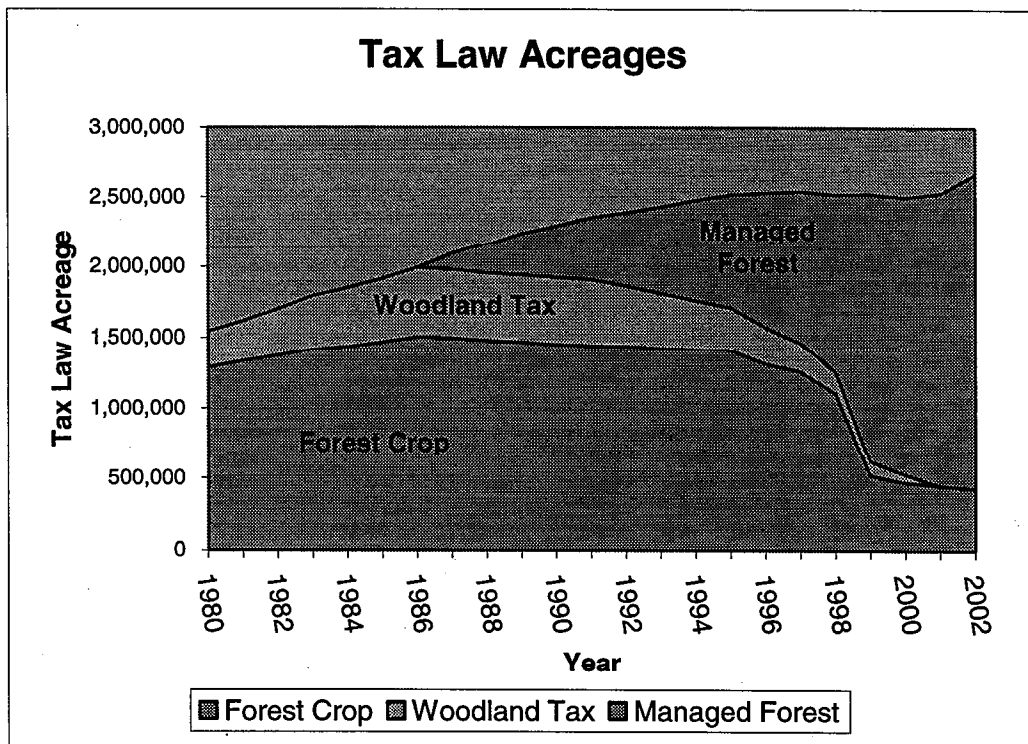


The Development of a Backlog Workload:

The number of MFL applications has been growing for a number of years. Applications have more than doubled in the last four years and tripled since 1990. The following table documents the application numbers by year. It does not include the FCL conversion to MFL applications from 1994 to 1998 since the Department had up to 3 years to process each application.

Year for Entry	Number of Applications	No. Change from Prev. Yr	Year Applications as % of 1990
1990	1291	--	100.0%
1991	1607	316	124.5%
1992	1844	237	142.8%
1993	1978	134	153.2%
1994	2267	289	175.6%
1995	1999	-268	154.8%
1996	1794	-205	139.0%
1997	1919	125	148.6%
1998	1795	-124	139.0%
1999	1843	48	142.8%
2000	1637	-206	126.8%
2001	2618	981	202.8%
2002	3265	647	252.9%
2003	3857	592	298.8%

This application increase has overwhelmed the Forestry Division field staff and limited their ability to work on other priority workloads. The following graph emphasizes the dominance the managed forest lands have gained on the program.



The increasing popularity of the MFL program, combined with the increase in administrative activity levels under MFL as compared with FCL has generated a severe increase in workload. The addition of 23 new foresters in the 01-03 State Budget to address the backlog MFL work have been completely consumed by the increase in new applications for entry into the MFL. This has created an even larger unmet workload in mandatory MFL practices and other work that exists in private forestry.

Efforts to contract with private consultant foresters to write tax law management plans for new entries in to the MFL program over the past six years has helped with this workload, but the capacity of the private sector is limited. Estimates show that the private sector currently has the capacity to complete less than 25% of the plans required for the new entries this year, even if the amount of contracting funds were not a limiting factor.

Recent changes in the private forestry administrative code more clearly define the department's private forestry priorities and emphasize the important role cooperating consultant foresters can play. However, until the partnerships with private consultant foresters, cooperatives, associations and other landowner groups develop further, services to the private forest landowners will be in short supply.

Mandatory Practices Backlog:

The mandatory practices written in the MFL management plans require a deadline for completion. Practices designated as mandatory in the statute include harvesting, thinning, release from competitive vegetation, reforestation and soil conservation. Foresters must notify the landowners in advance of practices coming due. Foresters then work with the landowner,



consultants, and loggers to secure completion of the practices. Department foresters monitor implementation of MFL contracts and conduct enforcement actions on practices not completed. They also document the status of each practice in a database tracking system called PlanTrac
NOTE: PlanTrac is a customized PC-based software to assist foresters in writing MFL management plans, maintaining forest stand inventory data and tracking landowner management practices.

Cooperating private consulting foresters are notified each year of upcoming mandatory practices due on tax law lands when they file an agreement with the department as a "Cooperating Consultant Forester". These private foresters have the first chance and are encouraged to contact landowners and offer their services. A significant number of mandatory practices are not picked up by consultants, due to their location, size, marketability or workload.

As identified earlier, MFL applications have tripled since 1990 and doubled in just the last four years. The number of mandatory practices being written into MFL management plans is growing faster than the foresters can insure their completion. In studying the mandatory practices overdue in 1995 versus 2001, we find a tremendous increase in all areas of the workload. An overdue (backlog) practice is defined as a practice that has not been completed by the end of the year for which it was scheduled. The following table demonstrates the level of increases.

Table 1. Mandatory practices due in tax law programs.

		<u>1995</u>	<u>2001</u>	<u>% change</u>
MFL	# of Practices	3,694	13,984	279%
	Total Acres	58,269	216,415	271%
FCL	# of Practices	2,355	16,427	598%
	Total Acres	52,332	273,051	422%
TOTAL	# of Practices	6,049	30,411	403%
	Total Acres	110,601	489,466	343%

The large backlog of mandatory practices is due in part to inadequate staffing to record practices on the database as they are completed. This created an inaccurate database of mandatory practices and hinders its usefulness in referring backlog practices to cooperating foresters. As a result of this large number of backlog mandatory practices, the DNR Forestry Division has placed a temporary moratorium on private timbersale establishment by its staff until the MFL database is updated and all backlogged mandatory practices are referred to private cooperating foresters.



ISSUES AND RECOMMENDATIONS



ISSUE 1 - MANAGED FOREST LAW PLANS:

In the last four years the numbers of MFL application has doubled from just under 2,000 in 1999 to almost 4,000 in 2002. Even with 400 to 700 plans being prepared by private forestry consultants contracting with the DNR, most Department private lands foresters are spending more than half of their time writing and processing MFL plans. Additional time is spent by department foresters to review and approve the plans prepared by the consultants under contract. Both DNR and consultant plans are subject to review. Five to ten percent of plans prepared each year are not signed by the landowner and thus not entered into MFL, costing approximately \$280,000. The increased time spent on MFL planning has resulted in a decrease of time for other landowner requests and follow-up on overdue mandatory MFL practices. Given that MFL participants receive about an 80% reduction in property tax liability under MFL it seems appropriate that they pay part of the cost of entry into the law.

RECOMMENDATIONS



1.1 Raise the non-refundable MFL application fee from \$100 to \$300 to encourage follow through with MFL entry. Use this additional revenue for contracting with consultant foresters to prepare MFL plans.

*ominibus
(0)*

If we assume the current application rate of 4,000 MFL applications will be submitted annually and existing DNR staff can complete the work for approximately 2,000 applications, then annually leaving 2000 plans that need to be contracted. Based on current contracting costs it would take \$1.5 million to contract 2,000 plans or an additional \$1.2 million over current available funding. A fee of \$300/application would provide funds to costshare 50% of cost to prepare the average MFL plan. Under this recommendation, the forestry account would fund the remaining 50% of the cost. Through extensive contracting for MFL plans Forestry Division staff will be able to redirect approximately 20 FTE to MFL contract compliance.



1.2 Require that certified plan writers prepare all MFL plans.

above

DNR staff spend an inordinate amount of time reviewing plans prepared by others that do not meet the requirements of the MFL, do not follow standard department approved silviculture, or are written so poorly that they fail to qualify as a MFL plan. Certification (with periodic re-certification) of plan writers would provide a standard by which landowners could judge the qualifications of the plan writer they hire and would reduce the amount of time needed for DNR foresters to review and approve plans.

*(0)
aff. date
?/??/2005
1/1/2005
D-Note*

*current law
has to be done by certified person?
take out certified Forestry language*

*rules to
certify*



ISSUE 2 - APPLICATION PROCESS

The Managed Forest Law application process can be cumbersome and time consuming due to the increasing number of applications and the need to verify completeness of the petition (deeds, tax bill, signature, lien holders, etc.). The time needed to assist landowners, processing and distribution to the field has increased beyond the resources of the Forest Tax Section (FTS). The gerrymandering of deeds to avoid "open" designation is adding to the problem. The foresters need the applications as early as possible to be able to completely and adequately complete the field work.

RECOMMENDATIONS



2.1 Move application deadline to July 1 (18 months before effective date).

Coordination and timing of contracting with private consultants would improve. This would provide consultants more field time and, as a result, they would be able to contract more plans. It would give the Forest Tax Section and field adequate time to process applications, prepare plans and field packets, and review entries. Landowners would have more time to consider and understand what they are applying for after receiving their tax bill (sticker shock), which would decrease the number of unsigned plans. This change would increase the amount of time available to foresters to meet with each landowner and discuss requirements, obligations, landowner objectives and provide better education/preparation of participating landowners.

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move
ba
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change

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following
November



2.2 Require a recorded deed be submitted with the application. This requires a change in administrative code (NR.16 (2)(a)) and not in statute.

Reduces the ability of a landowner to change ownership at last minute (usually associated with gerrymandering to "close" more acres). This would match requirements that counties have for tracking ownership.

(0)

into
the
statutes
in chain
of title



2.3 Require landowner to supply copies of pertinent Certified Survey Maps (CSM) with the application. This may only require a change in administrative code.

This would decrease the forester's time required to track down CSM information. Having all this information available makes reviewing easier, decreases the expenses of the forester in obtaining and paying for copies of information.

document
must
be
recorded



ISSUE 3 - LAW ENFORCEMENT

Concerns have evolved since the beginning of the Managed Forest Law program in 1987 about the lack of landowner follow through on mandatory practices. Landowners have limited understanding of their obligations under the MFL. Enforcement actions can take a considerable amount of time and there is concern as the foresters begin to deal with the large number of overdue (backlog) mandatory practices that law enforcement will overwhelm their already full workload.

RECOMMENDATION



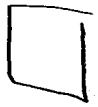
3.1 Provide a penalty/fine for failure to complete a mandatory practice.

Develop a penalty for not completing mandatory practices by the scheduled date in the approved management plan. The DNR would certify to the County treasurer a \$250 penalty that would be assessed on the tax bill for collection for a non-compliance violation. Revenue collected would be split between the municipality and county. This would provide a lesser penalty than an involuntary withdrawal as a first step in compliance enforcement and help build a case for involuntary withdrawal if the penalty isn't enough incentive to gain contract compliance.

Who special assessment added to tax bill

(0)

50% to 50%



ISSUE 4 - BACKLOG MANDATORY PRACTICES:

Over the years inadequate record keeping, lack of follow up in tracking mandatory practices, time needed for enforcement, and the ever increasing popularity of the MFL program has lead to a large number of mandatory practices that are overdue (backlogged). Much of this backlog is a direct result of insufficient staffing to provide technical assistance and contract compliance work. The DNR estimates that about \$74 million worth of timber value including nearly \$5 million in uncollected state/county and local tax revenue is tied up in backlogged mandatory tax law practices.

RECOMMENDATION



4.1 Dedicate some new DNR forester positions (project) to eliminate the large number backlog practices or contract with consultants to establish backlog practices.

Would require 20 project foresters to manage the current number of identified backlog practices. (Budget Initiative) This alternative may not be necessary if the recommendation to increase the application fee and thus the contracting of MFL plans is enacted. The committee recommended delaying action on this recommendation but to keep it as a potential future initiative.



ISSUE 5 - YIELD TAX, CUTTING NOTICE/REPORT

The tax laws defer a portion of property taxes, and shift some of the tax load to a yield tax; which is collected when income is received from a timber sale. An increasing number of landowners harvest their timber before entry into the MFL to avoid paying the 5% yield tax that is assessed when timber is harvested under the law. Often times, the



harvest is destructive and limits the future opportunities and benefits that the forest could have provided had it been harvested properly. The assessment of yield taxes is based on an average stumpage rate rather than the actual sale receipt, which is confusing and frustrating to landowners. The process of establishing the stumpage rates annually is administratively cumbersome and time consuming. Enforcement of the MFL cutting notice and reporting process is time consuming with citations being the only way to assess a penalty on destructive cutting. It is unclear whether the current system of assessing and collecting yield tax is cost effective.

RECOMMENDATION

The committee did not reach agreement on a desirable change to the current system so no modification is recommended. Consider this issue in possible future MFL revisions.



ISSUE 6 – COMPENSATION TO MUNICIPALITIES AND COUNTIES:

The perception exists that municipalities are losing money when land is entered under MFL. The rapid increase in the amount of land being entered under MFL is generating numerous concerns from municipalities, school districts, and counties. There is also a frustration that lands are being entered and mandatory practices are not being completed or enforced. The yield and withdrawal tax revenues are currently distributed as follows: 50% state, 40% municipality and 10% county. Since these are deferred taxes, the rationale for the state collecting 50% is unclear. In addition, the increase in acreage share (MFL per acre) tax doesn't reflect the increase in property tax for forest lands not entered into the MFL.

RECOMMENDATIONS

problem
use value assessment for agricultural land based on use of land, not development

6.1 Modify the formula that determines the distribution of funds collected for the Yield and the Withdrawal taxes. Redistribute funds currently going to the State to municipalities and counties.

This recommendation will double the revenues received by municipalities and counties but reduce revenue to the Forestry Account. The annual estimated reduction to the Forestry Account based on calendar year 2001 data: Yield Tax - \$444,000, Withdrawal Tax - \$414,000. A correlative increase in revenue will be realized by the Towns (80%) and Counties (20%). *77.89(1) → will get more*

6.2 Modify the calculation of the acreage share tax to more closely reflect the changes in actual property taxes paid on non-tax law forest land.

Change the current calculation formula to remove agricultural land values. Consider a base rate equal to 5 percent of the average property tax paid per acre for forest, swamp and waste lands the previous year. The rate would be based on the statewide average and adjusted every five years. According to Department of Revenue 2001 tax data: Statewide average assessed value per acre of forest,

77.84(2)(c)



swamp and waste lands was $\$1,116 \times 0.02103$ (statewide average tax rate) = $\$23.46$. $\$23.46$ was the average property tax paid per acre $\times 5\%$ (suggested rate) = $\$1.17/\text{acre}$ of acreage share tax.

Separate draft



6.3 Modify the Resource Aid payment formula. Gradually reduce the number of acres required to qualify from 40,000 acres of tax law lands to 20,000 acres.

Currently the Resource Aid payment (\$1.25 million per year) is only paid to counties with 40,000 acres or more of MFL and FCL land. Reduce the acreage requirement to 20,000 acres in a series of steps. This would provide a more equitable distribution of these forestry account funds to counties that have significant acreage in MFL/FCL. (See appendix spreadsheet for potential fiscal impacts.)



ISSUE 7 – OPEN and CLOSED LANDS:

When the MFL was created there were public benefits identified as partial compensation for reducing some of the property taxes not paid by the landowners involved. Underlying the program is the public benefit associated with sustainably managed forests that provide a range of public benefits including a continuous supply of forest products. Another public benefit is the availability of having private lands open to public access for hunting, fishing, cross-country skiing, sightseeing and hiking. The MFL program allows an owner to have up to 80 acres "closed" to public access per municipality; any enrolled lands over the 80 acres must be "open" to public access. The vast majority of landowners want to be able to control access to their land and as such there has been a steady decline in the acres entered as "open" each year. Landowners are also finding ways to change the ownership on larger tracts of land in order to be able to enter more lands as "closed". This practice has increased the number of applications, workload, the complexity of the entries and the frustration level of the public.

RECOMMENDATIONS



7.1 Change the closed acreage fee to 20% of average tax per acre on class 5 and 6 lands in towns and villages.

Earmark funds collected to establish a program to purchase public hunting/recreational easements and land acquisition. The Department, local units of government and land trusts should be able to apply for these funds. The focus should be on purchasing permanent easements for hunting/fishing/hiking/sight-seeing/x-country skiing. The rate would be adjusted the same time the acreage share tax is, every five years. Utilizing the information from the Department of Revenue in Recommendation 6.2, $\$23.46/\text{acre}$ (average property tax paid in 2001 on forest, swamp & waste) $\times 20\% = \$4.69/\text{acre}$. The $\$4.69/\text{acre}$ would be the closed acreage fee and would be in addition to the acreage share tax. The total taxes/fees paid under Recommendation 6.2 and 7.1 for lands closed to the public would be $\$1.17/\text{acre} + \$4.69/\text{acre} = \$5.86/\text{acre}$.

Program to be drafted



(0)

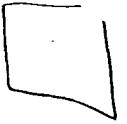
77.84(2)(c)

**7.2 Increase the allowable acreage to be closed to public access to 160 acres per municipality.**

This Change will decrease gerrymandering of deeds by landowners and result in fewer applications for the same landowner. Overall, landowners would be happier with being able to control public access to their lands.

(0)

from 80 to

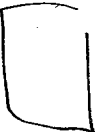
**ISSUE 8 – TRANSFERS AND WITHDRAWALS**

Several workload issues and concerns arise regarding transfers and withdrawal of MFL lands. Landowners are required to notify the DNR when MFL/FCL is sold or bought, however, often this is not done. The lack of notification can lead to more lengthy and complex enforcement issues later. Many buyers are not aware that the land is under the MFL/FCL much less that they have obligations under the law. Landowners can withdraw their land at any time but must pay a penalty. The withdrawal tax on land withdrawn in the first few years of the contract is usually not much more than the taxes saved, which creates a limited deterrent to encouraging continued entry. Land withdrawn within a few years of entry does not provide the long-term benefits, yet a significant cost is incurred in the entry and withdrawal processes.

RECOMMENDATIONS**8.1 Create a withdrawal fee of \$300 to be retained by the DNR to cover administrative costs associated with a withdrawal.**

This fee would be a partial reimbursement of costs associated with a withdrawal and not a penalty because a reimbursement can be returned to the department as revenue to the Forestry account. The rate should be set in statute and not in administrative code. The average estimated costs to the department per withdrawal is 20 hours x \$30/ hour (salary & benefits) = \$600.

(0)

**8.2 Increase the MFL transfer fee from \$20 to \$100 with the funds going to Forestry Account.**

The number of MFL transfers is increasing. The department has a number of costs associated with each transfer including issuing a transfer order, recording fees, contacts with the new landowners and in a number of instances revision of the existing management plan to better meet the new landowners objectives. DNR will work with Department of Revenue to improve the notification system when MFL lands are transferred.

(0)

**ISSUE 9 – BUILDINGS ON MFL LAND:**

Any structure on MFL lands must be taxed as personal property tax, not as real estate. The method to collect delinquent taxes on personal property is more difficult and time consuming for the county than collecting delinquent property taxes. Changes in the definition of what types of structures are allowed on MFL lands were put into effect on January 2, 1999. It has decreased the number of building on MFL but has not alleviated the delinquent personal property tax collection issue.



RECOMMENDATION



Option 9.1 Allow a Town to certify to the DNR Forestry Division that personal property tax is not paid. DNR would be required to withdraw the lands from the MFL. Landowners would not be allowed an appeal hearing on this type of action.

(0)

Landowners would not have the right to appeal the department's decision under this circumstance as they do in a failure to file a transfer notice. This option would still allow landowners to have structures but would allow for easier enforcement of unpaid personal property taxes.

77.90 - similar to withdrawal language 77.88 (2) (f)



ISSUE 10 - RECORD KEEPING:

The current system creates problems for tracking ownership changes, management plan revisions and mandatory practices because there are two separate databases with different software. The first program is a PC database in the field forester's office, the second utilizes a mainframe database in the Madison Central office. Data is shared between the foresters and Central Office but the current process is cumbersome and data is often outdated. Dial in access to the mainframe is currently the biggest single draw back to having one MFL database system. In addition some processes on the PlanTrac software are cumbersome and could be improved.

RECOMMENDATION

Separate draft



10.1 Seek additional funding in the 03-05 budget to allow all field forester offices to have a high speed Internet connection.

Currently thirty-nine forestry field offices involved in MFL do not have a high speed Internet connection capability available to them.



ISSUE 11 - INTERNAL FORESTRY PROCESS OR POLICY OPTIONS:

The committee identified a number of other changes that the Division of Forestry should consider for improving MFL program management. The Division is committed to pursuing these options to further improve and streamline the program. Examples include:



11.1 Provide improved technical support to field foresters for computer applications, e.g. PlanTrac. This has proven successful in the northern region and has improved the efficiency and attitude of the staff, which also improves the quality of the data. This should be implemented statewide.



11.2 Provide better education to landowners, Realtors, and recreational users of MFL lands regarding obligations, opportunities and restrictions. Focus on workshops, forest tax and stewardship newsletters, etc. Continue to work with



WVOA, Forest Productivity Council, Towns Association, Counties Association and others on MFL education.



11.3 Simplify filing of the MFL cutting notice/report, making it easier to complete and more available. Examine possible electronic filing options.



11.4 Examine opportunities for the DNR to charge for forester services for which landowners receive income.



11.5 Incorporate enforcement policies and procedures into annual or biannual forester and technician training. There currently is a policy/process in place but it is not being used to its fullest extent by staff. A new forester position was established and is in the process of being filled to work on Tax Law and private forestry enforcement issues. This person should be able to address this issue.



11.6 Develop a statewide database of citations, enforcement actions and/or notice of investigations, which is readily available to field foresters.



11.7 Develop and conduct voluntary MFL workshops targeted at new applicants. This would improve education of landowners about the requirements for entry and their obligations once under MFL. These sessions could be used to assist landowners in filling out an application correctly which would reduce the time needed for review of applications.



11.8 Provide an opportunity for landowners to designate one person to sign for all landowners on the management plan. Currently all owners and spouses must sign the application and management plan. This would make it easier for the landowners and reduce forester/FTS workload.



11.9 Increase/allow for electronic filing of documents such as the MFL field packets. Not all documents can be submitted electronically due to signature and recording requirements. Speed and access to computers and the Internet still varies greatly across the state. As technology/access improves and ways are found to deal with other requirements we may be able to use electronic filing.



CONCLUSION

The forest tax laws have served the people of Wisconsin well for over 70 years. These laws have helped realize significant ecological, economic and social benefits that are derived from sustainably managed forest land. In order to continue realizing these benefits under changing circumstances, most notably the dramatic increase in landowners participating in the program, changes are needed to ensure the program meets its full intent. The recommendations outlined in this report will address workload concerns, fair compensation to local governments, and the responsibility of landowners within the program for costs associated with program implementation.

Additional instruction

*First five years → no
yield tax for
new Ks.*

done	1.1	77.82(2m)(a)	\$100 to \$300
done	1.2	77.82(2m)+(3)	delayed eff. date certified plan writers
done	2.1	77.82(7)(c)	date change
talk to PJK	2.2	77.82(1)(cm)	recorded deed required
*	3.1	See §77.87(1) for language	special assessment for failure to comply w/ mandatory practices 50% 50% betw/ munit + county
done	6.1	77.89(1) (2) → and (1) → and	redistribute yield taxes + withdrawal taxes 80% to munis, 20% to counties none to state Q: other taxes?
talk to JK	4		
* done	6.2	77.82(2)(c)	calculating acreage share remove agricultural land values based on develop- mental potentials instead, use value based on actual use
done	6.3	separate draft - ask requester for series of steps	
		30,000 2006	
		20,000 2010	40,000 → 20,000 acres under
			23.09(18)(a)

back to JK

* 7.1 77.84 (2)(c) closed acreage fee for closed lands
use all (?) or increase (?) in funds for public easement program

done 7.2 77.83 (1)(a) 1. 80 to 160 acres allowed to be closed

* 8.1 new create withdrawal fee of \$300 to go to DNR

done 8.2 77.88 (2)(d) transfer fee from \$20 to \$100

* 9.1 see 77.88(2)(f) allow munis to certify for lang. to DNR that property tax is not paid, DNR withdraws lands, no right to appeal
77.90 77.88(2)(c)
see 70.365
77.84(3)(b)

personal

* own phone for 1st 5 years no yield tax for new KS
what about conversions (see D-Note)

done

Gibson-Glass, Mary

From: Ebersberger, Eric K
Sent: Friday, January 10, 2003 9:28 AM
To: Gibson-Glass, Mary
Cc: Christenson, Jimmy S; Nielsen, Carol K; Mather, Robert J
Subject: MFL Statutory Language Change Proposal

Mary,

I've attached an Excel workbook that describes the current §77.82 (2) calculations of acreage share and closed acre fees (sheet 1 of the attached workbook), and the proposed changes to that calculation (sheet 2 of the attached workbook). The proposal has changed slightly within the past few days in that it is now proposed that the new formula be instituted after the next adjustment year of the five-year adjustment schedule listed in the current §77.82 (2)(c). That is the new formula would be based on tax data from 2007, and take effect with tax year 2008. Please let me know if you have questions regarding this proposal or if you cannot access the attached spreadsheets. This addresses issues 6.2 and 7.1 in the Special Committee Report of the Governor's Council on Forestry.



MFL acreage share
fee change.x...

With respect to other MFL changes we discussed that are listed in the Special Committee Report of the Governor's Council on Forestry:

- Application Deadline Changes (Issue 2.1 in the Report): The intent is to move the current January 1st application deadlines listed in §77.82 (7)(c) and §77.82 (12) to the previous July 1st. The March 31 deadlines should remain.
- Modifying the formula that determines the distribution of funds collected from the yield and withdrawal taxes (Issue 6.1 in the Report): I believe this would require changing the 50% listed in the current §77.89(1) to 100%.
- Yield Tax (Issue 5 in the Report) It's my understanding that the draft should now propose to exempt timber cuttings within the first 5 years of MFL entry from the yield tax listed @ §77.87.
- I also understand that you will be receiving instructions to draft the language so that the changes apply to existing MFL lands as well as future MFL entries.

Thanks. Let me know if you have further questions.

Eric
Eric K. Ebersberger
DNR Legal Services
(608) 266-0228

The Existing Wis. Stat. § 77.84 (2)

Re: Wis. Stat. § 77.84 (2) (c)

The current § 77.84 (2) (c) formula determines a ratio that is multiplied by the base rates listed in §§ 77.84 (2) (a) and (b) to determine the effective acreage share and payment for closed land.

Current Formula = Avg statewide tax/acre for ag land, swamp or waste land, and productive forest land in Adjustment Year (e.g. 1992 and every 5 years thereafter)
Average statewide tax/acre for ag land, swamp or waste land, and productive forest land in base year (1986)

Example of Calculation with Old Formula (using 2001 tax information):

Ratio Calculation:

Avg. statewide tax/acre of ag, swamp or waste, and productive forest land for 2001 (\$11.55)

Avg. statewide tax/acre of ag, swamp or waste, and productive forest land for 1986 (\$10.27)

Ratio = $\$11.55/\$10.27 = 1.1246$

Acreage share [Wis. Stat. § 77.84 (2) (a)] = $1.1246 \times \$0.74 = \0.83

Closed Acreage share [Wis. Stat. § 77.84 (2) (b)] = $1.1246 \times \$1.00 = \1.12

Proposed Changes to Wis. Stat. § 77.84 (2) Acreage Share and Payment for Closed Land

Re: Wis. Stat. § 77.84 (2) (c)

The proposed § 77.84 (2) formula would--every five years starting in 2007--set the acreage share payment and the closed acreage fees as percentages of the average statewide tax per acre for swamp or waste and productive forest land in the adjustment year. Thus, the acreage share and closed acre fees set in 2007 would be effective for tax years 2008 through 2012. Note that the new formula proposes to drop ag land from the calculation ... and the current § 77.84 (2) calculations remain in place through tax year 2007. The new formula would be based on 2007 data, but would be effective in tax year 2008.

Example of Calculation with New Formula (using 2001 as a hypothetical adjustment year):

Percentage Calculations:

Acreage share [currently § 77.84 (2) (a)]

Acreage share = 5% x avg statewide tax per acre for swamp or waste and productive forestland in 2001

$$= .05 \times \$23.46 = \$1.17$$

Closed Acreage share [currently § 77.84 (2) (b)]

Closed Acreage share = 20% x avg statewide tax per acre for Swamp/Waste and Productive Forest Land in 2001

$$= .20 \times \$23.46 = \$4.69$$

Note: Landowners with closed acres entered in the MFL program pay both the acreage share and the closed acreage fee. Thus, in the above example, a landowner would pay \$1.17 + \$4.69 = \$5.86 for each closed acre of land.

Gibson-Glass, Mary

From: Gary, Tim
Sent: Friday, January 10, 2003 1:34 PM
To: Gibson-Glass, Mary
Subject: Please make these provisions apply as Gene has indicated in his



DATE: January 10, 2003
TO: Representative Don Friske
FROM: Gene Francisco, Forestry Division Administrator
SUBJECT: Timing of Application of Recommended Managed Forest Law Statutory Changes

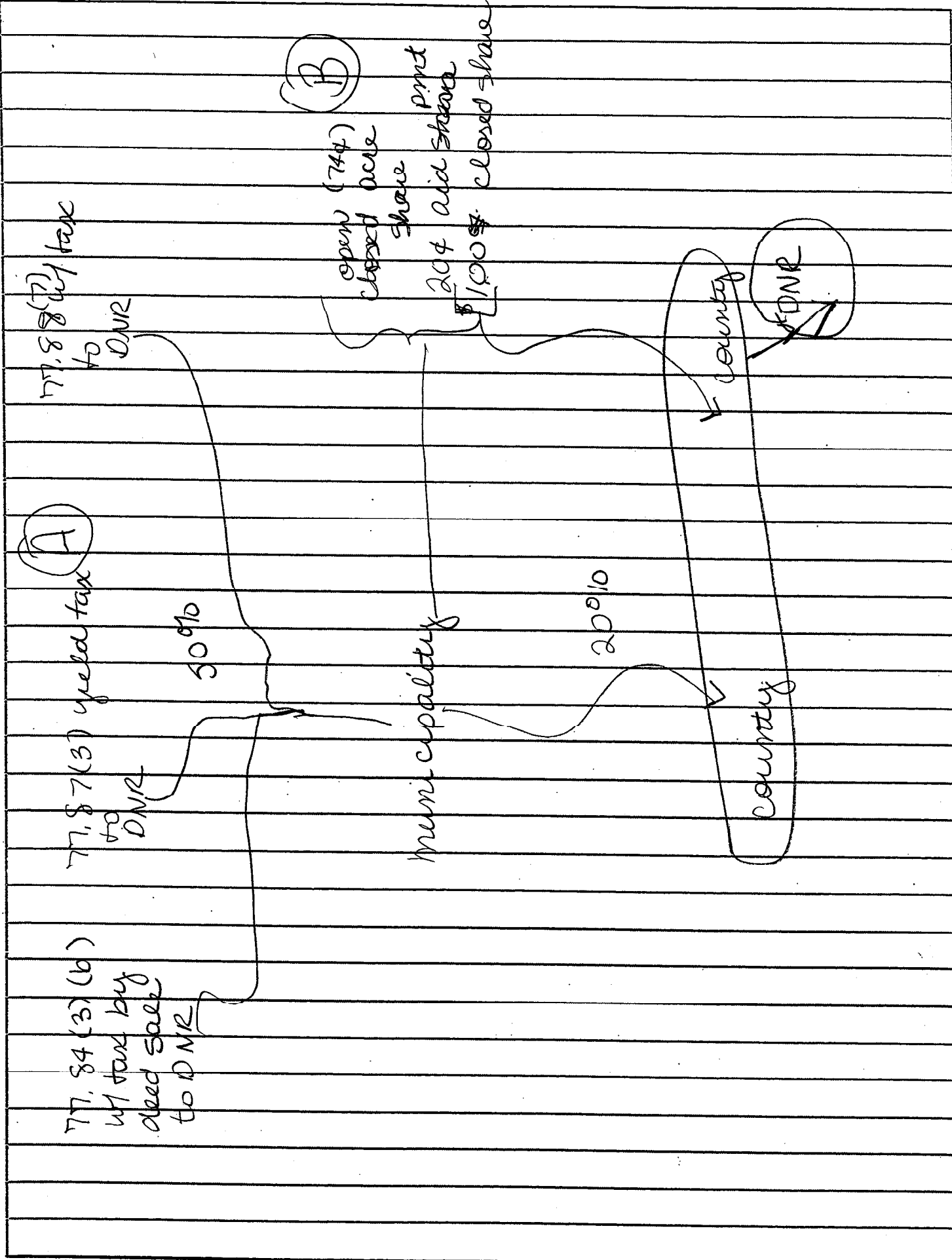
Representative Friske:

This memorandum is to confirm that, unless otherwise noted, the Department would prefer that the Managed Forest Law (MFL) statutory language changes recommended by the Governor's Council on Forestry apply to existing designated MFL lands as well as lands designated as MFL lands in the future. Applying the MFL statutory language changes to existing MFL lands is particularly relevant with respect to the following issues (numerical issue references track those in the December, 2002 Special Committee Report from the Governor's Council on Forestry):

- 3.1 Providing a penalty/fine for failure to complete a mandatory practice;
- 5 Providing for an exemption from yield taxes for the first 5 years that lands are entered in the MFL program;
- 6.1 Modifying the formula that determines the distribution of funds collected for the yield and withdrawal taxes; and redistributing the funds currently received by the state to municipalities and counties;
- 6.2 Modifying the acreage share tax every 5 years starting in 2007 to 5% of the average property tax paid per acre for forest, swamp and waste lands; (NOTE – this proposal would take effect in tax year 2008.)
- 6.3 Modifying the resource aid payment formula to gradually reduce the number of acres required to qualify from 40,000 to 20,000; (NOTE – this proposal would be addressed in legislation separate from that containing the other proposals listed in the Council's report.)
- 7.1 Modifying the closed acreage fee tax every 5 years starting in 2007 to 20% of the average property tax paid per acre for forest, swamp and waste lands; (NOTE – this proposal would take effect in tax year 2008.)
- 8.1 Creating a \$300 MFL withdrawal fee to be retained by the DNR to cover administrative costs associated with a withdrawal;
- 8.2 Increasing the MFL transfer fee to \$100, directing the fee revenue to the Forestry Account of the Conservation Fund;
- 9.1 Allowing a town to certify to the DNR Forestry Division that personal property tax is not paid, requiring that the DNR withdraw the lands from the MFL program.

Please let me know if you have questions or comments. Thank you for your interest in these important issues.

01/13/2003



77.89

(1)

77.84 (3)(b) w/drawal tax

when tax deeded land sold by county, county pays DNR amt of w/drawal tax

\$ received by DNR

to DNR

50% to munis

77.87 (3) yield tax

to DNR

to ~~the~~ DNR to conservation fund

77.88 (7) w/drawal tax

to DNR → to conservation fund

(2) - money received ^{from} by DNR by munis (50% amt) $20\% \times 50\% = 10\%$

20% from munis to counties

- closed \$.74/acre → acre share for not closed land

- 20¢/acre

(3) \$100 closed share

mun to county to DNR → conservation fund



State of Wisconsin
2003 - 2004 LEGISLATURE

RMR
LRB-1310/P1
MGG/JK: /.....
Wlj

How.

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-N

GEN

1

AN ACT ...; relating to ~~law~~ regulating managed forest lands and requiring the exercise of rule-making authority.

2

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3

SECTION 1. 74.25 (1) (a) 6. of the statutes is amended to read:

4

74.25 (1) (a) 6. Pay to the county treasurer 20% of collections of occupational taxes on coal docks, 20% of collections of the taxes imposed under ss. 77.04 and 77.84 (2) (a) and (am) and all collections of payments for closed lands under s. 77.84 (2) (b) and (bm).

7

History: 1987 a. 378; 1989 a. 56, 104; 1991 a. 39; 2001 a. 16.

8

SECTION 2. 74.25 (1) (a) 8. of the statutes is amended to read:

1 74.25 (1) (a) 8. Retain for the taxation district all woodland tax law collections
2 under s. 77.16 and 80% of collections of the taxes imposed under ss. 77.04 and 77.84
3 (2) (a) and (am).

History: 1987 a. 378; 1989 a. 56, 104; 1991 a. 39; 2001 a. 16. ↓

4 **SECTION 3.** 74.30 (1) (f) of the statutes is amended to read:

5 74.30 (1) (f) Pay to the county treasurer 20% of collections of occupational taxes
6 on coal docks, 20% of collections of the taxes imposed under ss. 77.04 and 77.84 (2)
7 (a) and (am) and all collections of payments for closed lands under s. 77.84 (2) (b) and
8 (bm).

History: 1987 a. 378; 1991 a. 39; 1995 a. 408; 2001 a. 16. ↓

9 **SECTION 4.** 74.30 (1) (h) of the statutes is amended to read:

10 74.30 (1) (h) Retain for the taxation district all woodland tax law collections
11 under s. 77.16 and 80% of collections of the taxes imposed under ss. 77.04 and 77.84
12 (2) (a) and (am).

History: 1987 a. 378; 1991 a. 39; 1995 a. 408; 2001 a. 16. ↓

13 **SECTION 5.** 75.35 (2) (f) 3. of the statutes is amended to read:

14 75.35 (2) (f) 3. Any withdrawal tax or withdrawal assessment due under s.
15 77.84 (3) (b). *fee*

History: 1987 a. 27, 378; 1989 a. 104; 1993 a. 184; 1995 a. 201. ↓

16 **SECTION 6.** 75.36 (3) (b) of the statutes is amended to read:

17 75.36 (3) (b) From the net proceeds of the sale of the property, as determined
18 under par. (a), first pay any withdrawal tax and withdrawal assessment due under
19 s. 77.84 (3) (b) and then pay to taxing jurisdictions all special assessments and special
20 charges to which the property is subject, including interest and any penalties
21 imposed under s. 74.47. If the net proceeds are not sufficient to pay all outstanding
22 amounts due, the net proceeds shall be prorated to each taxing jurisdiction based
23 upon the ratio that the amount of all special assessments and special charges due

1 that taxing jurisdiction bears to the amount of all special assessments and special
2 charges levied against the property sold, including interest and any penalties
3 imposed under s. 74.47. Amounts payable under this paragraph shall be paid to the
4 taxing jurisdiction within 15 days after the last day of the month in which sale
5 proceeds become available to the county.

History: 1987 a. 378 ss. 120, 122; 1989 a. 104; 1997 a. 72, 224; 1999 a. 150 s. 672; 2001 a. 30 s. 108.

6 SECTION 7. 77.82 (1) (cm) of the statutes is created to read:

7 77.82 (1) (cm) An instrument that has been recorded ~~(where?)~~ that shows the
8 ownership of the land subject to the petition

9 SECTION 8. 77.82 (2m) (a) of the statutes is amended to read:

10 77.82 (2m) (a) Except as provided in par. (b), a petition under sub. (2) or (4m)
11 shall be accompanied by a nonrefundable application fee of \$100 \$300.

History: 1985 a. 29; 1989 a. 31; 1993 a. 16, 131, 301, 491; 1995 a. 47; 1997 a. 27, 35, 237; 2001 a. 109.

12 SECTION 9. 77.82 (2m) (b) of the statutes is amended to read:

13 77.82 (2m) (b) If the petition is accompanied by a proposed recent management
14 plan as provided in par. (c) that was approved by the department for a parcel of land
15 subject to a petition under ^{sub.}(2) or for forest cropland subject to a conversion petition
16 under sub. (4m), the nonrefundable application fee shall be \$10 unless a different
17 amount for the fee is established by the department by rule at an amount equal to
18 the average expense to the department of recording an order issued under this
19 subchapter.

History: 1985 a. 29; 1989 a. 31; 1993 a. 16, 131, 301, 491; 1995 a. 27; 1997 a. 27, 35, 237; 2001 a. 109.

20 SECTION 10. 77.82 (2m) (c) of the statutes is repealed.

21 SECTION 11. 77.82 (2m) (e) of the statutes is amended to read:

22 77.82 (2m) (e) If the proposed management plan is not approved by the
23 department under its initial review under sub. (3) (a), the department shall collect

in the office of the register of deeds of the county in which the property is located

1 from the petitioner a fee in an amount equal to \$100 less the amount the petitioner
2 paid under par. (e) (b).

3 History: 1985 a. 29; 1989 a. 31; 1993 a. 16, 131, 301, 491; 1995 a. 27; 1997 a. 27, 35, 237; 2001 a. 109.

3 SECTION 12. 77.82 (3) (c) (intro.) of the statutes is amended to read:

4 77.82 (3) (c) (intro.) To qualify for approval, a management plan shall be
5 prepared by a plan writer certified by the department or by the department itself and ^{shall}
6 include all of the following:

7 History: 1985 a. 29; 1989 a. 31; 1993 a. 16, 131, 301, 491; 1995 a. 27; 1997 a. 27, 35, 237; 2001 a. 109.

7 SECTION 13. 77.82 (3) (c) 6. of the statutes is amended to read:

8 77.82 (3) (c) 6. A description of the forestry practices, including harvesting,
9 thinning and reforestation, that will be undertaken during the term of the order,
10 specifying the period of time in which each is ~~intended to~~ will be completed.

11 History: 1985 a. 29; 1989 a. 31; 1993 a. 16, 131, 301, 491; 1995 a. 27; 1997 a. 27, 35, 237; 2001 a. 109.

11 SECTION 14. 77.82 (3) (g) of the statutes is created to read:

12 77.82 (3) (g) The department shall promulgate rules specifying the
13 qualifications that a person must satisfy to become a certified plan writer.

14 SECTION 15. 77.82 (7) (c) of the statutes is amended to read:

15 77.82 (7) (c) Except as provided in par. (d), if:

16 1. If a petition is received on or before ~~January 31~~ July 1 of any year from a
17 petitioner who owns less than 1,000 acres in this state ~~or on or before March 31 of~~
18 ~~any year from any other petitioner~~, the department shall investigate and shall either
19 approve the petition and issue the order under sub. (8) or deny the petition on or
20 before the 2nd following November 21.

21 History: 1985 a. 29; 1989 a. 31; 1993 a. 16, 131, 301, 491; 1995 a. 27; 1997 a. 27, 35, 237; 2001 a. 109.

21 SECTION 16. 77.82 (7) (c) 2. of the statutes is created to read:

22 77.82 (7) (c) 2. If a petition is received on or before March 31 of any year from
23 a petitioner who owns 1000 or more acres in this state, the department shall

1 investigate and shall either approve the petition and issue the order under sub. (8)
 2 or deny the petition ^{on} on or before the following November 21.

3 SECTION 17. 77.83 (1) (a) 1. of the statutes is amended to read:

4 77.83 (1) (a) 1. A maximum of 80 160 acres in the municipality.

5 History: 1985 a. 29; 1989 a. 79; 1993 a. 131.

5 SECTION 18. 77.84 (2) (a) of the statutes is amended to read:

6 77.84 (2) (a) Each Ending with the property tax assessments as of January 1,
 7 2007, each owner of managed forest land shall pay to the municipal treasurer an
 8 acreage share of 74 cents per acre on or before January 31.

9 History: 1985 a. 29; 1987 a. 378; 1995 a. 27; 1997 a. 35.

9 SECTION 19. 77.84 (2) (am) of the statutes is created to read:

10 77.84 (2) (am) Beginning with the property tax assessments as of January 1,
 11 2008, each owner of managed forest land shall pay to the municipal treasurer, on or
 12 before January 31, an amount that is equal to 5% of the average statewide property
 13 tax per acre of property classified under s. 70.32 (2) (b) 5. ~~and 6~~, as determined under
 14 par. (cm), for acre each of managed forest land. *(1993 state.) and s. 70.32(2)*
(c) 6., 1993 state.

15 SECTION 20. 77.84 (2) (b) of the statutes is amended to read:

16 77.84 (2) (b) In Ending with the property tax assessments as of January 1,
 17 2007, in addition to the payment under par. (a), each owner shall pay \$1 for each acre
 18 that is designated as closed under s. 77.83. The payment shall be made to the
 19 municipal treasurer on or before January 31.

20 History: 1985 a. 29; 1987 a. 378; 1995 a. 27; 1997 a. 35.

20 SECTION 21. 77.84 (2) (bm) of the statutes is created to read:

21 77.84 (2) (bm) Beginning with the property tax assessments as of January 1,
 22 2008, in addition to the payment under par. (am), each owner of managed forest land
 23 shall pay to the municipal treasurer, on or before January 31, an amount that is equal
 24 to 25% of the average statewide property tax per acre of property classified under s.

, 1993 stats., s. 70.32 (2)(b) 6., 1993 stats.

1 70.32 (2) (b) 5. *and* ~~as~~ *as* determined under par. (cm), for each acre that is designated
2 as closed under s. 77.83.

3 SECTION 22. 77.84 (2) (c) of the statutes is amended to read:

4 77.84 (2) (c) In 1992 and each 5th year thereafter, and until the determination
5 in 2007 under par. (cm), the department of revenue shall adjust the amounts under
6 pars. (a) and (b) by multiplying the amount specified by a ratio using as the
7 denominator the department of revenue's estimate of the average statewide tax per
8 acre of property classes under s. 70.32 (2) (b) 4., 1993 stats., s. 70.32 (2) (b) 5., 1993
9 stats., and s. 70.32 (2) (b) 6., 1993 stats., for 1986 and, as the numerator, the
10 department of revenue's estimate of the average tax per acre for the same classes of
11 property for the year in which the adjustment is made.

History: 1985 a. 29; 1987 a. 378; 1995 a. 27; 1997 a. 35.

12 SECTION 23. 77.84 (2) (cm) of the statutes is created to read:

13 77.84 (2) (cm) For purposes of determining the per acre amounts under pars.
14 (am) and (bm), in 2007 and each 5th year thereafter, the department of revenue shall
15 determine the average statewide tax per acre of property classes under s. 70.32 (2)

16 (b) 5. *, 1993 stats., s. 70.32 (2)(b) 6., 1993 stats.*

17 SECTION 24. 77.84 (3) (b) of the statutes is amended to read:

18 77.84 (3) (b) Immediately after receiving the certification of the county clerk
19 that a tax deed has been taken, the department shall issue an order withdrawing the
20 land as managed forest land. The notice requirement under s. 77.88 (1) does not
21 apply to the department's action under this paragraph. The department shall notify
22 the county treasurer of the amount of the withdrawal fee *STET* under s. 77.88 ~~(5)~~ *(5 pr)* and the
23 withdrawal tax, as determined under s. 77.88 (5), ~~and the~~. The amount of the tax and

1 the assessment shall be payable to the department under s. 75.36 (3) if the property
2 is sold by the county. The amount shall be credited to the conservation fund.

History: 1985 a. 29; 1987 a. 378; 1995 a. 27; 1997 a. 35.

3 **SECTION 25.** 77.87 (title) of the statutes is amended to read:

4 **77.87 (title) Yield tax; noncompliance assessment.**

History: 1985 a. 29; 1991 a. 39.

5 **SECTION 26.** 77.87 (1g) of the statutes is created to read:

6 77.87 (1g) EXEMPTION. For a managed forest land order that takes effect on or

7 after the effective date of this subsection ^{.... [revisor inserts} ~~new~~ [date], the owner of the managed
8 forest land is exempt from payment of the yield tax under sub. (1) for the first 5 years

9 of the managed forest land order. For a managed forest land order that takes ^{[that}

10 ~~takes~~ effect within 5 years ^{.... [revisor inserts} before the effective date of this subsection ~~new~~ [date],

11 the owner of the managed forest land is exempt from payment of the yield tax under
12 sub. (1) for the number of years calculated by subtracting the number of completed

13 calendar years that the order has been in effect from 5 years. ~~The~~ exemption under

14 this subsection does not apply to managed forest land converted pursuant to a
15 petition approved under s. 77.82 (7) (d) or to a renewal of managed forest land order

16 under s. 77.82 (12).

17 **SECTION 27.** 77.87 (1r) of the statutes is created to read:

18 77.87 (1r) ASSESSMENT. The department shall ^{impose} ~~assess~~ a noncompliance

19 assessment against an owner of \$250 for each failure to complete a forestry practice

20 during the period of time required under an applicable management plan. ^{The}

21 department shall mail a copy of the certificate of assessment to the owner at the
22 owner's last-known address.

23 **SECTION 28.** 77.87 (3) of the statutes is amended to read:

1 77.87 (3) PAYMENT. A tax assessed under sub. (1) or (2) or an assessment
 2 ~~assessed~~ ^{imposed} under sub. (1r) is due and payable to the department on the last day of the
 3 month following the date the certificate is mailed to the owner. The department shall
 4 collect interest at the rate of 12% per year on any tax or assessment that is paid later
 5 than the due date. Amounts received as taxes shall be credited to the conservation
 6 fund. ~~Each amount received as an assessment~~ ^{STET} shall be paid to the county treasurer
 7 of the county in which the managed forest land is located. The county treasurer shall
 8 pay 50% of each assessment to the municipality in which the managed forest land
 9 is located. ^{plain}

History: 1985 a. 29; 1991 a. 39.

10 **SECTION 29.** 77.87 (4) of the statutes is amended to read:

11 77.87 (4) OWNER'S LIABILITY. The owner is personally liable for a tax assessed
 12 under sub. (1) or (2) or an assessment ^{imposed} ~~assessed~~ under sub. (1r). An unpaid tax
 13 becomes a lien against the merchantable timber that was cut. If the merchantable
 14 timber cut is mingled with other wood products, the unpaid tax becomes a lien
 15 against all of the wood products while they are in the owner's possession, or in the
 16 possession of any person other than a purchaser for value without notice in the usual
 17 course of business.

History: 1985 a. 29; 1991 a. 39.

18 **SECTION 30.** 77.87 (5) of the statutes is amended to read:

19 77.87 (5) DELINQUENCY. If a tax or assessment due under this section is not paid
 20 on or before the last day of the August following the date specified under sub. (3), the
 21 department shall certify to the taxation district clerk the description of the land and
 22 the amount due for the tax and interest. The taxation district clerk shall enter the

1 delinquent amount on the property tax roll as a special charge. HOW DOES THIS GET

2 SPLIT 50/50

History: 1985 a. 29; 1991 a. 39.

3 **SECTION 31.** 77.88 (1) (c) of the statutes is amended to read:

4 77.88 (1) (c) If the department determines that land should be withdrawn, it
5 shall issue an order withdrawing the land as managed forest land and shall assess
6 against the owner the tax under sub. (5) and the withdrawal fee under sub. (5m).

History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

7 **SECTION 32.** 77.88 (2) (am) of the statutes is amended to read:

8 77.88 (2) (am) If the land transferred under par. (a) does not meet the eligibility
9 requirements under s. 77.82 (1), the department shall issue an order withdrawing
10 the land from managed forest land designation and shall assess against the owner
11 a withdrawal tax under sub. (5) and the withdrawal fee under sub. (5m).

History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

12 **SECTION 33.** 77.88 (2) (b) of the statutes is amended to read:

13 77.88 (2) (b) If the land remaining after a transfer under par. (a) is contiguous
14 and meets the eligibility requirements under s. 77.82 (1) (a) 2. and (b), it shall
15 continue to be designated as managed forest land until the expiration of the existing
16 order, even if the parcel contains less than 10 acres. Notwithstanding s. 77.82 (12),
17 an owner may not petition the department for renewal of the order if the parcel
18 contains less than 10 acres. No withdrawal tax under sub. (5) or withdrawal fee
19 under sub. (5m) may be assessed when the remaining land is withdrawn at the
20 expiration of the order.

History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

21 **SECTION 34.** 77.88 (2) (c) of the statutes is amended to read:

22 77.88 (2) (c) If the remaining land does not meet the eligibility requirements
23 under s. 77.82 (1) (a) 2. and (b), the department shall issue an order withdrawing the

1 land and shall assess against the owner the withdrawal tax under sub. (5) and the
2 withdrawal fee under sub. (5m). Notwithstanding s. 77.90, the owner is not entitled
3 to a hearing on an order withdrawing land under this paragraph.

4 History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

SECTION 35. 77.88 (2) (d) of the statutes is amended to read:

5 77.88 (2) (d) Within 10 days after a transfer of ownership, the former owner
6 shall, on a form provided by the department, file with the department a report of the
7 transfer signed by the former owner and the transferee. The report shall be
8 accompanied by a ~~\$20~~ \$100 fee which shall be deposited in the conservation fund and
9 credited to the appropriation under s. 20.370 (1) (cr). The department shall
10 immediately notify each person entitled to notice under s. 77.82 (8).

11 History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

SECTION 36. 77.88 (2) (f) of the statutes is amended to read:

12 77.88 (2) (f) If the transferee does not provide the department with the
13 certification required under par. (e), the department shall issue an order
14 withdrawing the land and shall assess against the transferee the withdrawal tax
15 under sub. (5) and the withdrawal fee under sub. (5m). Notwithstanding s. 77.90,
16 the transferee is not entitled to a hearing on an order withdrawing land under this
17 paragraph.

18 History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

SECTION 37. 77.88 (3) of the statutes is amended to read:

19 77.88 (3) VOLUNTARY WITHDRAWAL. An owner may request that the department
20 withdraw all or any part of the owner's land meeting one of the requirements
21 specified under sub. (2) (a) 1. to 3. If any remaining land meets the eligibility
22 requirements under s. 77.82 (1), the department shall issue an order withdrawing

1 the land subject to the request and shall assess against the owner the withdrawal
2 tax under sub. (5) and the withdrawal fee under sub. (5m).

History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

3 **SECTION 38.** 77.88 (3m) of the statutes is created to read:

4 77.88 (3m) WITHDRAWAL FOR FAILURE TO PAY PERSONAL PROPERTY TAXES. If an
5 owner of managed forest land has not paid the personal property tax due for a
6 building on managed forest land before the February settlement date under s. 74.30
7 (1), the municipality in which the managed forest land is located shall certify to the
8 department that a delinquency exists and shall include the legal description of the
9 managed forest land on which the building is located in the certification.
10 Immediately after receiving the certification, the department shall issue an order
11 withdrawing the land as managed forest land and shall assess against the owner of
12 the land the withdrawal tax under sub. (5) and the withdrawal fee under sub. (5m).
13 Notwithstanding s. 77.90, the owner is not entitled to a hearing on an order
14 withdrawing land under this subsection.

15 **SECTION 39.** 77.88 (4) of the statutes is amended to read:

16 77.88 (4) NONRENEWAL. If an owner does not petition the department to renew
17 a managed forest land order, the department shall order the land withdrawn at the
18 expiration of the order. No withdrawal tax under sub. (5) ~~shall~~ or withdrawal fee
19 under sub. (5m) may be assessed.

History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

20 **SECTION 40.** 77.88 (5) (a) 1. of the statutes is amended to read:

21 77.88 (5) (a) 1. An amount equal to the product of the total net property tax rate
22 in the municipality in the year prior to the withdrawal and the assessed value of the
23 land for the same year, as computed by the department of revenue, multiplied by the

1 number of years the land was designated as managed forest land, less any amounts
2 paid by the owner under ss. 77.84 (2) (a) and (am) and 77.87.

3 History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

3 SECTION 41. 77.88 (5) (a) 2. of the statutes is amended to read:

4 77.88 (5) (a) 2. Five percent of the stumpage value of the merchantable timber
5 on the land, less any amounts paid by the owner under ss. 77.84 (2) (a) and (am) and
6 77.87.

7 History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

7 SECTION 42. 77.88 (5) (b) 1. of the statutes is amended to read:

8 77.88 (5) (b) 1. An amount equal to the product of the total net property tax rate
9 in the municipality in the year prior to the withdrawal and the assessed value of the
10 land for the same year, as computed by the department of revenue, multiplied by the
11 number of years since the renewal, less any amounts paid by the owner under ss.
12 77.84 (2) (a) and (am) and 77.87.

13 History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

13 SECTION 43. 77.88 (5) (b) 2. of the statutes is amended to read:

14 77.88 (5) (b) 2. Five percent of the stumpage value of the merchantable timber
15 on the land, less any amounts paid by the owner under ss. 77.84 (2) (a) and (am) and
16 77.87.

17 History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

17 SECTION 44. 77.88 (5m) of the statutes is created to read:

18 77.88 (5m) WITHDRAWAL FEE. The withdrawal fee assessed by the department
19 under subs. (1) (c) ~~and~~ (2) (am), (c), and (f), (3) and (3m) shall be \$300.

20 SECTION 45. 77.88 (7) of the statutes is renumbered 77.88 (7) (a) and amended
21 to read:

22 77.88 (7) (a) A tax under sub. (5) is due and payable to the department on the
23 last day of the month following the effective date of the withdrawal order. Amounts

Plain space

1 received shall be credited to the conservation fund. If the owner of the land fails to
2 pay the tax, the department shall certify to the taxation district clerk the amount
3 due. The taxation district clerk shall enter the delinquent amount on the property
4 tax roll as a special charge.

History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

****NOTE: Note that the withdrawal tax, but not the withdrawal fee, can be entered on the property tax roll as a special charge. OK?

5 SECTION 46. 77.88 (7) (b) of the statutes is created to read:
6 77.88 (7) (b) A withdrawal fee under sub. (5m) is due and payable to the
7 department on the last day of the month following the effective date of the
8 withdrawal order.

9 SECTION 47. 77.88 (8) of the statutes is amended to read:

10 77.88 (8) EXCEPTION. No withdrawal tax or withdrawal fee may be assessed
11 against an owner who transfers ownership of managed forest land for a public road
12 or railroad or utility right-of-way. No withdrawal tax or withdrawal fee may be
13 assessed against an owner who transfers ownership of managed forest land for a
14 park, recreational trail, wildlife or fish habitat area or a public forest to the federal
15 government, the state or a local governmental unit, as defined in s. 66.0131 (1) (a).
16 The department may not order withdrawal of the remainder of the land unless the
17 remainder fails to meet the eligibility requirements under s. 77.82 (1).

INS
13-8

History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

18 SECTION 48. 77.89 (1) of the statutes is amended to read:

19 77.89 (1) PAYMENT TO MUNICIPALITIES. By June 30 of each year, the department,
20 from the appropriation under s. 20.370 (5) (bv), shall pay 50% 100% of each payment
21 received under s. 77.84 (3) (b), 77.87 (3) or and 77.88 (7) (a) to the treasurer of the
22 municipality in which is located the land to which the payment applies.

History: 1985 a. 29; 1987 a. 378; 1991 a. 39; 1995 a. 27.

23 SECTION 49. 77.89 (2) of the statutes is amended to read:

1 **77.89 (2) PAYMENT TO COUNTIES.** Each municipal treasurer shall pay 20% of each
 2 payment received under sub. (1) or s. 77.84 (2) (a) and (am) or 77.85 to the county
 3 treasurer and shall deposit the remainder in the municipal treasury. The payment
 4 to the county treasurer for money received before November 1 of any year shall be
 5 made on or before the November 15 after its receipt. For money received on or after
 6 November 1 of any year, the payment to the county treasurer shall be made on or
 7 before November 15 of the following year.

History: 1985 a. 29; 1987 a. 378; 1991 a. 39; 1995 a. 27.

8 **SECTION 50.** 77.89 (2) of the statutes is amended to read:

9 **77.89 (2) PAYMENT TO COUNTIES.** Each municipal treasurer shall pay 20% of each
 10 payment received under sub. (1) ~~or s.~~ and under ss. 77.84 (2) (a) ~~or~~ and (am) and 77.85 to the
 11 county treasurer and shall deposit the remainder in the municipal treasury. The
 12 payment to the county treasurer for money received before November 1 of any year
 13 shall be made on or before the November 15 after its receipt. For money received on
 14 or after November 1 of any year, the payment to the county treasurer shall be made
 15 on or before November 15 of the following year.

History: 1985 a. 29; 1987 a. 378; 1991 a. 39; 1995 a. 27.

16 **SECTION 51.** 77.89 (3) of the statutes is amended to read:

17 **77.89 (3) CONSERVATION FUND CREDIT.** The municipal treasurer shall pay all
 18 amounts received under s. 77.84 (2) (b) and (bm) to the county treasurer, as provided
 19 under ss. 74.25 and 74.30. The county treasurer shall, by June 30 of each year, pay
 20 all amounts received under this subsection to the department. All amounts received
 21 by the department shall be credited to the conservation fund and shall be reserved
 22 for land acquisition and resource management activities.

History: 1985 a. 29; 1987 a. 378; 1991 a. 39; 1995 a. 27.

23 **SECTION 52. Initial applicability.**

1 (1) The treatment of section 77.82 (3) (c) (intro.) of the statutes first applies to
2 management plans that are started on the effective date of this subsection.

3 (2) The treatment of section 77.82 (7) (c) of the statutes first applies to petitions
4 that are received on the effective date of this subsection.

5 **SECTION 53. Effective dates.** This act takes effect on the day after publication,
6 except as follows:

7 (1) The treatment of sections 77.82 (2m) (b), (c), and (e) and (3) (c) (intro.) and
8 77.87 (1g) of the statutes takes effect on January 1, 2005.

9

(END)

Section #. 77.88 (7) of the statutes is amended to read:

Taxes and fees ~~due~~ under sub. (5m) are
 77.88 (7) PAYMENT; DELINQUENCY. A ~~tax~~ ^{tax} under sub. (5) ~~is~~ ^{is} due and payable to the department on the last day of the month following the effective date of the withdrawal order. Amounts received shall be credited to the conservation fund. If the owner of the land fails to pay the tax ^{or fee}, the department shall certify to the taxation district clerk the amount due. The taxation district clerk shall enter the delinquent amount on the property tax roll as a special charge.

History: 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1310/3dn
MGC: /:....

P1
WLj

1. Please review this draft carefully to make sure that it achieves your intent and that it includes all of the changes requested.
2. The drafting instructions indicated that you wanted ~~a delayed~~ ^{to} effective date ~~to~~ ^{the} 2005 for the changes relating to certified plan writers. I made it January 1, 2005. OK?
3. Denying an owner a hearing under s. 77.88 (3m) may be subject to a court challenge that not allowing such a hearing is an unconstitutional denial of due process. Please have DNR's legal counsel review this provision.
4. The draft treats the collection of the withdrawal ⁷⁵ assessment in the same manner that withdrawal taxes are treated under ~~s. 75.35 (2) (f) 3., 75.36 (3) (b), and 77.84 (3) (b)~~. OK?
5. Do you want a delayed effective date for the provisions without the January 1, 2005, effective date to allow DNR to administratively implement these changes?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

and 77.88(7)

D-N INSERT

Sup. Tech. : D-N INSERT

6. The instructions

(did not specify whether the formula ^{for} calculating payments beginning in 2008 under s. 77.84(2)(am), as created in the bill, should refer to ^{the} definitions of productive forest land and swampland or wasteland under ^{law} current or under the law as it existed in the 1993 statutes. Therefore, because current law refers to the definitions that existed in the 1993 statutes, s. 77.84(2)(am), as created in the bill, also refers to the definitions that existed in the 1993 statutes.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1310/P1dn
MGG:wlj:rs

February 13, 2003

1. Please review this draft carefully to make sure that it achieves your intent and that it includes all of the requested changes.
2. The drafting instructions indicate that you want to delay the effective date until 2005 for the changes relating to certified plan writers. I made it January 1, 2005. OK?
3. Denying an owner a hearing under s. 77.88 (3m) may be subject to a court challenge that not allowing such a hearing is an unconstitutional denial of due process. Please have DNR's legal counsel review this provision.
4. The draft treats the collection of the withdrawal fee in the same manner that withdrawal taxes are treated under ss. 75.35 (2) (f) 3., 75.36 (3) (b), 77.84 (3) (b) and 77.88 (7). OK?
5. Do you want a delayed effective date for the provisions without the January 1, 2005, effective date to allow DNR to implement administratively these changes?
6. The instructions did not specify whether the formula for calculating payments beginning in 2008 under s. 77.84 (2) (am), as created in the bill, should refer to the definitions of productive forest land and swampland or wasteland under current law or under the law as it existed in the 1993 statutes. Therefore, because current law refers to the definitions that existed in the 1993 statutes, s. 77.84 (2) (am), as created in the bill, also refers to the definitions that existed in the 1993 statutes.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215