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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Forestry...

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (July 2013)

## Assembly

### Record of Committee Proceedings

#### Committee on Forestry

##### Assembly Bill 726

Relating to: actions against forestry operations and granting rule-making authority.

By Representatives Seratti, Friske, Ainsworth, Albers, Gard, Gronemus, Gunderson, Hahn, Hines, McCormick, Musser, Ott, Owens, Petrowski, Rhoades and Townsend; cosponsored by Senators Schultz and Zien.

January 06, 2004      Referred to Committee on Forestry.

January 06, 2004      **PUBLIC HEARING HELD**

Present:    (6)      Representatives Friske, Ainsworth, Seratti, M. Williams, Hubler and Boyle.

Absent:    (0)      None.

##### Appearances For

- Representative Lorraine Seratti, author.
- Gene Francisco, Wisconsin Professional Loggers Association

##### Appearances Against

- None.

##### Appearances for Information Only

- Eugene Roark, Wisconsin Woodland Owners Association

##### Registrations For

- Colette Matthews, Wisconsin County Forests Association.
- Gunner Bergerson, Wisconsin Timber Producers Association, Lake States Lumber

##### Registrations Against

None.

February 17, 2004      **PUBLIC HEARING HELD**

Present:    (6)      Representatives Friske, Ainsworth, Seratti, M. Williams, Hubler and Boyle.

Absent:    (0)      None.

##### Appearances For

- Paul DeLong, Department of Natural Resources Division of Forestry, Chief State Forester, Madison, WI

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- None.

Registrations Against

- None.

February 17, 2004

**EXECUTIVE SESSION HELD**

Present: (6) Representatives Friske, Ainsworth, Seratti, M. Williams, Hubler and Boyle.

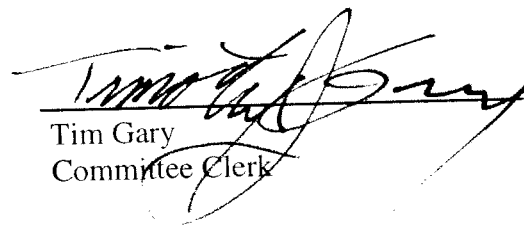
Absent: (0) None.

Moved by Representative Hubler, seconded by Representative Seratti that **Assembly Bill 726** be recommended for passage.

Ayes: (6) Representatives Friske, Ainsworth, Seratti, M. Williams, Hubler and Boyle.

Noes: (0) None.

PASSAGE RECOMMENDED, Ayes 6, Noes 0



Tim Gary  
Committee Clerk

## Vote Record Committee on Forestry

Date: 2-17-04

Moved by: Hubler

Seconded by: Scratti

AB 726

SB \_\_\_\_\_

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt 1

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- |                                       |  |                                       |   |  |
|---------------------------------------|--|---------------------------------------|---|--|
| <input type="checkbox"/> Passage      | <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Confirmation | <input type="checkbox"/> Concurrence    | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Rejection           | <input type="checkbox"/> Tabling      | <input type="checkbox"/> Nonconcurrency |  |

Committee Member

**Representative Donald Friske, Chair**

**Representative Jeffrey Mursau**

**Representative John Ainsworth**

**Representative Mary Williams**

**Representative Mary Hubler**

**Representative Frank Boyle**

Aye    No    Absent    Not Voting

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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**Totals:**    6    0    0        

Motion Carried

Motion Failed

## Vote Record Committee on Forestry

Date: 2-17-04

Moved by: Hubler

Seconded by: Seratti

AB 726 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:  
 Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrence

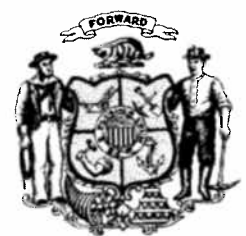
<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Representative Donald Friske, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative John Ainsworth</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Lorraine Seratti</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Mary Williams</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Mary Hubler</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Representative Frank Boyle</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>6</u>	<u>0</u>	<u>0</u>	_____

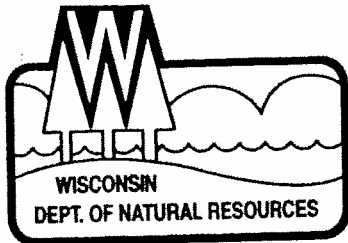
Motion Carried

Motion Failed



WISCONSIN STATE LEGISLATURE





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### Assembly Bill 726

Assembly Committee on Forestry

Department of Natural Resources Testimony  
Paul DeLong, Chief State Forester  
February 17, 2004

Mr. Chairman and Committee Members:

Good morning. I appreciate this opportunity to appear before you to discuss AB 726.

The Department of Natural Resources supports AB 726, however, we do have a few recommended amendments. This bill provides that a forestry operation may not be declared a nuisance if the forestry operation conforms to generally accepted forestry management practices. Also, under this bill, no political subdivision may enact a zoning ordinance that prohibits forestry operations that are in accordance with generally accepted forestry management practices.

This bill appears to respond to cases in which local ordinances have restricted the ability of landowners to harvest timber on their property as part of practicing sustainable forestry.

AB 726 does not require that the forestry operation must occur first in order to not be considered a nuisance as the Right to Farm does. This appears to provide greater protection since it implies that the forestry operation does not need any history prior to the complaint and in fact could start after the plaintiff began use of the impacted property. This seems to reflect the fact that forestry operations are periodic and do not result in a land use change, unlike the establishment of a farm or non-farm business, or even a residential plat.

This proposed bill also provides greater specificity as to what cannot be determined to be a nuisance as compared to the Right to Farm law. However, with the exception of the timing requirement issue I just mentioned, it is not clear that AB 726 would provide greater protection against nuisance claims as compared to that currently provided by Right to Farm.

AB 726 inserts the language "except that no ordinance enacted under this section may prohibit forestry operations that are in accordance with generally accepted management practices" into the statutes that give zoning authority to counties, towns and cities. This is a strong assertion of state authority since it limits county, town and city zoning authority. However, this limitation on zoning authority applies only to forestry operations which, as stated above, do not result in a land use change. At issue is the ability of landowners to conduct activities that maintain the existing land use.

In s. 823.075 (1)(c) the word "maximize" could lead to the Department becoming involved in unnecessary qualitative judgments. Under the proposed language requiring that practices "maximize" sound management, the question will immediately arise whether the Department's guidelines "maximize" sound management. In the case of BMPs for Riparian Management Zones for example, the guidelines prescribe minimum standards to protect water quality. While these guidelines are adequate to protect water quality, one could argue what it means for a landowner to "maximize" sound management. We suggest replacing the word maximize with "consistent with" or "promote".

Currently the bill does not contain a definition for "forestry operations". If the law fails to broadly define "forestry operations", any operation that does not fit squarely within one of the examples listed in the proposed s. 823.075 (2) will be compared to those listed examples. And, if the forestry operation seems to a judge to be inconsistent with the listed examples, the judge may find that it is not covered by the law even if the Department would consider it an acceptable forestry operation. Broadly defining "forestry operations" prior to listing non-exclusive examples would help reduce the possibility of an unnecessarily narrow legal interpretation. We suggest language similar to that used by Michigan, i.e. "Forestry Operations" means activities related to the harvesting, reforestation, and other management activities, including, thinning, pest control, fertilization, and wildlife management, that are consistent with generally accepted forestry management practices."

In summary, this bill would enable landowners to maintain their ability to manage their forest land. This would not foster land use change and, in fact, might reduce incentives to change land use out of forest. As a result, the Department supports the bill with these modifications:

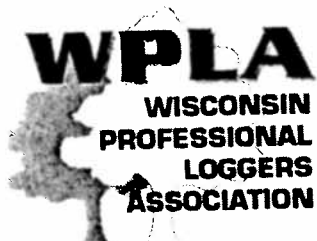
- s. 823.075 (1)(c) change word "maximize" to "are consistent with" or "promote".
- Change "as determined by the department by rule" to "as described in the most recent version of the Wisconsin Department of Natural Resources publication Wisconsin Forest Management Guidelines publication number PUB-FR-226."
- Include a definition for *Forestry Operations* in a new section 823.075 (1)(d).
- s. 823.075(3) change "regardless" to "as a result of".

We urge the committee to amend AB 726 and advocate its passage by the Legislature.

I appreciate this opportunity to express the Department's support for AB 726 and would be glad to answer any questions you might have.







**Testimony Before the  
Assembly Forestry Committee  
January 6, 2004**

**In Regards to LRB 3047 Actions against Forestry Operations**

Good morning Chairman Friske and committee members. My name is Gene Francisco and I am the Executive Director of the Wisconsin Professional Loggers Association. I appear before you today on behalf of WPLA to express our support for the provisions outlined in LRB 3047.

The WPLA is a non-profit organization established to promote professional conduct among loggers in the state of Wisconsin; to provide a forum for resolution of issues of concern to professional logging contractors through communication, education and legislation; and to practice forestry and harvesting activities which sustain our forests for future generations.

WPLA represents small business logging contractors from throughout the state, some of which are third generation family businesses. Wisconsin's Forest Industry, our second largest industry, is extremely important to our economy.

- A 28 billion dollar industry and 8% of the states total industrial output.
- A direct employer of 96,000 manufacturing jobs, the largest component of Wisconsin's manufacturing workforce.
- The nation's second largest investor in forest industry capital equipment, \$811 million annually, 20% of all Wisconsin manufacturing.
- An employer of high paying, high skilled jobs, paying an average \$38,000 annual salary, which is \$8,000 more than the state average.
- An industry that has been the backbone of Wisconsin's economy.

**Wisconsin's forest industry is in trouble.**

- Approximately 5000 jobs have been lost in the pulp and paper making industries since 2000.
- Between 1997 and 2000 the number of logging contractors has decreased by over 20%.
- 15 medium to large sawmills have closed in the last 5 years.
- Just last week Jefferson County lost 550 jobs in the printing industry which is closely tied to our paper industry.

Over 60% of the sawlogs and pulpwood used by our forest industry comes from private individual and family forest lands. The ability of these small private woodland owners to thin their forests, keep them healthy and get a small return on their investment by selling forest products is being threatened by poorly conceived zoning regulations and complaints from new neighbors about the visual effects of tree cutting.

A recent example of this occurred last year in the City of New Berlin which encompasses an entire township including rural farm and forest land as well as urban and suburban residential areas. In this case an elderly farmer contracted with a professional logger to thin his woodlot similar to what his family has done on their farm for the past 150 years. The logger obtained help from a professional forester in preparing a forest management

plan and selecting the trees to be thinned. Subsequent complaints from a neighbor during the logging operation led to a restraining order stopping the logging operation and a lawsuit filed by the city against the farmer for violating the zoning ordinance. The case was eventually dismissed and the restraining order lifted primarily because the zoning ordinance was contradictory. The bottom line is that this cost the farmer, the logging contractor and the taxpayers several thousand dollars each in legal fees not to mention the down time for the logger and cost of moving equipment to and from this 5 acre timber sale.

LRB 3047 if enacted into law will protect landowner's right to practice forestry if they follow generally accepted forest management guidelines.

It is fitting that as we celebrate 100 years of forestry this year and all the good that Wisconsin has accomplished through forest protection and sound forest management in the last century that we reaffirm our commitment to sustainable forestry by protecting forest landowner's right to practice forestry through this legislation.

Thank you for the opportunity to present WPLA's position on LRB 3047. I would be happy to answer questions at this time.



## Assembly Forestry Committee Testimony on AB 726

State Representative Lorraine M. Seratti

Chairman Friske and Members of the Committee,

Thank you for allowing me to speak on AB 726. AB 726, also known as the Wisconsin Right to Forest Act, will give forest property owners and forest products operators greater protection under the law. The bill is modeled after Wisconsin's Right to Farm Act, which protects farmers from nuisance lawsuits.

The forestry industry is an important part of Wisconsin's economy and it touches every part of the state. The forested regions of our state are becoming increasingly populous, with more and more people staking their claim in "the Northwoods." It's a generally accepted principle that people have a right to forest their own land. There have, however, been instances where woodland property owners have been sued by their neighbors or by local government officials for simply cutting down trees on their own private property. While these nuisance actions are routinely dismissed, it still requires a lot of time and money to fight them.

The Wisconsin Right to Forest Act would protect woodland property owners from frivolous legal action. The bill specifies that forestry activity cannot be considered a nuisance if it is in compliance with generally accepted forestry management practices, as determined by the DNR by administrative rule.

Some of the activities that would not be considered nuisances are: the visual change in a forest due to the removal of trees and vegetation, noise from forestry equipment, and the use of chemicals that are normally used in forestry operations.

The Right to Forest Act also provides landowners with proper compensation spent fighting unwarranted legal action related to their forestry activities.

The bill will also prevent local units of government from passing ordinances and resolutions that prohibit forest owners from conducting forestry operations on their land that conform to generally accepted forestry management practices. With the implementation of Smart Growth, communities are developing land use plans. The Right to Forest Act will clarify for local governments what acceptable forestry practices are and insure they are not prohibited on private lands.

Thank you again for the opportunity to provide you with my testimony on AB 726 and I welcome any questions you may have.