

**2005 DRAFTING REQUEST**

**Bill**

Received: **03/29/2006**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Cowles (608) 266-0484**

By/Representing: **Todd**

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

Drafter: **rkite**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Cowles@legis.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Exemption to prohibition on harvesting of raw forest products

---

**Instructions:**

See Attached

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**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>
/?				_____			S&L
/1	rkite 03/31/2006	wjackson 04/01/2006	jfrantze 04/03/2006	_____	Inorthro 04/03/2006		S&L
/2	rkite 04/05/2006	wjackson 04/05/2006	pgreensl 04/05/2006 pgreensl 04/05/2006	_____ _____ _____	Inorthro 04/05/2006 mbarman 04/05/2006	Inorthro 04/07/2006	

FE Sent For:

<END>

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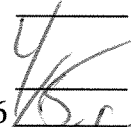
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/1	rkite 03/31/2006	wjackson 04/01/2006	jfrantze 04/03/2006		lnorthro 04/03/2006		

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/?	rkite	1 N/A 11	J 4/3	J 4/3			

FE Sent For:

<END>

**Garvin, John**

**From:** Steven M. Streck [SStreck@axley.com]  
**Sent:** Thursday, March 23, 2006 2:08 PM  
**To:** Garvin, John  
**Subject:** FW: ATC e-mail.

*from Sen. Cowles  
(with companion  
bill for Rep Montgomery)*

This includes Tim's edits.

Under current law, s. 26.03 prohibits the "harvest" of "raw forest products" on any land for which taxes are delinquent. It also requires any person to notify the clerk for the county in which any land is situated each year before any such harvesting may be done. The county clerk, in turn, provides the notice to the county treasurer who then determines whether the county holds a tax certificate or tax deed on any of the land involved. If so, the county treasurer must take action to collect the unpaid taxes or prevent the harvesting of the raw forest products from the land. The term "raw forest products" is defined broadly to include, among other things, seedlings, saplings, shrubs, boughs, logs, pulpwood and fuel wood. "Harvesting" means cutting, removing, or transporting the raw forest products. The penalties for violation of the statute prohibiting harvesting on tax delinquent land include fines ranging from \$500 to \$10,000 and potential imprisonment.

The presumed purpose of the law is to prevent the diminution of value of property for which taxes are delinquent. However, the literal terms of the statute prohibit railroads and public utilities from either creating or maintaining rights-of-way for which they have recorded easements giving them the right to clear vegetation, if the taxes on the underlying property become delinquent. It also requires railroads and utilities to notify the county whenever they intend to perform any maintenance allowed by their easements which involves the cutting or trimming of trees or shrubs, even if the taxes are current. The law does not apply only to the property owners. It applies to any person. Thus, the practical effect of the current law prohibits railroads and public utilities from, among other things, clearing property for which they have a recorded easement to construct a state-approved transmission line, railroad line or pipeline. It also imposes onerous notice requirements on railroads and utilities who create or maintain legal rights-of-way for their equipment and facilities. The proposed change to the legislation exempts all railroads and utilities from the prohibitions and requirements of s. 26.03.

Steven M. Streck  
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Madison, WI 53701  
608-283-6721 DD  
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email [sstreck@axley.com](mailto:sstreck@axley.com)  
website [www.axley.com](http://www.axley.com)

3/23/2006

**26.03 Harvest of raw forest products. (1b) DEFINITIONS.**

In this section:

- (a) "Harvest" means to cut, remove or transport.
- (b) "Harvesting" means cutting, removing or transporting.
- (c) "Raw forest products" has the meaning given in s. 26.05(1).

**(1g) PROHIBITION; DELINQUENT TAXES.** No person may harvest any raw forest products, or direct the harvest of any raw forest products, from any land for which taxes are delinquent.

**(1m) HARVESTING UPON NOTIFICATION.** (a) 1. Unless otherwise authorized to do so by the county, no person may harvest any raw forest products, or direct the harvesting of any raw forest products, from any land until 14 days after the clerk of the county in which the land is located is notified of the person's proposal to harvest. The person shall notify the county clerk each year and may do so in any manner acceptable to the county. Each time the person notifies the county, the person shall describe the land upon which the harvesting will occur by quarter-quarter section, government lot or fractional lot, unless the county requires a different method for describing the land. Notification under this subdivision expires on the December 31 immediately following the notification, and no person may harvest, or direct the harvesting of, any additional raw forest products from the land until further notification that complies with this subdivision is provided to the county.

2. Upon receipt of notifications under subd. 1., the county clerk shall provide notice to the town chairperson of each town in which the land from which raw forest products will be harvested is located and to the county treasurer. The county treasurer shall determine whether the county holds a tax certificate or tax deeds to any of the land involved. If the county holds a tax certificate, the county treasurer shall take action to collect the unpaid taxes represented by county-owned tax certificates or to prevent the harvesting of raw forest products from the land. If the county holds a tax deed, the county treasurer shall take action to prevent the harvesting of raw forest products from the land.

(b) Paragraph (a) 1. does not apply to a person harvesting raw forest products on public lands, as defined in s. 70.13(7), to a person harvesting raw forest products for fuel wood for his or her home consumption, to a person harvesting for the purpose of clearing the land for agricultural use or to a person harvesting from the person's own land, any of the following:

- 1. Boughs for his or her own use.
- 2. Up to 5 Christmas trees for his or her own use.

**(1r) HARVESTING UPON RECORDING.** (a) No purchaser of Indian reservation land or land to be placed upon the tax roll for the first time may harvest any raw forest products, or direct the harvesting of any raw forest products, from the land without first recording the instrument by which title to the land was acquired in the office of the register of deeds for the county in which the land is located.

(b) Paragraph (a) does not apply to a person harvesting raw forest products for fuel wood for his or her home consumption.

**(2) PENALTIES.** (a) Whoever violates sub. (1g), or a rule promulgated upon sub. (1g), shall forfeit not less than \$500 nor more than \$10,000.

(b) Whoever violates sub. (1m) or (1r), or a rule promulgated under sub. (1m) or (1r) shall forfeit not more than \$100.



**(3)** EXEMPTION. This section shall not apply to the harvesting of raw forest products by the following entities if such harvesting or removal is for the purpose of establishing or maintaining a railroad or utility right of way pursuant to a recorded easement or other instrument of conveyance which gives the easement holder such removal rights:

- (a) A railroad as defined in s. 195.02;
- (b) A public utility as defined in s. 196.01(5);
- (c) A telecommunications carrier as defined in s. 196.01(8);
- (d) An alternate telecommunications utility as defined in s. 196.01(1d);
- (e) An electric cooperative as defined in s. 196.02(5)(ag).

Potential  
Language

**Gibson-Glass, Mary**

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, March 28, 2006 3:01 PM  
**To:** Gibson-Glass, Mary; Nelson, Robert P.  
**Subject:** FW: Updated language for raw forest product exemption

Can you get in back in touch with Adam of Montgomery's office regarding this request? He says that Todd of Cowles's office made the request last Friday. Robin says that she doesn't have it. We can't ask Todd because he's on vacation this week.

-- Mark

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, March 28, 2006 3:00 PM  
**To:** Raschka, Adam  
**Subject:** RE: Updated language for raw forest product exemption

Adam: I still trying to figure out who got this one. Todd's request probably went to either Bob Nelson or Mary Gibson-Glass. Mary will be back in the office tomorrow, and Bob is out of the office until Monday. I will forward this email to them, and we will get back to you soon to let you know who is doing it.

-- Mark

---

**From:** Raschka, Adam  
**Sent:** Tuesday, March 28, 2006 11:39 AM  
**To:** Kunkel, Mark  
**Subject:** Updated language for raw forest product exemption

Mark,

The following language varies slightly from what Todd submitted last Friday.

Please give me a call if you have any questions.

Adam

**Adam Raschka**

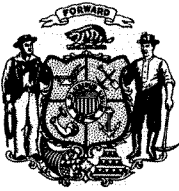
Office of Representative Phil Montgomery  
Chair - Assembly Energy & Utilities Committee  
608-266-5840

*listed*  
*Per Adam - let entities below harvest raw products even if owner is delinquent if purpose is to establish*

**(3)** EXEMPTION. This section shall not apply to the harvesting of raw forest products by the following entities if such harvesting or removal is for the purpose of establishing or maintaining a railroad, pipeline or utility right of way:

- (a) A railroad as defined in s. 195.02;
- (b) A public utility as defined in s. 196.01(5);
- (c) A telecommunications carrier as defined in s. 196.01(8);
- (d) An alternate telecommunications utility as defined in s. 196.01(1d);
- (e) An electric cooperative as defined in s. 196.02(5)(ag);
- (f) A corporation licensed to do business in Wisconsin for the transportation of natural gas, petroleum products, water, or sewage through pipelines.

*Wants new bill - exemption under 26.03(1g) - hearing 4/11/06*



mm. 4/3  
State of Wisconsin  
2005 - 2006 LEGISLATURE

RM12  
LRB-4869/2

RNK.....  
WJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 AN ACT <sup>Gen</sup>...; relating to: the prohibition against the harvest of raw forest products  
2 from tax delinquent lands and notice and recording requirements for persons  
3 who harvest raw forest products.

---

***Analysis by the Legislative Reference Bureau***

Under current law, with certain exceptions, no person may harvest any raw forest products from any land for which taxes are delinquent. Current law also requires a person who proposes to harvest raw forest products to give the clerk of the county in which the land is located 14 days notice of the intention to harvest the products. The clerk must then give notice to the town chairperson of each town in which the land is located and to the county treasurer. If the county treasurer determines that there are unpaid taxes on the land, the county treasurer must take action to collect the unpaid taxes or prevent the harvesting of the raw forest products. Current law also prohibits the purchaser of Indian reservation land or land to be placed upon the tax roll for the first time from harvesting raw forest products unless the purchaser first records the title to the land in the office of the register of deeds for the county in which the land is located. \*

This bill exempts certain entities from these current law provisions. Under the bill, these provisions do not apply to the harvesting of raw forest products for the purpose of establishing or maintaining a railroad track or structure, a pipeline, or a utility right of way by an alternative telecommunications utility, an electric cooperative, a public utility, a railroad, a telecommunications carrier, or a corporation that transports natural gas, petroleum products, water, or sewage through pipelines. \*

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

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

1 SECTION 1. 26.03 (1v) of the statutes is created to read:

2 26.03 (1v) EXCEPTIONS. (a) This section does not apply to the harvesting of raw  
3 forest products for the purpose of establishing or maintaining a railroad track or  
4 structure, a pipeline, or a utility right of way by any of the following:

5 (a) 1. An alternative telecommunications utility, as defined in s. 196.01 (1d). ✓

6 (b) 2. An electric cooperative, as defined in s. 196.025 (5) (ag). ✓

7 (c) 3. A public utility, as defined in s. 196.01 (5). ✓

8 (d) 4. A railroad, as defined in s. 195.02. ✓

9 (e) 5. A telecommunications carrier, as defined in s. 196.01 (8m). ✓

10 (f) 6. A corporation licensed to do business in this state that is engaged in the  
11 business of transporting natural gas, petroleum products, water, or sewage through  
12 pipelines.

13

(END)

## Kite, Robin

---

**From:** Stuart, Todd  
**Sent:** Wednesday, April 05, 2006 8:22 AM  
**To:** Kite, Robin  
**Subject:** RE: LRB 4870

Hi Robin:

As you know, I am (Cowles office) working on a Senate companion to Montgomery's request LRB 4870. Could you please do a /2 for LRB 4869/1 that reflects the changes made to 4870? Thanks so much. Please call if you need anything.

-TS

---

**From:** Raschka, Adam  
**Sent:** Tuesday, April 04, 2006 4:20 PM  
**To:** Stuart, Todd  
**Subject:** RE: LRB 4870

We pulled it out as she suggested. Hope to have it by tomorrow morning. I'm working on a co-sponsorship memo as we speak.

---

**From:** Kite, Robin  
**Sent:** Tuesday, April 04, 2006 3:26 PM  
**To:** Raschka, Adam  
**Subject:** RE: LRB 4870

Are you sure that you need to list "a small telecommunications utility" given that such a utility is subsumed in the definition of a "telecommunications utility"? Also, with regard to your request that we expedite the fiscal estimate --- we have no ability to do so given that we do not prepare those estimates. Once the bill is introduced, you may want to contact the person responsible for preparing the estimate and request that it be expedited.

Robin

---

**From:** Raschka, Adam  
**Sent:** Tuesday, April 04, 2006 3:05 PM  
**To:** Kite, Robin  
**Subject:** LRB 4870

Robin,

Here are the changes I mentioned in my phone call. Just a few more telecommunications definitions we thought should be included.

Thanks for your help.

Adam

**Adam Raschka**

Office of Representative Phil Montgomery  
Chair - Assembly Energy & Utilities Committee  
608-266-5840

Page 2, after line 9 insert:

(f) A small telecommunications utility as defined in s. 196.01(8).

(g) A telecommunications utility as defined in s. 196.01(10).

Page 2, line 10

Delete "f" and insert "h"



## 2005 BILL

- 1 AN ACT <sup>Regen</sup> to create 26.03 (1v) of the statutes; relating to: the prohibition against  
2 the harvest of raw forest products from tax delinquent lands and notice and  
3 recording requirements for persons who harvest raw forest products.

### *Analysis by the Legislative Reference Bureau*

Under current law, with certain exceptions, no person may harvest any raw forest products from any land for which taxes are delinquent. Current law also requires a person who proposes to harvest raw forest products to give the clerk of the county in which the land is located 14 days' notice of the intention to harvest the products. The clerk must then give notice to the town chairperson of each town in which the land is located and to the county treasurer. If the county treasurer determines that there are unpaid taxes on the land, the county treasurer must take action to collect the unpaid taxes or prevent the harvesting of the raw forest products. Current law also prohibits the purchaser of Indian reservation land or land to be placed upon the tax roll for the first time from harvesting raw forest products unless the purchaser first records the title to the land in the office of the register of deeds for the county in which the land is located.

This bill exempts certain entities from these current law provisions. Under the bill, these provisions do not apply to the harvesting of raw forest products for the purpose of establishing or maintaining a railroad track or structure, a pipeline, or a utility right-of-way by an alternative telecommunications utility, an electric cooperative, a public utility, a railroad, a telecommunications carrier, or a corporation that transports natural gas, petroleum products, water, or sewage through pipelines.

a telecommunications utility ↑

**BILL**

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1  
2  
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**SECTION 1.** 26.03 (1v) of the statutes is created to read:

26.03 (1v) EXCEPTIONS. This section does not apply to the harvesting of raw forest products for the purpose of establishing or maintaining a railroad track or structure, a pipeline, or a utility right-of-way by any of the following:

- (a) An alternative telecommunications utility, as defined in s. 196.01 (1d).
- (b) An electric cooperative, as defined in s. 196.025 (5) (ag).
- (c) A public utility, as defined in s. 196.01 (5).
- (d) A railroad, as defined in s. 195.02.
- (e) A telecommunications carrier, as defined in s. 196.01 (8m).

~~(f)~~<sup>(g)</sup> A corporation licensed to do business in this state that is engaged in the business of transporting natural gas, petroleum products, water, or sewage through pipelines.

(END)

④ (f) A telecommunications utility, as defined in s. 196.01 (10)



**Northrop, Lori**

---

**From:** Stuart, Todd  
**Sent:** Friday, April 07, 2006 12:58 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 05-4869/2 Topic: Exemption to prohibition on harvesting of raw forest products

Please Jacket LRB 05-4869/2 for the SENATE.