

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB1011)

Received: **03/08/2006**

Received By: **rnelson2**

Wanted: **Soon**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **Scott**

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Wieckert@legis.state.wi.us**

Carbon copy (CC:) to: **carol.nielsen@dnr.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Value of timber for payment of tax

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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/1	rnelson2 03/08/2006	lkunkel 03/08/2006	pgreensl 03/08/2006	_____	lnorthro 03/08/2006	lnorthro 03/08/2006	
/2	rnelson2 03/10/2006	lkunkel 03/10/2006	rschluet 03/10/2006	_____	sbasford 03/10/2006	sbasford 03/10/2006	

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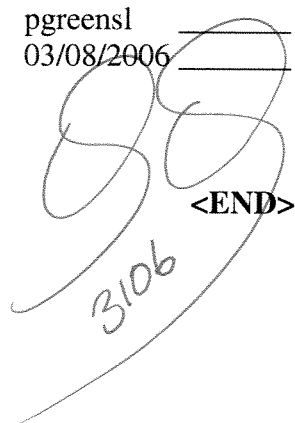
See attached

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FE Sent For:

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Nelson, Robert P.

From: Nielsen, Carol K
Sent: Tuesday, March 07, 2006 8:01 AM
To: Nelson, Robert P.
Cc: Becher, Scott
Subject: AB 1011
Attachments: Proposed wording for sub amend.doc; Alternative discussion AB 1011.doc

Bob,

Here are the two document we discussed on the phone.

A discussion of the changes that had been discussed and some proposed wording.

Let me know if you have any questions. I will be out of the office today from 10:00 am - 12:30 pm and in the rest of the afternoon and tomorrow.

Hope these will be of some help.

<<Proposed wording for sub amend.doc>> <<Alternative discussion AB 1011.doc>>

Thanks

 Carol K. Nielsen

Forest Tax Program Manager

Forest Tax Section

Bureau of Forest Management

Wisconsin Department of Natural Resources

(☎) phone: (608) 266-8019

(☎) fax: (608) 266-8576

(✉) e-mail: carol.nielsen@dnr.state.wi.us

DNR proposed wording for the substitute amendment to 2005 AB 1011

SECTION 1. 77.86 (2) of the statutes is amended to read:

Comment [CN1]: This amendment would be needed if 77.87 (1) were amended as shown below.

77.86 (2) BOND. The department may require an owner who intends to cut merchantable timber on managed forest land to file with the department a noncancelable bond furnished by a surety company licensed to do business in this state in the amount expected to be required as payment of the yield tax under s. 77.87 (1)(a).

SECTION 2. 77.86 (4) of the statutes is amended to read:

77.86 (4) REPORTING. (a) Within 30 days after completion of any cutting approved under this section, the owner shall report to the department, on a form provided by the department, a description of the species of wood, kind of product and the quantity of each species cut as shown by the scale or measurement made on the ground as cut, skidded, loaded or delivered, or by tree scale certified by a forester acceptable to the department if the wood is sold by tree measurement.

(b) The owner shall include on the report the method for determining the yield tax under s. 77.87 (1).

(c) If the owner elects to determine the yield tax under s. 77.87 (1) (b) the owner shall report the sale to the department on a form provided by the department. The report shall include the amount of money involved and any other compensation including in-kind services that the seller received in exchange for selling the timber. The department shall promulgate rules that specify the information that shall be included in the forms that are required under this subsection.

SECTION 3. 77.87 (1) of the statutes is amended to read:

77.87 (1) TAXATION. The department shall assess a yield tax against each owner who cuts merchantable timber under s. 77.86. and shall mail a copy of the certificate of assessment to the owner at the owner's last-known address. The yield tax shall equal one of the following:

(a) Five percent 5% of the value of the merchantable timber cut, based on the stumpage value established under s. 77.91 (1).

(b) Fair market value including money and any other compensation received in exchange for the timber as reported under s. 77.86 (4).

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

(c) If the timber is sold as a cut product, not stumpage, or the owner cannot supply the documentation required under s. 77.86 (4) (c) the yield tax shall equal an amount calculated under sub (a).

SECTION 4. 77.87 (2) of the statutes is amended to read:

77.87 (2) SUPPLEMENTAL TAX. At any time within one year after a report is filed under s. 77.86 (4), the department, after notifying the owner and providing the owner with the opportunity for a hearing, may determine whether the report is accurate. If the department determines that the quantity of, or the fair market value that the seller received for, the merchantable timber cut exceeded the amount on which the tax was assessed under sub. (1), the department shall assess a supplemental tax on the additional amount as provided under sub. (1).

Comment [CN2]: Determine the value using the same method used for the original yield tax assessment.

SECTION 5. Initial applicability.

(1) This act first applies to merchantable timber sold on the effective date of this subsection.

Nelson, Robert P.

From: Letzing, Rachel
Sent: Thursday, February 16, 2006 8:44 AM
To: Nelson, Robert P.
Subject: FW: AB 1011 revision proposals
Attachments: Alternative discussion AB 1011.doc

Bob, More information about the amendment to AB 1011.

Rachel

From: Nielsen, Carol K
Sent: Wednesday, February 15, 2006 4:34 PM
To: Becher, Scott; Letzing, Rachel
Cc: Mather, Robert J
Subject: AB 1011 revision proposals

Scott,

We appreciated the opportunity to discuss considerations for amendments to the bill after the hearing yesterday. Bob Mather and I worked on the attached write up that encompasses the revisions/proposals that were discussed.

<<Alternative discussion AB 1011.doc>>

Please look it over and give Bob (266-1727) or me a call if you have any questions on any of the items. I have included Rachel Letzing in this e-mail so that she will have information on the items discussed for possible.

I am also wondering if it would be appropriate to share this write up with the other folks involved in the discussion yesterday or others interested in this bill? I will wait to hear from you.

 *Carol K. Nielsen*

Forest Tax Program Manager

Forest Tax Section

Bureau of Forest Management

Wisconsin Department of Natural Resources

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/?	rnelson2						
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FE Sent For:

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Assembly Bill 1011
Proposed changes

Following the Assembly Committee on Forestry's hearing on AB1011 some discussion was held on an alternative wording/method and suggestions that may be agreeable to all interested partners present. It was evident from the hearing testimony and comments that the concept put forward by the bill was supported but there were several major hurdles or road blocks to gaining full acceptance of the bill. The following are the modifications and conditions that were discussed and agreed to with some enhancement for issues that were not thought of during the discussion.

1. **Continue current system with option to choose the alternative.** The current system of valuing merchantable timber cut on the stumpage values established in NR46.30 would continue to be used unless the landowner chooses the "alternative method" for valuing the merchantable timber cut and meets all requirements for the alternative method.
2. **The alternative method** establishes the value of the merchantable timber cut to be the fair market value established at the time of an arms-length-sale. *Fair market value* includes cash, in-kind services and other compensation given in exchange for the merchantable timber cut.
 - a. The alternative method must be chosen at the time the cutting notice report under 77.86 is filed.
 - b. The Department will establish by rule the documentation that must be submitted with the cutting report to verify/validate the fair market value reported. We will meet with our partners including landowners, cooperating foresters, towns association, counties association, forest industry, and Wisconsin Professional Loggers Association to develop the list of documentation that would be appropriate.
 - c. Values must be reported by legal description or the acres harvested must be reported by legal description to allow for prorating the value. We think this is already covered in s.77.86 (4) with "on a form provided by the department". (Values by legal description are required for payments to the municipality/county and withdrawal tax calculations.)
3. **Alternative method restrictions**
 - a. The landowner cannot change their mind after the cutting notice report has been filed.
 - b. The landowner cannot appeal the yield tax or the method used to calculate the yield tax. The landowner is making the choice which method to use and the Department is making the calculation based on the landowner's choice and documentation.
 - c. Only one method of valuing the merchantable timber cut can be used on a timber harvest even if multiple cutting notices/reports are filed. (Will be addressed in rule as needed.)

- d. The alternative method cannot be used when merchantable timber cut is not sold as standing timber (stumpage).
 - e. ~~The alternative method cannot be used if the cutting notice was not filed and approved before the timber harvested was started.~~
4. **Provide for penalties** for filing a false report if it is not already covered adequately in s.77.76 (5) (a), unless someone wants the penalty increased.
 5. **Provide for bonds collected under 77.86 (2)** to be calculated based on the current method for valuing merchantable timber (estimated volumes and stumpage rates set in NR 46.30 – directed by s. 77.91).
 6. **Reporting provisions for reporting under s.77.86 (4)** do not change and are required whether using the current method of valuation or the alternative method.
 7. **Supplemental tax under s. 77.87 (2)** needs to be expanded to include supplemental tax on additional volume harvested or additional value not reported.
 8. **Catastrophic loss** provision in NR46.30 would be maintained for FCL, for MFL not eligible for the alternative method, and any MFL owner choosing to use the current method of valuing the merchantable timber (estimated volumes and stumpage rates set in NR 46.30 – directed by s. 77.91). Most likely those with significant losses would choose to report the actual money and other compensation received.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0644/1

RPN:.....

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ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 1011

3/9 AM

GenCat

✓

1 AN ACT ...; relating to: the determination of the value of timber for purposes of
2 assessing a yield tax and granting rule-making authority. ✓

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

3 SECTION 1. 77.86 (2) of the statutes is amended to read:

4 77.86 (2) BOND. The department may require an owner who intends to cut
5 merchantable timber on managed forest land to file with the department a
6 noncancelable bond furnished by a surety company licensed to do business in this
7 state in the amount expected to be required as payment of the yield tax under s. 77.87
8 (1) (a) 1. ✓

History: 1985 a. 29.

9 SECTION 2. 77.86 (4) of the statutes is renumbered 77.86 (4) (a). ✓

10 SECTION 3. 77.86 (4) (b) of the statutes is created to read:

11 77.86 (4) (b) The owner shall include on the report the method for determining
12 the yield tax under s. 77.87 (1). ✓

1 **SECTION 4.** 77.86 (4) (c) of the statutes is created to read:

2 77.86 (4) (c) If the owner elects to determine the yield tax under s. 77.87 (1) (a)
3 2., the owner shall report the sale to the department on a form provided by the
4 department. The report shall include the amount of money involved and any other
5 compensation, including in-kind services, that the seller received in exchange for
6 selling the timber. The department shall promulgate rules that specify the
7 information that shall be included in the forms that are required under this
8 subsection.

9 **SECTION 5.** 77.87 (1) of the statutes is renumbered 77.87 (1) (a) and amended
10 to read:

11 77.87 (1) (a) The department shall assess a yield tax against each owner who
12 cuts merchantable timber under s. 77.86 and shall mail a copy of the certificate of
13 assessment to the owner at the owner's last-known address. The yield tax shall
14 equal 5% of the one of the following:

15 1. The value of the merchantable timber cut, based on the stumpage value
16 established under s. 77.91 (1). ~~The department shall mail a copy of the certificate of~~
17 ~~assessment to the owner at the owner's last-known address.~~

18 History: 1985 a. 29; 1991 a. 39; 2003 a. 228; 2005 a. 64.

18 **SECTION 6.** 77.87 (1) (a) 2. of the statutes is created to read:

19 77.87 (1) (a) 2. The fair market value of the merchantable timber cut, including
20 money and any other compensation received in exchange for the timber, as reported
21 under s. 77.86 (4).

22 **SECTION 7.** 77.87 (1) (b) of the statutes is created to read:

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oops, my pen leaked
STET4

1 77.87 (1) (b) If the timber is sold as a cut product, not based on stumpage value,
2 or if the owner cannot supply the documentation required under s. 77.86 (4)(c), the
3 yield tax shall equal the amount calculated under par. (a) 1.

4 **SECTION 8.** 77.87 (2) of the statutes is amended to read:

5 77.87 (2) SUPPLEMENTAL TAX. At any time within one year after a report is filed
6 under s. 77.86 (4), the department, after notifying the owner and providing the owner
7 with the opportunity for a hearing, may determine whether the report is accurate.
8 If the department determines that the quantity of, or the fair market value that the
9 seller received for, the merchantable timber cut exceeded the amount on which the
10 tax was assessed under sub. (1), the department shall assess a supplemental tax on
11 the additional amount as provided under sub. (1).

History: 1985 a. 29; 1991 a. 39; 2003 a. 228; 2005 a. 64.

12 **SECTION 9. Initial applicability.**

13 (1) This act first applies to merchantable timber sold on the effective date of this
14 subsection.

15

(END)

Nelson, Robert P.

From: Nielsen, Carol K
Sent: Thursday, March 09, 2006 4:03 PM
To: Nelson, Robert P.; Becher, Scott
Cc: Mather, Robert J; Nelson, Kathy J.
Subject: Sub Amendment to AB 1011

Bob and Scott;

We reviewed the wording in the substitute amendment. It looks good. There is only one item that we would like addressed

- adding the words "including money and any other compensation" in Section 8 as shown below. This will keep it consistent with the wording in Section 6 s. 77.87 (1) (a) 2.

SECTION 8. 77.87 (2) of the statutes is amended to read:

77.87 (2) SUPPLEMENTAL TAX. At any time within one year after a report is filed under s. 77.86 (4), the department, after notifying the owner and providing the owner with the opportunity for a hearing, may determine whether the report is accurate. If the department determines that the quantity of, or the fair market value including money and any other compensation that the seller received for, the merchantable timber cut exceeded the amount on which the tax was assessed under sub. (1), the department shall assess a supplemental tax on the additional amount as provided under sub. (1).

Thank you for the opportunity to review the amendment.

 Carol K. Nielsen

Forest Tax Program Manager

Forest Tax Section

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State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0644/1
RPN:lmk:pg

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OR
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ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 1011

3/13 AM

RCOM ✓

1 AN ACT *to renumber* 77.86 (4); *to renumber and amend* 77.87 (1); *to amend*
2 77.86 (2) and 77.87 (2); and *to create* 77.86 (4) (b), 77.86 (4) (c), 77.87 (1) (a) 2.
3 and 77.87 (1) (b) of the statutes; **relating to:** the determination of the value of
4 timber for purposes of assessing a yield tax and granting rule-making
5 authority.

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

6 SECTION 1. 77.86 (2) of the statutes is amended to read:

7 77.86 (2) BOND. The department may require an owner who intends to cut
8 merchantable timber on managed forest land to file with the department a
9 noncancelable bond furnished by a surety company licensed to do business in this
10 state in the amount expected to be required as payment of the yield tax under s. 77.87
11 (1) (a) 1.

12 SECTION 2. 77.86 (4) of the statutes is renumbered 77.86 (4) (a).

1 **SECTION 3.** 77.86 (4) (b) of the statutes is created to read:

2 77.86 (4) (b) The owner shall include on the report the method for determining
3 the yield tax under s. 77.87 (1).

4 **SECTION 4.** 77.86 (4) (c) of the statutes is created to read:

5 77.86 (4) (c) If the owner elects to determine the yield tax under s. 77.87 (1) (a)
6 2., the owner shall report the sale to the department on a form provided by the
7 department. The report shall include the amount of money involved and any other
8 compensation, including in-kind services, that the seller received in exchange for
9 selling the timber. The department shall promulgate rules that specify the
10 information that shall be included in the forms that are required under this
11 subsection.

12 **SECTION 5.** 77.87 (1) of the statutes is renumbered 77.87 (1) (a) (intro.) and
13 amended to read:

14 77.87 (1) (a) (intro.) The department shall assess a yield tax against each owner
15 who cuts merchantable timber under s. 77.86 and shall mail a copy of the certificate
16 of assessment to the owner at the owner's last-known address. The yield tax shall
17 equal 5% of ~~the~~ one of the following:

18 1. The value of the merchantable timber cut, based on the stumpage value
19 established under s. 77.91 (1). ~~The department shall mail a copy of the certificate of~~
20 ~~assessment to the owner at the owner's last-known address.~~

21 **SECTION 6.** 77.87 (1) (a) 2. of the statutes is created to read:

22 77.87 (1) (a) 2. The fair market value of the merchantable timber cut, including
23 money and any other compensation received in exchange for the timber, as reported
24 under s. 77.86 (4).

25 **SECTION 7.** 77.87 (1) (b) of the statutes is created to read:

