

## 2009 DRAFTING REQUEST

### Senate Amendment (SA-AB271)

Received: **01/21/2010**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Clark (608) 266-7746**

By/Representing: **himself**

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

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Clark@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Exemptions from professional land surveying requirements

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#### 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>
/?							
/P1	tkuczens 02/09/2010	csicilia 02/11/2010	jfrantze 02/15/2010	_____	sbasford 02/15/2010		
	tkuczens 02/27/2010	csicilia 03/01/2010		_____			
/1			rschluet 03/01/2010	_____	cduerst 03/01/2010	cduerst 03/01/2010	

FE Sent For:

<END>

**2009 DRAFTING REQUEST**

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/P1	tkuczens 02/09/2010	csicilia 02/11/2010	jfrantze 02/15/2010	3/1 phl	sbasford 02/15/2010		

FE Sent For:

1 gjs 3/1/10  
3/1/10

<END>

2009 DRAFTING REQUEST  
2  
Senate Amendment (SA-ASA1-AB271)

Received: 01/21/2010

Received By: tkuczens

Wanted: As time permits

Identical to LRB:

For: Fred Clark (608) 266-7746

By/Representing: himself

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May Contact:

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**Topic:**

Exemptions from professional land surveying requirements

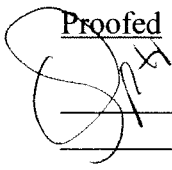
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**Instructions:**

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>
/?	tkuczens	/pl cjs	2/11 10 2/11				

FE Sent For:

<END>

**Kuczenski, Tracy**

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**From:** O'Connor, William [WOConnor@wheelerlaw.com]  
**Sent:** Monday, February 08, 2010 10:03 AM  
**To:** Clark, Fred; Kuczenski, Tracy  
**Subject:** RE: Drafting instructions for revisions to AB 271 (now SB 194)

Good morning.

WSLS agrees with the deletion of "the location of."

Thanks.  
Bill

William P. O'Connor

Wheeler, Van Sickle & Anderson, S.C.  
25 W. Main Street, Suite 801  
Madison, Wisconsin 53704

608.255.7277  
[woconnor@wheelerlaw.com](mailto:woconnor@wheelerlaw.com)

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**From:** Clark, Fred [mailto:Fred.Clark@legis.wisconsin.gov]  
**Sent:** Monday, February 08, 2010 8:17 AM  
**To:** Kuczenski, Tracy; O'Connor, William  
**Subject:** RE: Drafting instructions for revisions to AB 271 (now SB 194)

Tracy: It must be crunch time at LRB if you are working on a Sunday night. I would take those words out as you suggest. - Fred

**Fred Clark**  
**42nd Assembly District Representative**

Room 418 North

**Kuczenski, Tracy**

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**From:** Clark, Fred  
**Sent:** Monday, February 08, 2010 8:17 AM  
**To:** Kuczenski, Tracy; O'Connor, William  
**Subject:** RE: Drafting instructions for revisions to AB 271 (now SB 194)

Tracy: It must be crunch time at LRB if you are working on a Sunday night. I would take those words out as you suggest.  
- Fred

**Fred Clark**  
**42nd Assembly District Representative**

Room 418 North  
State Capitol  
P.O. Box 8952  
Madison, WI 53708

Rep.clark@legis.wisconsin.gov

(608) 266-7746

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**From:** Kuczenski, Tracy  
**Sent:** Sun 2/7/2010 2:55 PM  
**To:** O'Connor, William; Clark, Fred  
**Subject:** RE: Drafting instructions for revisions to AB 271 (now SB 194)

Hi Bill and Fred --

Regarding the substitution of "establishment or re-establishment" for "determination" on p. 25, line 1 of AB 271.

Is the professional land surveyor establishing the location of the boundaries or the boundaries themselves? That is, is it necessary to keep the prepositional phrase "of the location" in there? Or can I delete those words so that it reads "establishment or re-establishment of the boundaries of one or more tracts of land..."?

Tracy

---

2/8/2010

**Kuczenski, Tracy**


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**From:** fclark@clarkforestry.com  
**Sent:** Friday, February 05, 2010 7:28 AM  
**To:** O'Connor, William; Kuczenski, Tracy  
**Cc:** fred@clarkforwisconsin.org; Francis Thousand  
**Subject:** Re: AB-271 Amendment

Bill - I think this is fine. Thanks. Fred

Sent from my BlackBerry® wireless device from U.S. Cellular

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**From:** "O'Connor, William" <WOConnor@wheelerlaw.com>  
**Date:** Wed, 3 Feb 2010 15:20:41 -0600  
**To:** Kuczenski, Tracy <Tracy.Kuczenski@legis.wisconsin.gov>  
**Cc:** <fred@clarkforwisconsin.org>; Francis Thousand <fthousand@charter.net>  
**Subject:** AB-271 Amendment

✓ Dear Tracy,

On January 25 I emailed drafting instructions for the proposed amendment to AB-271. This note is to request a minor modification to the drafting instructions to clarify the intent of the affected section.

Paragraph 8(1) of the drafting instruction outline proposes to replace “**determination of the location of the boundaries**” with “**establishment of the location of the boundaries**” in s. 443.01(6s) which defines the activities constituting the practice of professional land surveying. The effect of this change is to narrow the professional practice, excluding from licensure activities that locate an existing boundary, rather than establishing a new boundary between tracts of land (or specified interests therein,)

Based on further discussions with the Wisconsin Society of Land Surveyors, we believe this section should be further modified to include the “**re-establishment**” of such boundaries. This terminology is used when a pattern of use or practice has obscured the location of a previously established boundary, requiring the surveyor to “re-establish” an existing boundary. This modification is not intended to require licensure of persons who undertake to “find” an existing boundary. It would require a surveyor licensee to re-establish a “lost boundary” that cannot be located on the ground because of conflicting or lost monuments or records.

Hence, s. 443.01(6s) would be amended to read as follows:

“1. Any service comprising the ~~determination~~ establishment or re-establishment of the location of the boundaries of one or more tracts of land or the boundaries of any of the following interests in real property:

- a. The layout and rights-of-way of roads or streets.
- b. Air or subsurface property rights.
- c. Public or private easements.”

Rep. Clark has not approved this modification to the drafting instructions and I understand he is also out of the office this week. So this request is made subject to Rep. Clark’s approval. I will plan to contact him next

week and will let you know if he does agree with this proposed clarification.

Thank you. I hope you had a good week away from the office.

Best wishes.

Bill O'Connor

William P. O'Connor

Wheeler, Van Sickle & Anderson, S.C.  
25 W. Main Street, Suite 801  
Madison, Wisconsin 53704

608.255.7277

[woconnor@wheelerlaw.com](mailto:woconnor@wheelerlaw.com)

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**Kuczenski, Tracy**

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**From:** O'Connor, William [WOConnor@wheelerlaw.com]  
**Sent:** Monday, January 25, 2010 11:12 AM  
**To:** Kuczenski, Tracy  
**Cc:** Clark, Fred; Cieslewicz, Dianne; Francis Thousand  
**Subject:** AB-271 Amendment  
**Attachments:** ab.271.amendment.1.25.2009.doc

Dear Tracy,

I am sending along a list of minor amendments to AB-271 which I understand you have been authorized to draft.

Please feel free to contact me if you have any questions about the proposed amendment.

Thanks.

Bill O'Connor

William P. O'Connor

Wheeler, Van Sickle & Anderson, S.C.  
25 W. Main Street, Suite 801  
Madison, Wisconsin 53704

608.255.7277  
[woconnor@wheelerlaw.com](mailto:woconnor@wheelerlaw.com)

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1/25/2010

PROPOSED AMENDMENT  
TO  
ASA-1 TO AB-271  
January 25, 2010

1. Amend s. 59.69(43)(8) to create an exemption to permit maps incorporated into MFL orders to be recorded.
2. Amend proposed s. 443.135 to clarify that nothing in chapter 443 should be construed to require licensure by a person who locates the approximate boundaries of one or more tracts of land or prepares a map of those boundaries for the purpose of natural resource management.
3. Amend 443.01 to create a definition of 'natural resources management' as "the management of natural resources, including wildlife management, natural area management, habitat restoration, forestry, forest management and timber sales, and soil and water conservation."
4. Amend the "utility" exemptions affecting certain "utility" and electric cooperative easements adopted in AA1 to ASA1 so that it covers both employees and contractors serving the listed entities qualifying for the exemption.  
*see § AA10  
AA1 to ASA1  
to 2009 AB 271*
5. Delete Section 2 (creating s. 16.967(3)(f).
6. Renumber s. 16.966 as s. 16.966(1).
7. Create s. 16.966(2) to read as follows:  

"16.966(2) The department shall do the following:

  - (a) develop written policies, technical standards, and best practices for spatial data and geospatial technology use by governmental and non-governmental units, and
  - (b) assist state agencies and local units of government in determining which maps prepared using geographic information systems but not prepared by a professional land surveyor, as defined in s. 443.01 (7m), do not require the disclaimer set forth in s. 443.14(16) (form) or a substantially similar disclaimer.
8. Amend proposed s. 443.01(6s)1 to read as follows:
  1. Any service comprising the ~~determination~~ establishment of the location of the boundaries of one or more tracts of land or the boundaries of any of the following interests in real property:

- a. The layout and rights-of-way of roads or streets.
  - b. Air or subsurface property rights.
  - c. Public or private easements.
9. Amend Sections 100 and 101 to authorize a state agency or local governmental unit not to include a disclaimer on a map consistent with policies established by DOA under proposed s. 16.699(2).

Provided to drafter  
by Bill O'Connor 1/20/2010  
(Atty. for WSLS)

**DNR Testimony before the Senate Committee on Economic Development on January 7,  
2010, related to Assembly Substitute Amendment 1 to AB 271, regarding the  
Practice of Professional Land Surveying.**

**Position: For Information Only**

Good afternoon Chairman Lassa. My name is Quinn Williams, and I am a staff attorney with the Department of Natural Resources. I would like to thank Representative Clark, Senator Risser, and the Committee on Economic Development for giving the Department the opportunity to provide comments on AB 271. Both Representative Clark and Senator Risser, as well as the Wisconsin Society of Land Surveyors (WSLS), have been willing to work with the Department to address our specific concerns on this important piece of legislation.

The challenges involved in the drafting of this bill only serve to highlight the need for this legislation to bring the definition of the practice of professional land surveying into the 21<sup>st</sup> century. The Department supports the intent of the bill, and over the course of the past 7 months, has worked with the bill drafters, WSLS and other stakeholders to address the Department's concerns. The Department believes that the bill, in its current form as the adopted "Assembly Substitute Amendment 1 to AB 271" (AB 271), provides a number of beneficial clarifications and definitions to the current definition of the practice of professional land surveying.

For example, the bill contains two new provisions related to natural resource law and identification of Ordinary High-Water Marks on plats and survey maps. Application of these two provisions will improve understanding for property owners, municipalities, and others regarding the location of the OHWM at a given property, as well as the ownership and legal rights associated with the OHWM elevation and boundary. Staff from DNR, the Department of Justice and the Board of Commissioners of Public Lands have worked with representatives of the land surveyors on the proposed changes to chapters 30 and 236, Stats., and are in support of these changes.

AB 271 also clearly exempts from licensure persons who prepare maps used in connection with a regulatory program established by or used in connection with the exercise of the state's police powers or in connection with the enforcement of the public trust doctrine or any other constitutional authority by the state or maps showing the shape and area of land designated as forest cropland or managed forest lands.

However, as with any complex piece of legislation, there are still a number of remaining issues that should be addressed to ensure efficient and effective administration of the state's natural resources. The following is a brief summary of the remaining concerns that the Department believes need to be addressed:

**1) Maps (including GIS/digital maps).**

**Problem:**

The current language included under Wis. Stat. s. 16.967(3)(f) found on page 6, line 9 of AB 271, is overly broad, and would unintentionally include a host of maps that the bill drafter likely did not intend to include (such as maps of the state, of state forests, state parks, etc) that would not be mistaken to represent on the ground property boundaries for the purposes of determining where to locate a fence, house, etc.

**DNR Testimony before the Senate Committee on Economic Development on January 7, 2010, related to Assembly Substitute Amendment 1 to AB 271, regarding the Practice of Professional Land Surveying.**

**Solution:**

Representative Clark, along with WSLs has suggested that a provision that would allow the various state agencies and local units of government to have discretion as to when a disclaimer would be required on a map or online GIS tool. This would be an acceptable solution for the Department. In many instances, the Department will end up using a substantially similar disclaimer for those maps the Department produces where there may be confusion, but requiring it on all maps would lead to some obviously unintended results (disclaimers on state-wide scale maps, etc.).

**2) Cooperating foresters, loggers and other natural resource managers determining and establishing timber sale boundaries or the boundaries of other forestry practices, wildlife management, or other ecosystem management boundaries.**

*corresponds w/  
w/o memo item 2*

**Problem:**

Additional clarification is needed to ensure that the determination and establishment of timber sale boundaries, other forestry practices, wildlife management, or other ecosystem management boundaries does not require the services of a professional land surveyor. The use of the term "service" under the proposed Wis. Stat. s. 443.01(6s)(a)1 (pages 24 through 26 of AB 271), could sweep in cooperating foresters, loggers, or other natural resource managers that determine and establish a variety of forestry, wildlife management or ecosystem management boundaries. If determining the boundaries of a timber sale by cooperating foresters or DNR foresters for private landowners is a "service comprising the determination of the location of the boundaries of . . . property rights" (timber rights or the right to access and harvest timber being a property right), then the current language would likely sweep them in. This is a critical issue for the timber industry in Wisconsin, as well as other public and private natural resource managers, and was not intended by Representative Clark, or identified during the ongoing revisions of the bill with all of the various stakeholders. Current statutory (with respect to timber sale establishment) and civil remedies exist to appropriately protect citizens from any errors done in the course of the work of these natural resource managers.

**Solution:**

*Amend to re-locate to 443.135*

Include the following exemption under the proposed 443.14 list of exemptions:

"443.14(19) A person engaged in determining the location of the boundaries of one or more tracts of land or the boundaries of any of the interests in real property described in 443.01(6s)(a)1. for the purpose of establishing the boundary for the purpose of natural resource management."

Create the following definition:

"443.01(4r) "Natural resource management" includes the practice of forestry and forest management, wildlife management, or other ecosystem management services."

*Quint's definition*

Eliminate "or property rights" from the proposed 443.01(6s)(a)1.b.

The term "property rights" is not defined in AB 271, nor could it likely be easily defined. Property rights, under a common usage interpretation, include any of the entire "bundle of sticks"

**DNR Testimony before the Senate Committee on Economic Development on January 7,  
2010, related to Assembly Substitute Amendment 1 to AB 271, regarding the  
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that property owners have control over or own. Many regulatory programs for which the Department is responsible, as well as many of the third party services provided by foresters, loggers and other natural resource managers, could be interpreted to be determining or establishing the boundary of interests in a landowner's property rights.

This language, or something substantially similar, would protect cooperating foresters, loggers, and a variety of other private natural resource managers from being required to obtain licensure as professional land surveyors to determine and establish timber sale boundaries.

**3) Managed Forest Law and Forest Crop Law Maps.**

Managed Forest Law (MFL) maps are recorded with orders at the register of deeds. Since the inception of the MFL program in 1985, maps have been recorded with the MFL orders to note stand type, boundaries, and other irregular features, usually through using aerial photo overlays. While these maps are not survey quality, the enforcement and administration of the MFL program allows for significant flexibility.

**Problem:**

The problem is that the legal description of the "specific . . . [i]nterest or interests in real property shown more generally on the map described in par. (b) (intro.)" (page 9, lines 5, 6, 9 an of AB 271) on MFL orders and maps recorded at the register of deeds would not allow for current MFL maps to be recorded. Since there is no exemption for the recording of MFL maps similar to the exemption from licensure under the proposed Wis. Stat. s. 443.135(2)(b) (pages 32 and 33 of AB 271), this would prohibit the filing of MFL maps which have been filed for the past 24 years under the MFL program with no substantial issues resulting in the administration of the MFL program or interests of MFL enrollees. The language prior to "Assembly amendment 2 to Assembly substitute amendment 1" was arguably vague enough to allow for a more specific MFL map attached to a less specific legal description.

For example, the legal description on an order would be "Township 15 North, Range 20 East Section 24, NESW, part of 33 acres, and SESW, part of 3 acres" but would not describe where the line excluding the 6 acres would fall. As the following map and order illustrate, this would indicate the edge of the interest in real property subject to an MFL order.



60-001-1994.pdf 2009121709044547  
(280 KB) 3.pdf (67 KB)



The "Assembly Amendment 2 to Assembly Substitute Amendment 1" to AB 271 was not included in the proposed bill language for review by the Department prior to its passage in the Assembly, or the Department would have raised this issue prior to final introduction to the Assembly. Requiring surveys on all MFL maps (as the floor amendment on this bill did, noted above), defeats the purpose of the exemption included under the proposed Wis. Stat. s. 443.135 (pages 32 and 33 of AB 271), which exempts those persons who make MFL or Forest Crop Law (FCL) maps from licensure requirements. Requiring written legal descriptions beyond what is currently used in MFL orders or FCL contracts to describe the "squiggly lines" of forest boundaries on landowner's properties would likely not be any better than the current orders with the attached maps, unless the description is made working with a professional land surveyor,

**DNR Testimony before the Senate Committee on Economic Development on January 7, 2010, related to Assembly Substitute Amendment 1 to AB 271, regarding the Practice of Professional Land Surveying.**

which again defeats the purpose of an exemption under the proposed Wis. Stat. s. 443.135 (pages 32 and 33 of AB 271), and would add this cost to any landowner entering the MFL program.

**Solution:**

A similar exemption as what is granted to DATCP under 59.43(8)(d) on page 9, lines 19 to 21 of AB 271, but instead targeted at MFL and FCL maps with a valid MFL order or FCL contract.

*corregundo  
with WPO item!*

**4) Determining and establishing temporary recreational trails.**

**Problem:**

Arguably, the current AB 271 language would require that professional surveyors be used to determine snowmobile and other temporary recreational trail boundaries, either on the ground or via maps, which would prove to be a very difficult burden for many recreational user groups and land managers to overcome, and could preclude many of these trails from being established.

**Solution:**

Eliminate "or property rights" from the proposed 443.01(6s)(a)1.b. As noted in the Department's concerns related to the boundaries of forestry practices, wildlife and ecosystem management practices, the term "property rights" is overly broad, and sweeps in a host of potential rights that have not historically fallen under the auspices of the practice of professional land surveying. Further clarification of the term "rights of way" found under 443.01(6s)(a)1.a. would also help to alleviate this concern.

**Conclusion**

Both Senator Risser and Representative Clark have indicated a willingness to continue to work with the Department to address these remaining concerns as part of this important legislation. The Department recognizes the difficulties in updating current law to reflect the modern practice of professional land surveying, and appreciates all of the good work that has gone into the bill up to this point.

## DOA PROPOSALS

Provided to drafter by  
Bill O'Connor (acty for WSLC)  
1/20/2010

**From:** Casper, Tim - DOA [mailto:Tim.Casper@wisconsin.gov]  
**Sent:** Friday, January 08, 2010 11:49 AM  
**To:** Cieslewicz, Dianne; Topp, Jessica  
**Cc:** Pulford, Curtis - DOA  
**Subject:** FW: AB 271 Issues

Dianne and Jessica,

I'm sorry I wasn't able to get this to you yesterday, but here is a summary of the concerns that Curtis spoke with each of you about and some language suggestions to address those issues. Please let me know if we can be of further assistance on this matter.

Tim

---

**From:** Saunders, Mark - DOA  
**Sent:** Friday, January 08, 2010 11:06 AM  
**To:** Casper, Tim - DOA  
**Cc:** Pawasarat, Jane - DOA; Pulford, Curtis - DOA; Dombrowski, Cynthia A - DOA  
**Subject:** AB 271 Issues

Hi Tim,

I met with Jane Pawasarat and Cindy Dombrowski from State Budget Office, and Curtis Pulford, Geographic Information Officer from DET, to discuss certain provisions of the Assembly Substitute Amendment 1 to AB271 (regarding the "Practice of Professional Land Surveying"). We believe that there are several unintended consequences to DOA resulting from this otherwise well-intended amendment, and would like to suggest changes to address them.

Section 2 of ASA1 creates section 16.967(3)(f) and requires DOA to:

Ensure that state agencies and local governmental units with land information responsibilities include on any map that depicts the boundary of one or more tracts of land, or of one or more interests in real property, the following or a substantially similar disclaimer if the map was prepared using the land information system, but was not prepared by a professional land surveyor, as defined in s. 443.01 (7m), engaged in the practice of professional land surveying, as defined in s. 443.01 (6s):

"This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes."

Our concern is that having to "ensure" that agencies and local units of government include the disclaimer "on any map" depicting boundaries essentially requires us to police all mapping activity by all agencies and local governments, a task for which we simply do not have the means. In addition, our GIS section and other interested parties also note that the disclaimer is not needed on all maps—depending on the map's purpose/intended use and



other circumstances. It is our understanding from discussions with Bill O'Connor representing the Wisconsin Society of Land Surveyors, that the bill author did not intend that language to impose any specific policing requirement on DOA, but rather was intended to give us wide discretion to determine how best to implement the disclaimer requirement.

Accordingly, we recommend that Section 2 of ASA1-AB271 be amended to state a general policy goal and not impose any enforcement or policing mandate on DOA, and to have DOA provide assistance to/set policies for state agencies and local units of government to determine to which maps the disclaimer should apply. Also, we suggest that the language be put in §16.966 Stats., rather than §16.967, since the former section already addresses GIS issues.

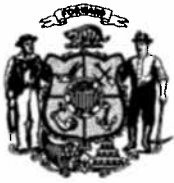
Accordingly, current §16.966 should be renumbered to 16.966(1), and 16.966(2) would be created to read as follows:

16.966(2) The department shall do the following:

(a) develop written policies, technical standards, and best practices for spatial data and geospatial technology use by governmental and non-governmental units, and

(b) assist state agencies and local units of government in determining which maps prepared using geographic information systems relating to land, and depicting the boundary of an interest in property or to be recorded in the office of one or more county registers of deeds, but not prepared by a professional land surveyor, as defined in s. 443.01 (7m), engaged in the practice of professional land surveying, as defined in s. 443.01 (6s), shall include a disclaimer to that effect, and that the map is provided for informational purposes only.

Thank you and please let me know how you would like to proceed.



D-NOTE

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

**SENATE AMENDMENT,**

**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**

**TO 2009 ASSEMBLY BILL 271**

LPS: fix  
request  
sheet as  
shown on  
request sheet

2/9/2010

SKV  
william

bill as shown by assembly  
substitute amendment 1

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 2: delete "443.14 (16)" and substitute "443.14 (16m)".

3 **2.** Page 2, line 8: delete "443.14 (15), 443.14 (16)" and substitute "443.14 (16),  
4 443.14 (16m)".

5 **3.** Page 6, line 8: delete lines 8 to 19 and substitute:

6 "SECTION 2g. 16.966 of the statutes is renumbered 16.966 (1). x

7 SECTION 2r. 16.966 (2) of the statutes is created to read:

8 16.966 (2) (a) In this subsection:

9 1. Agency has the meaning given in s. 13.172 (1).

10 2. Local governmental unit has the meaning given in s. 16.97 (7).

11 3. Professional land surveyor has the meaning given in s. 443.01 (7m).

1 (b) The department shall do all of the following:

2 1. Develop written policies, technical standards, and best practices for all of the  
3 following:

4 a. The use of spatial data, geospatial technology, and geographic information  
5 systems by <sup>agencies and local</sup> governmental ~~and nongovernmental~~ <sup>units</sup> units.

6 b. The circumstances under which the disclaimer described in s. 443.14 (16m)  
7 (a) is required to be included on a map prepared using a geographic information  
8 system by an employee of an agency or a local governmental unit who is not a  
9 professional land surveyor and exceptions to the requirement that the disclaimer be  
10 included on a map.

for purposes of s. 443.14 (16m)(b) (16m)(b)

11 2. Provide assistance to agencies and local governmental units to establish  
12 written policies, technical standards, and best practices for all of the following:

13 a. The use of spatial data, geospatial technology, and geographic information  
14 systems by employees of ~~the~~ agencies and local governmental units.

15 b. The circumstances under which an employee of ~~the~~ <sup>an</sup> agency or local  
16 governmental unit who is not a professional land surveyor and who prepares a map  
17 using a geographic information system is required to include the disclaimer  
18 described in s. 443.14 (16m) (a) on the map and exceptions to the requirement that  
19 the disclaimer be included on the map.”

20 4. Page 9, line 21: after that line insert:

21 “SECTION 11m. 59.43 (8) (e) of the statutes is created to read:

22 59.43 (8) (e) A map incorporated into or attached to and submitted for recording  
23 with an order under s. 77.82 (8) or under s. 77.02 (3) or (4).”

24 5. Page 17, line 8: delete “16.967 (3) (f)” and substitute “443.14 (16m)”.

1           **6.** Page 24, line 20: after that line insert:

2           <sup>✓</sup> **SECTION 64m.** <sup>^</sup> 443.01 (4m) of the statutes is created to read:

3           443.01 (4m) "Natural resource management" means activities related to soil  
4           and water conservation, the maintenance or restoration of natural areas, aquatic  
5           life, forests, wildlife, plants or animals, bees, or habitat, the control, as defined in s.  
6           23.22 (1) (a), of invasive species, as defined in s. 23.22 (1) (c), and the cultivation or  
7           harvesting of raw forest products, as defined in s. 26.05 (1)."

8           **7.** Page 25, line 1: delete "determination of the location" and substitute  
9           "establishment or re-establishment".

10          **8.** Page 25, line 5: after "or" insert "subsurface".

11          **9.** Page 32, line 18: after that line insert:

12          **(3)** Locating the approximate boundaries of one or more tracts of land and  
13          preparing a map of the approximate boundaries of the tract or tracts of land for the  
14          purpose of conducting natural resource management."

15          **10.** Page <sup>✓</sup> 33, line <sup>✓</sup> 10: delete "<sup>✓</sup>16.967 (3) (f)" and substitute "<sup>✓</sup>443.14 (16m)".

16          **11.** Page <sup>✓</sup> 34, line <sup>✓</sup> 16: delete "<sup>✓</sup>(15)" and substitute "<sup>✓</sup>(16)".

17          **12.** Page <sup>✓</sup> 34, line <sup>✓</sup> 17: delete "<sup>✓</sup>(15)" and substitute "<sup>✓</sup>(16)".


18          **13.** Page <sup>✓</sup> 34, line <sup>✓</sup> 21: delete "<sup>✓</sup>(16)" and substitute "<sup>✓</sup>(16m)".

19          **14.** Page <sup>✓</sup> 34, line <sup>✓</sup> 22: delete "<sup>✓</sup>(16)" and substitute "<sup>✓</sup>(16m)".

20          **15.** Page 35, lines <sup>g</sup> 3 and <sup>g</sup> 4: delete "<sup>g</sup>(16)" and substitute "<sup>g</sup>(16m)".  
*on lines 3 and 4*

21          **16.** Page 35, line 5: delete "<sup>✓</sup>(16)" and substitute "<sup>✓</sup>(16m)".

22          **17.** Page 35, line 9: delete "if the" and substitute "if one of the following

23          applies: <sup>g</sup> 

→ (¶) #. Page 35, line 10: before "employee" insert:

1 (¶) (a) The".

2 18. Page 35, line 11: delete "(16)" and substitute "(16m) (a)".

3 19. Page 35, line 12: delete "(16)" and substitute "(16m) (a)".

4 20. Page 35, line 15: after that line insert:

before the material inserted by assembly amendment 1,

5 "SECTION 102b. 443.14 (16m) (b) of the statutes is created to read:

6 443.14 (16m) (b) All of the following are satisfied:

7 1. The agency or local governmental unit has established written policies,  
8 technical standards, and best practices governing the creation of maps using  
9 geographic information systems, the circumstances under which an employee of the  
10 agency or local governmental unit who is not a professional land surveyor is required  
11 to include the disclaimer described in par. (a) on such a map, and exceptions to the  
12 requirement that the disclaimer be included on such a map, all as provided under s.

13 16.966 (2) (b) 2.

14 2. a. Except as provided in subd. 2. b., the map created by the employee falls  
15 within an exception established by the agency or local governmental unit under  
16 subd. 1.

17 b. No agency or local governmental unit may create an exception to the  
18 requirement under par. (a) that a disclaimer be included on a map created by an  
19 employee of the agency or local governmental unit who is using a geographic  
20 information system and who is not a professional land surveyor that is inconsistent  
21 with a written policy, technical standard, or best practice established by the  
22 department of administration under s. 16.966 (2) (b) 1.

23 3. The map is not being prepared in connection with the program under s.  
24 93.70."

*Insert 5-1*  
→

- 1           **21.** Page 41, line 12: delete lines 12 and 13. ✓
- 2           **22.** Page 43, line 8: delete "16.967 (3) (f), 93.70 (1m), and 443.14 (15)" and ✓
- 3 substitute "93.70 (1m) and 443.14 (16)". ✓
- 4           **23.** Page 43, line 10: delete "(16)" and substitute "(16m)". ✓
- 5           **24.** Page 43, line 12: delete "(16) (form)" and substitute "(16m) (a) (form) and
- 6 (b)".
- 7 ✓

(END)

*D note*

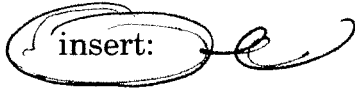
**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa1340/P1ins  
TKK:.....

1           **Insert 5-1**

2           **1.** Page 35, line 15: after that line, on page 1, line 4, of the material inserted  
3           by assembly amendment 1, after “employee of” insert “or contractor working for”.

4           insert:

A handwritten signature in cursive script, appearing to be 'e', is written over the word 'insert:'.

5           **2.** Page 35, line 15: after that line, on page 2, line 7, of the material inserted  
6           by assembly amendment 1, after “employee of” insert “or contractor working for”.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa1340/?dn

TKK.....

g's

*late*

Rep. Clark:

As requested by your office, this preliminary draft of a proposed Senate Amendment to ASA1 to 2009 AB 271 makes a number of changes to ~~that~~ ASA1 to 2009 AB 271. The drafting instructions for these changes were contained in several e-mails from Atty. Bill O'Connor to myself (and your office) dated January 25, 2010, February 5, 2010, and February 8, 2010. Please review the amendment carefully to ensure that the amendment achieves your intent.

Please give particular attention to the definition for "natural resources management" at proposed s. 443.01 (4m). The drafting instructions directed me to define "natural resources management" as "the management of natural resources, including wildlife management, natural area management, ... [and] forest management." In general, LRB drafting conventions discourage the use of a defined term, management, as the definition for that term.

Based upon conversations with yourself and Atty. O'Connor, I have attempted to capture those natural resources management activities for which maps may be prepared and boundaries identified by a person, but for which no licensure as a professional land surveyor would be required (See proposed s. 443.135 (3)). I welcome any comments or suggested changes to this definition.

✓ Note also that, following the enactment of 2009 Act 142, I was required <sup>if it was necessary</sup> to renumber two of the exemptions created in ASA1 to 2009 AB271 under s. 443.14: specifically, s. 443.14 (15) is renumbered in this amendment to s. 443.14 (16), and s. 443.14 (16) is renumbered in this amendment to s. 443.14 (16m).

Tracy K. Kuczenski  
Legislative Attorney  
Phone: (608) 266-9867  
E-mail: tracy.kuczenski@legis.wisconsin.gov



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa1340/P1dn  
TKK:cjs:jf

February 11, 2010

Rep. Clark:

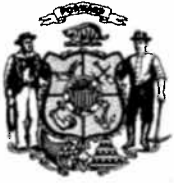
As requested by your office, this preliminary draft of a proposed Senate Amendment to 2009 AB 271 makes a number of changes to ASA1 to 2009 AB 271. The drafting instructions for these changes were contained in several e-mails from Atty. Bill O'Connor to myself (and your office) dated January 25, 2010, February 5, 2010, and February 8, 2010. Please review the amendment carefully to ensure that the amendment achieves your intent.

Please give particular attention to the definition for "natural resource management" at proposed s. 443.01 (4m). The drafting instructions directed me to define "natural resource management" as "the management of natural resources, including wildlife management, natural area management, ... [and] forest management." In general, LRB drafting conventions discourage the use of a defined term, management, as the definition for that term.

Based upon conversations with yourself and Atty. O'Connor, I have attempted to capture those natural resource management activities for which maps may be prepared and boundaries identified by a person, but for which no licensure as a professional land surveyor would be required (See proposed s. 443.135 (3)). I welcome any comments or suggested changes to this definition.

Note also that, following the enactment of 2009 Act 142, it was necessary to renumber two of the exemptions created in ASA1 to 2009 AB271 under s. 443.14: specifically, s. 443.14 (15) is renumbered in this amendment to s. 443.14 (16), and s. 443.14 (16) is renumbered in this amendment to s. 443.14 (16m).

Tracy K. Kuczenski  
Legislative Attorney  
Phone: (608) 266-9867  
E-mail: [tracy.kuczenski@legis.wisconsin.gov](mailto:tracy.kuczenski@legis.wisconsin.gov)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa1340/P1

TKK:cjs:jf

RMR

Stays

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE AMENDMENT ,**  
**TO 2009 ASSEMBLY BILL 271**

in 3/1/10

Today

(No changes)

see pp. 3 & 5

SAV

- 1 At the locations indicated, amend the bill, as shown by assembly substitute  
2 amendment 1, as follows:
- 3 **1.** Page 6, line 8: delete lines 8 to 19 and substitute:  
4 **"SECTION 2g.** 16.966 of the statutes is renumbered 16.966 (1). ✓  
5 **SECTION 2r.** 16.966 (2) of the statutes is created to read: ✓  
6 16.966 (2) (a) In this subsection:  
7 1. Agency has the meaning given in s. 13.172 (1).  
8 2. Local governmental unit has the meaning given in s. 16.97 (7).  
9 3. Professional land surveyor has the meaning given in s. 443.01 (7m).  
10 (b) The department shall do all of the following:  
11 1. Develop written policies, technical standards, and best practices for all of the  
12 following:

1 a. The use of spatial data, geospatial technology, and geographic information  
2 systems by agencies and local governmental units.

3 b. The circumstances under which the disclaimer described in s. 443.14 (16m)  
4 (a) is required to be included on a map prepared using a geographic information  
5 system by an employee of an agency or a local governmental unit who is not a  
6 professional land surveyor and exceptions to the requirement that the disclaimer be  
7 included on a map.

8 2. Provide assistance to agencies and local governmental units to establish, for  
9 purposes of s. 443.14 (16m) (b), written policies, technical standards, and best  
10 practices for all of the following:

11 a. The use of spatial data, geospatial technology, and geographic information  
12 systems by employees of agencies and local governmental units.

13 b. The circumstances under which an employee of an agency or local  
14 governmental unit who is not a professional land surveyor and who prepares a map  
15 using a geographic information system is required to include the disclaimer  
16 described in s. 443.14 (16m) (a) on the map and exceptions to the requirement that  
17 the disclaimer be included on the map.”.

18 **2.** Page 9, line 21: after that line insert:

19 “SECTION 11m. 59.43 (8) (e) of the statutes is created to read: ✓

20 59.43 (8) (e) A map incorporated into or attached to and submitted for recording  
21 with an order under s. 77.82 (8) or under s. 77.02 (3) or (4).”.

22 **3.** Page 17, line 8: delete “16.967 (3) (f)” and substitute “443.14 (16m)”.

23 **4.** Page 24, line 20: after that line insert:

24 “SECTION 64m. 443.01 (4m) of the statutes is created to read: ✓

1 443.01 (4m) "Natural resource management" means activities related to soil  
2 and water conservation, the maintenance or restoration of natural areas, aquatic  
3 life, forests, wildlife, plants or animals, bees, or habitat, the control, as defined in s.  
4 23.22 (1) (a), of invasive species, as defined in s. 23.22 (1) (c), and the cultivation or  
5 harvesting of raw forest products, as defined in s. 26.05 (1)."

6 5. Page 25, line 1: delete "determination of the location" and substitute  
7 "establishment or re-establishment".

8 6. Page 25, line 5: after "or" insert "subsurface".

9 7. Page 32, line 18: after that line insert:

10 "(3) Locating the approximate boundaries of one or more tracts of land and  
11 preparing a map of the approximate boundaries of the tract or tracts of land for the  
12 purpose of conducting natural resource management."

13 8. Page 33, line 10: delete "16.967 (3) (f)" and substitute "443.14 (16m)".

14 9. Page 34, line 16: delete "(15)" and substitute "(16)".

15 10. Page 34, line 17: delete "(15)" and substitute "(16)".

16 11. Page 34, line 21: delete "(16)" and substitute "(16m)".

17 12. Page 34, line 22: delete "(16)" and substitute "(16m)".

18 13. Page 35, line 3: on lines 3 and 4, delete "(16)" and substitute "(16m)".

19 14. Page 35, line 5: delete "(16)" and substitute "(16m)".

20 15. Page 35, line 9: delete "if the" and substitute "if one of the following  
21 applies:"

22 16. Page 35, line 10: before "employee" insert:

23 (a) The <sup>delete that line and substitute:</sup> 443.14(16m)(a) <sup>(intro.)</sup> The employee includes on the  
map the following or a  
substantially similar disclaimer:  
Section 101m. 443.14(16m)(a) <sup>(intro.)</sup> of the statutes is created  
to read:  
cs B B

1           **17.** Page 35, line 11: delete “(16)” and substitute “(16m) (a)”.

2           **18.** Page 35, line 12: delete “(16)” and substitute “(16m) (a)”.

3           **19.** Page 35, line 15: after that line, before the material inserted by assembly  
4 amendment 1, insert:

5           “**SECTION 102b.** 443.14 (16m) (b) of the statutes is created to read:

6           443.14 (**16m**) (b) All of the following are satisfied:

7           1. The agency or local governmental unit has established written policies,  
8 technical standards, and best practices governing the creation of maps using  
9 geographic information systems, the circumstances under which an employee of the  
10 agency or local governmental unit who is not a professional land surveyor is required  
11 to include the disclaimer described in par. (a) on such a map, and exceptions to the  
12 requirement that the disclaimer be included on such a map.

13           2. a. Except as provided in subd. 2. b., the map created by the employee falls  
14 within an exception established by the agency or local governmental unit under  
15 subd. 1.

16           b. No agency or local governmental unit may create an exception to the  
17 requirement under par. (a) that a disclaimer be included on a map created by an  
18 employee of the agency or local governmental unit who is using a geographic  
19 information system and who is not a professional land surveyor that is inconsistent  
20 with a written policy, technical standard, or best practice established by the  
21 department of administration under s. 16.966 (2) (b) 1.

22           3. The map is not being prepared in connection with the program under s.  
23 93.70.”.

1           **20.** Page 35, line 15: after that line, on page 1, line 4, of the material inserted  
2 by assembly amendment 1, after “employee of” insert “or contractor working for”.

3           **21.** Page 35, line 15: after that line, on page 2, line 7, of the material inserted  
4 by assembly amendment 1, after “employee of” insert “or contractor working for”.

5           **22.** Page 41, line 12: delete lines 12 and 13.

6           **23.** Page 43, line 8: delete “16.967 (3) (f), 93.70 (1m), and 443.14 (15)” and  
7 substitute “93.70 (1m) and 443.14 (16)”.

8           **24.** Page 43, line 10: delete “(16)” and substitute “(16m)”.

9           **25.** Page 43, line 12: delete “(16) (form)” and substitute “(16m) (a) (form) and  
10 (b)”. (intro.) and

11

(END)