

2011 DRAFTING REQUEST

Bill

Received: **11/10/2011**

Received By: **jkreye**

Wanted: **As time permits**

Companion to LRB:

For: **Legislative Council - JLC**

By/Representing: **Rachel Letzing**

May Contact:

Drafter: **jkreye**

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

Addl. Drafters: **mglass
rkite**

Extra Copies: **Scott Grosz - LC**

Submit via email: **YES**

Requester's email: **rachel.letzing@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov
mary.glass@legis.wisconsin.gov
robin.kite@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Managed forest land

Instructions:

Compile of LRB-1335, 1336, 1337, 1338, 1339, and 1340

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>
/?	jkreye 11/10/2011	jdye 11/10/2011		_____			S&L
/1			rschluet 11/10/2011	_____	ggodwin 11/10/2011	ggodwin 11/14/2011	

FE Sent For:

at intro
12-14-11

<END>

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/?	jkreye	1 11/10 JLD		_____			
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FE Sent For:

<END>



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2351/2

MGG/RNK/JK:jld/wlj/kjf/nwn:rs

LPS -
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auto ref
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~~2011 SENATE BILL 161~~

3460/11

August 3, 2011 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Natural Resources and Environment.

due Friday 11-11

Regen D-N

X

1 AN ACT *to repeal* 77.81 (5); *to renumber and amend* 77.82 (4) and 77.86 (1);
2 *to amend* 77.82 (4) (title), 77.82 (4g) (title), 77.82 (4g) (a), 77.82 (4g) (b), 77.82
3 (8), 77.83 (4) (b), 77.84 (2) (am), 77.84 (2) (bm), 77.86 (3), 77.86 (5) (a), 77.88 (5)
4 (a) 1. and 2. and (b) 1. and 2. and 77.89 (2) (b); *to repeal and recreate* 77.83
5 (2) (am); and *to create* 15.345 (7), 20.370 (1) (cw), 77.81 (5m), 77.81 (7), 77.82
6 (3e), 77.82 (3m), 77.82 (3r), 77.82 (4) (b), 77.84 (2) (d) and (e), 77.86 (1g), 77.865,
7 77.89 (2) (c) and 77.896 of the statutes; **relating to:** creating forest enterprise
8 areas; the creation of a managed forest land board of review; review of certain
9 decisions of the Department of Natural Resources regarding forestry practices
10 on managed forest land; annual allowable timber harvests; management plans
11 for large ownerships of managed forest land and for group enrollments;
12 designation of additional managed forest land; leasing of managed forest land;

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- 1 the taxation of managed forest land; granting rule-making authority;
2 requiring the exercise of rule-making authority; and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the 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:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Review of the Managed Forest Land (MFL) Program.

FOREST ENTERPRISE AREAS

This bill directs the department of natural resources (DNR) to designate forest enterprise areas in administrative rule. The DNR may designate forest enterprise areas with a combined area of no more than 200,000 acres. However, before January 1, 2013, the DNR may only designate up to 10 forest enterprise areas with a combined area of not more than 75,000 acres of land. The minimum size of a forest enterprise area must be 5,000 acres. In designating forest enterprise areas, the DNR must give preference to areas that include at least 1,000 acres of land enrolled in the MFL program.

In order to create a forest enterprise area, a town or county must apply to the DNR for designation of a forest enterprise area. The proposed forest enterprise area must be consistent with the town or county forest preservation or development plan if one exists. The DNR is required to promulgate rules as to what information must be included in an application.

A town within a forest enterprise area will receive, from revenues collected by the state from the forestry mill tax, an annual payment of \$1 for each acre of the town designated as MFL that is included in a forest enterprise area. A county within a forest enterprise area will receive, from the forestry mill-tax revenues, an annual payment of 50 cents for each acre of the county designated as MFL that is included in a forest enterprise area. The DNR may not include an acre of land in more than one enterprise area.

A town or county must use these funds for sustainable forestry and forest-based economic development within the town or county, including educating landowners about the benefits of participating in a forest enterprise area, and contracting with a private forestry consultant to assist landowners in preparing MFL applications or MFL owners in preparing management plans.

REVIEW OF SOUND FORESTRY PRACTICES BY MANAGED FOREST LAND REVIEW BOARD

Under current law, an applicant for participation in the MFL program or an owner of managed forest land who is adversely affected by a decision of the DNR is entitled to a contested case hearing under ch. 227, stats.

This bill creates an optional procedure for MFL owners who are dissatisfied with a DNR decision regarding the practice of sound forestry. Under this procedure, an MFL

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owner who is dissatisfied with a DNR decision regarding the practice of sound forestry may request review of the decision by the MFL Board. The board members are appointed by the DNR secretary for 3-year terms. The board consists of 7 members: one DNR regional forester; one private consulting forester, one forester who represents the Society of American Foresters; one forestry academic; one county forest administrator; one member of a nonprofit conservation organization; and one private nonindustrial owner of a woodland enrolled in the MFL program.

The board must review and decide the issues included in the MFL owner's request within a reasonable time. Upon conclusion of the review process, the board must issue an opinion for review by the chief state forester, who must then determine whether to accept the opinion of the board. All decisions of the chief state forester must be in writing and include sufficient facts in order to substantiate the decision.

The DNR must promulgate rules establishing the procedures and timeline for filing, review, and decision of the issues that come before the board for its review and action.

An MFL owner who receives a decision of the chief state forester retains the right to a contested case hearing under s. 227.42, stats., on the issues decided by the chief state forester.

MANAGED FOREST LAND MANAGEMENT PLANS AND TIMBER HARVESTS

Under current law, s. NR 46.18 (4), Wis. Adm. Code, permits the DNR to modify the requirements of management plans under the MFL program for ownerships exceeding 1,000 acres. Management plans may be modified after consideration of the following:

- Other land of the owner entered as MFL or forest crop land.
- The number of counties in which lands proposed for entry or renewal or the owner's existing MFL and forest crop land lie.
- The existence and availability for review of a management plan prepared by or for the owner and acceptable to the DNR.
- Submission of a written commitment from an owner to provide, upon DNR request, information from the management plan for review or audit. The commitment shall describe the management plan and outline the procedure used to update and amend the management plan.
- An owner's demonstrated consistent accessibility to competent technical forest management assistance through staff or consultant services.

This bill shifts the contents of s. NR 46.18 (4), Wis. Adm. Code, to the managed forest land subchapter of ch. 77, stats. Additionally, the draft directs DNR to promulgate rules to permit the management plans of groups of owners of managed forest land to be modified in the same manner as permitted for large ownerships. The bill directs the DNR to submit its proposed rules on this topic to the administrative rules clearinghouse no later than the first day of the 12th month after the effective date of the bill.

Under current law, s. 28.025, stats., directs DNR to establish annual allowable timber harvests for forested property owned by this state and forest property under the jurisdiction of DNR from which timber is harvested.

This bill requires modified management plans for ownerships that exceed 1,000 acres to include the establishment of an annual allowable harvest. This requirement would not apply to ownerships exceeding 1,000 acres whose lands are certified by an independent third party. The bill directs DNR to promulgate rules to establish annual allowable timber harvests in modified management plans.

Finally, this bill specifies that, if the DNR requires an owner of MFL to harvest particular timber from the land within a specified time period, the time period may not be less than three years.

DESIGNATION OF ADDITIONAL MANAGED FOREST LAND

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Under the MFL program, an owner of land designated as MFL under an order that takes effect on or after April 28, 2004, may apply to the DNR to designate an additional parcel of land as MFL if the additional parcel is at least 3 acres and is contiguous to any of the owner's designated land. The application must include a nonrefundable \$20 application recording fee unless a different amount is established by the DNR by rule at an amount equal to the average expense to the DNR of recording a managed forest land order. The fee must be deposited in the conservation fund. An application must be submitted on a DNR form and must contain any additional information required by DNR. [s. 77.82 (4), stats.]

If an owner of land that is designated as MFL under an order that takes effect before April 28, 2004, wishes to have designated as MFL an additional parcel of land that is at least 3 acres in size, that does not satisfy the MFL program eligibility requirements, but is contiguous to any of the owner's designated land, the owner may withdraw the designated land from the original order and may file an application with the DNR for a new order covering both the withdrawn land and the additional land. The withdrawal tax and the withdrawal fee do not apply under these circumstances. [s. 77.82 (4g), stats.] However, the filing of the new order has the effect of applying the current requirements of the MFL program, including a higher rate of taxation to both the additional parcel and the designated land from the original order.

This bill sunsets current law as it applies to owners of land designated as MFL under orders that take effect before April 28, 2004. Instead, under the bill, the land owner would be able to designate an additional parcel of land as MFL in, generally, the same manner as an owner of land designated as MFL under an order that takes effect on or after April 28, 2004.

Under the bill, only the additional parcel of land designated as MFL would be subject to the taxes in effect when the application for addition of the parcel is filed.

LEASING OF MANAGED FOREST LAND

Under current law, for land designated as MFL under an order that takes effect on or after October 27, 2007, no person may enter into a lease or other agreement for consideration if the purpose of the lease or agreement is to permit persons to engage in a recreational activity. Any lease or other agreement for consideration that permits persons to engage in a recreational activity was voided effective January 1, 2008.

The managed forest law defines recreational activities to include hunting, fishing, hiking, sight-seeing, cross-country skiing, horseback riding, and staying in cabins.

This bill repeals the prohibition on leasing of MFL. Instead, the bill permits the leasing of MFL, including leases and other agreements for consideration, that permit persons to engage in a recreational activity, if the use does not conflict with sound forestry practices or any forest management objective contained in the management plan for the land. The bill also specifies that any person who enters into a lease shall be subject to a forfeiture if the lease presents a conflict with sound forestry practices or the forest management objectives contained in the management plan.

TAXATION OF MANAGED FOREST LAND

Except as provided under the MFL program, no tax may be levied on MFL, except that any building on the land is subject to taxation as personal property under ch. 70, stats.

MFL Orders Effective Prior to April 28, 2004

Each owner of MFL must pay to the municipal treasurer an acreage share on or before January 31. Originally, this acreage share was \$.74 per acre. In addition to this amount, each owner was required to pay \$1 for each acre that is designated as closed under s. 77.83, stats.

Beginning in 1992 and in each 5th year thereafter, the department of revenue (DOR) adjusts the amounts of tax by multiplying the original acreage shares specified by a ratio using as the denominator the DOR's estimate of the average statewide tax per acre

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of property classes under s. 70.32 (2) (b) 4., 5., and 6., 1993 stats. (agricultural, swamp, or waste and productive forest land), for 1986 and, as the numerator, the DOR estimate of the average tax per acre for the same classes of property for the year in which the adjustment is made. Based on this adjustment, the current acreage share is \$.67 per acre of open land and \$1.57 per acre of closed land. [s. 77.84 (2) (c), stats.]

MFL Orders Effective on or After April 28, 2004

For MFL orders that take effect on or after April 28, 2004, each owner of MFL must pay to each municipal treasurer, on or before January 31, an amount equal to 5% of the average statewide property tax per acre of property classified as productive forest land under s. 70.32 (2) (a) 6., stats., for each acre of MFL.

In addition to this amount, each owner must pay to each municipal treasurer, on or before January 31, an amount equal to 20% of the average statewide property tax per acre of property classified as productive forest land under s. 70.32 (2) (a) 6., stats., for each closed acre of MFL.

In 2004, 2007, and each 5th year thereafter, DOR is required to determine the average statewide tax per acre of productive forest land by multiplying the average equalized value of productive forest land by the average tax rate determined under s. 76.126, stats. Based on this determination, the current acreage share is \$1.67 per acre of open land and \$8.34 per acre of closed land. [s. 77.84 (2) (cm), stats.]

This bill specifies new calculations for the closed land acreage shares for MFL orders that take effect on or after the effective date of the bill. Under the bill, owners of closed land under new MFL orders would pay the greater of the following:

- The acreage share applicable to MFL orders that take effect on or after April 28, 2004.
- A total of 25% of the full value of the closed MFL times the full value effective rate of taxation applicable to general property in the same taxation district as the closed managed forest land.

DISTRIBUTION OF MONEYS RECEIVED BY DNR

No later than June 30 of each year, the DNR must pay 100% of each payment received under s. 77.84 (3) (b) (delinquency payments), 77.87 (3) (yield tax), or 77.88 (7), stats. (withdrawal tax), to the treasurer of the municipality in which the land is located. [s. 77.89 (1), stats.]

Additionally, the DNR must pay before June 30 annually the municipal treasurer, from the appropriation under s. 20.370 (5) (bv), stats., \$.20 for each acre of land in the municipality that is designated as MFL and for each acre of tribal land in the municipality that has been withdrawn from the MFL program under s. 77.885, stats., but for which payments under s. 77.84 (2), stats., are being made. [s. 77.85, stats.]

Each municipal treasurer must pay 20% of each payment received from the DNR or directly under ss. 77.84 (2) (a) and (am) (payment for closed land), 77.85 (state contribution for MFL acreage), and 77.876, stats. (noncompliance assessments), to the county treasurer and must deposit the remainder in the municipal treasury. The payment to the county treasurer for money received before November 1 of any year must be made on or before November 15 after its receipt. For money received on or after November 1 of any year, the payment to the county treasurer must be made on or before November 15 of the following year. [s. 77.89 (2) (a), stats.]

The municipal treasurer also must pay to the county treasurer all amounts received under s. 77.84 (2) (b) and (bm), stats. (payment for closed land). The county treasurer must, by June 30 of each year, pay all amounts received under this provision to the DNR. All amounts received from the DNR must be credited to the conservation fund and reserved for land acquisition, resource management activities, and grants for land acquisition for outdoor activities. [s. 77.89 (2) (b), stats.]

This bill modifies the distribution of moneys received by local units of government in connection with the MFL program. Under the bill, 20% of MFL payments for closed acreage received by a municipal treasurer would be paid to the DNR. Forty-eight percent

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of the closed acreage MFL payments received by a municipal treasurer (equivalent to 60% of the amount remaining after payment to the DNR) would be paid to the county. From the closed acreage payments received by a county, the county must spend at least five-sixths of the amount received to acquire by purchase, lease, easement, or other agreement land that will be open to the public for hunting and certain other recreational activities, unless at least 40% of the county's lands are open to the public. If the county meets the 40% threshold, the county may elect to expend some or all of the amount on activities to improve resource management, including forest growth, forest health, fish habitat, wildlife habitat, and watershed protection.

1 **SECTION 1.** 15.345 (7) of the statutes is created to read:

2 15.345 (7) **MANAGED FOREST LAND REVIEW BOARD.** There is created in the
3 department of natural resources a managed forest land review board consisting of
4 the following members appointed for 3-year terms:

5 (a) One member who is a regional forester employed by the department.

6 (b) One member who is a forester who provides consultation services on forestry
7 issues.

8 (c) One member who is a forester who represents the Society of American
9 Foresters.

10 (d) One member who represents the interests of schools of forestry within the
11 state that have curricula in the management of forest resources that are accredited
12 by the Society of American Foresters.

13 (e) One member who is a county forest administrator.

14 (f) One member who is a member of a nonprofit conservation organization as
15 defined in s. 23.0955 (1).

16 (g) One member who is a private, nonindustrial owner of a woodland that is
17 enrolled in the managed forest land program under s. 77.82.

18 **SECTION 2.** 20.370 (1) (cw) of the statutes is created to read:

19 20.370 (1) (cw) *Forestry — enterprise areas.* From the revenues collected under
20 s. 70.58, a sum sufficient to make the payments under s. 77.896 (2) (a) and (b).

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1 **SECTION 3.** 77.81 (5) of the statutes is repealed.

2 **SECTION 4.** 77.81 (5m) of the statutes is created to read:

3 77.81 **(5m)** "Public access land" means any of the following:

4 (a) Department land, as defined in s. 23.0917 (1) (c).

5 (b) Federal land managed by the U.S. Forest Service.

6 (c) Land owned by a county that is open to the public.

7 (d) Land that is open under s. 77.83 (2).

8 **SECTION 5.** 77.81 (7) of the statutes is created to read:

9 77.81 **(7)** "Taxation district" has the meaning given under s. 70.114 (1) (e).

NOTE: Under s. 70.114 (1) (e), "taxation district" means a city, village or town, except that, if a city or village lies in more than one county, the portions of that city or village that lie within each county are separate taxation districts.

10 **SECTION 6.** 77.82 (3e) of the statutes is created to read:

11 77.82 **(3e)** LARGE OWNERSHIPS. (a) Notwithstanding the requirements for a
12 proposed management plan under sub. (3), upon the request of an owner of managed
13 forest land, the department may modify the requirements under sub. (3) (c) 4. to 7.
14 for the owner's proposed managed forest plan if the owner's application for the
15 designation of managed forest land under sub. (2) covers parcels of land totaling
16 more than 1,000 acres and if the department considers all of the following:

17 1. Whether the owner of the land covered by the application owns other land
18 designated as managed forest land or owns other land entered as forest crop land.

19 2. The number of counties in which the land covered by the application and any
20 other land described in subd. 1. are located.

21 3. Whether the owner of the land covered by the application has made the
22 proposed management plan available to the department for review.

SENATE BILL 161**SECTION 6**

1 4. Whether, if requested by the department, the owner of the land covered by
2 the application has agreed in writing to provide information from the proposed
3 management plan, a description of the proposed management plan, and an outline
4 of a procedure for updating and amending the proposed management plan, to the
5 department for review or audit.

6 5. Whether the owner of the land covered by the application has demonstrated
7 to the department that he or she has consistently been receptive to competent
8 technical assistance from the department or from a technical advisor designated by
9 the department.

10 (b) 1. The department may not approve a proposed management plan as
11 described under par. (a) unless the proposed management plan specifies an annual
12 allowable timber harvest for the land covered by the proposed management plan.
13 This paragraph does not apply to the approval of a proposed management plan that
14 covers land that is prepared by an independent 3rd party who is certified by a
15 recognized forestry organization that has expertise in the use of sustainable forestry
16 practices.

17 2. The department shall promulgate rules that establish an annual allowable
18 timber harvest for managed forest land covered by a management plan approved by
19 the department under this subsection.

NOTE: This SECTION shifts the contents of s. NR 46.18 (4), Wis. Adm. Code, relating to modification of management plans, to the managed forest land subchapter of ch. 77, stats. The SECTION also requires modified management plans to include the establishment of an annual allowable harvest unless the lands are certified by an independent third party.

20 **SECTION 7.** 77.82 (3m) of the statutes is created to read:

21 **77.82 (3m) GROUP MANAGED FOREST PLANS.** Notwithstanding the requirements
22 for management plans under sub. (3), the department may, upon request, authorize

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1 2 or more owners of managed forest land to designate land to be covered by a group
2 management plan if the total designated land proposed to be covered by the group
3 management plan exceeds 1,000 acres. The department shall promulgate rules that
4 establish criteria, substantially similar to the criteria under sub. (3e) (a) 1. to 5., that
5 the department must consider before approving group management plans under this
6 subsection.

7 **SECTION 8.** 77.82 (3r) of the statutes is created to read:

8 **77.82 (3r) TIMBER HARVESTS.** If the department requires an owner of managed
9 forest land covered by a management plan under sub. (3) or (3e), or requires owners
10 of managed forest land covered by a group management plan under sub. (3m), to
11 harvest particular timber from the land within a specified time period, the specified
12 time period may not be a period of less than 3 years.

13 **SECTION 9.** 77.82 (4) (title) of the statutes is amended to read:

14 **77.82 (4) (title)** ~~ADDITIONS~~ ADDITIONAL DESIGNATIONS TO MANAGED FOREST LAND.

15 **SECTION 10.** 77.82 (4) of the statutes is renumbered 77.82 (4) (a) and amended
16 to read:

17 **77.82 (4) (a)** Orders on or after April 28, 2004. An owner of land that is
18 designated as managed forest land under an order that takes effect on or after April
19 28, 2004, may file an application with the department to designate as managed forest
20 land an additional parcel of land if the additional parcel is at least 3 acres in size and,
21 is contiguous to any of that designated land.—~~The, and complies with the other~~
22 requirements in sub. (1).

23 (c) Fee: additional information. An application under par. (a) or (b) shall be
24 accompanied by a nonrefundable \$20 application recording fee unless a different
25 amount for the fee is established by the department by rule at an amount equal to

SENATE BILL 161**SECTION 10**

1 the average expense to the department of recording an order issued under this
2 subchapter. The fee shall be deposited in the conservation fund and credited to the
3 appropriation under s. 20.370 (1) (cr). The application shall be filed on a department
4 form and shall contain any additional information required by the department.

5 **SECTION 11.** 77.82 (4) (b) of the statutes is created to read:

6 77.82 (4) (b) *Orders before April 28, 2004.* Beginning on the day after the
7 effective date of this paragraph [LRB inserts date], an owner of land that is
8 designated as managed forest land under an order that takes effect before April 28,
9 2004, may file an application with the department to designate as managed forest
10 land an additional parcel of land if the additional parcel is at least 3 acres in size, is
11 contiguous to any of that designated land, and complies with the other requirements
12 in sub. (1). An additional parcel of land that is designated as managed forest land
13 under this paragraph shall be subject to the taxes imposed under s. 77.84 (2) (am)
14 and (bm).

15 **SECTION 12.** 77.82 (4g) (title) of the statutes is amended to read:

16 77.82 (4g) (title) ~~DESIGNATION~~ GRANDFATHERED DESIGNATIONS OF ADDITIONAL
17 MANAGED FOREST LAND ~~FOR CERTAIN OWNERS.~~

18 **SECTION 13.** 77.82 (4g) (a) of the statutes is amended to read:

19 77.82 (4g) (a) If an owner of land that is designated as managed forest land
20 under an order that takes effect before April 28, 2004, wishes to have an additional
21 parcel of land that is at least 10 acres in size and that satisfies the other requirements
22 in sub. (1) designated as managed forest land, the owner may file an application with
23 the department under sub. (2) for a new order covering the additional land. An
24 application may not be filed pursuant to this paragraph after the effective date of this
25 paragraph [LRB inserts date].

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1 **SECTION 14.** 77.82 (4g) (b) of the statutes is amended to read:

2 77.82 **(4g)** (b) If an owner of land that is designated as managed forest land
3 under an order that takes effect before April 28, 2004, wishes to have designated as
4 managed forest land an additional parcel of land that is at least 3 acres in size, that
5 does not satisfy the requirements in sub. (1), and that is contiguous to any of that
6 designated land, the owner may withdraw the designated land from the original
7 order and may file an application with the department under sub. (2) for a new order
8 covering both the withdrawn land and the additional land. The withdrawal tax and
9 the withdrawal fee under s. 77.88 (5) and (5m) do not apply to a withdrawal under
10 this paragraph. An application may not be filed pursuant to this paragraph after the
11 effective date of this paragraph ... [LRB inserts date].

12 **SECTION 15.** 77.82 (8) of the statutes is amended to read:

13 77.82 **(8)** ORDER. If an application under sub. (2), (4m), or (12) is approved, the
14 department shall issue an order designating the land as managed forest land for the
15 time period specified in the application. If an application under sub. (4) (a) or (b) is
16 approved, the department shall amend the original order to include the additional
17 parcel. The department shall provide the applicant with a copy of the order or
18 amended order and shall also file a copy with the department of revenue, the
19 supervisor of assessments, and the clerk of each municipality in which the land is
20 located, and shall record the order with the register of deeds in each county in which
21 the land is located.

22 **SECTION 16.** 77.83 (2) (am) of the statutes is repealed and recreated to read:

23 77.83 **(2)** (am) Each owner of managed forest land may enter into a lease, or
24 other agreement for consideration, to allow the land to be used for any purpose,
25 including engaging in one or more recreational activities on the land, if the use does

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1 not conflict with any forest management objective contained in the management
2 plan for the land and does not conflict with any sound forestry practice.

3 **SECTION 17.** 77.83 (4) (b) of the statutes is amended to read:

4 77.83 (4) (b) Any person who enters into a lease or agreement under sub. (2)
5 (am) that fails to comply with sub. (2) (am) shall forfeit an amount equal to the total
6 amount of consideration received by the person as a result of violating sub. (2) (am)
7 or \$500, whichever is greater.

8 **SECTION 18.** 77.84 (2) (am) of the statutes is amended to read:

9 77.84 (2) (am) For managed forest land orders that take effect on or after April
10 28, 2004, and before the effective date of this paragraph [LRB inserts date], each
11 owner of managed forest land shall pay to each municipal treasurer, on or before
12 January 31, an amount that is equal to 5 percent of the average statewide property
13 tax per acre of property classified under s. 70.32 (2) (a) 6., as determined under par.
14 (cm), for each acre of managed forest land.

15 **SECTION 19.** 77.84 (2) (bm) of the statutes is amended to read:

16 77.84 (2) (bm) For managed forest land orders that take effect on or after April
17 28, 2004, and before the effective date of this paragraph [LRB inserts date], in
18 addition to the payment under par. (am), each owner of managed forest land shall
19 pay to each municipal treasurer, on or before January 31, an amount that is equal
20 to 20 percent of the average statewide property tax per acre of property classified
21 under s. 70.32 (2) (a) 6., as determined under par. (cm), for each acre that is
22 designated as closed under s. 77.83.

23 **SECTION 20.** 77.84 (2) (d) and (e) of the statutes are created to read:

24 77.84 (2) (d) Except as provided in par. (e), for managed forest land orders that
25 take effect on or after the effective date of this paragraph [LRB inserts date], each

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1 owner of managed forest land shall pay to each municipal treasurer on or before
2 January 31, an amount equal to the amount calculated under par. (am).

3 (e) For managed forest land orders that take effect on or after the effective date
4 of this paragraph [LRB inserts date], each owner of managed forest land that is
5 closed under s. 77.83 shall pay to each municipal treasurer on or before January 31,
6 an amount equal to the greater of the sum of the amounts calculated under pars. (am)
7 and (bm) or the sum of the following:

8 1. An amount equal to 5 percent of the full value of the managed forest land that
9 is closed under s. 77.83, multiplied by the full value effective rate of taxation
10 applicable to general property in the same taxation district as the managed forest
11 land.

12 2. An amount equal to 20 percent of the full value of the managed forest land
13 that is closed under s. 77.83, multiplied by the full value effective rate of taxation
14 applicable to general property in the same taxation district as the managed forest
15 land.

NOTE: This SECTION modifies the calculation of acreage shares for closed acreage
under new managed forest land orders. Acreage that is open under new managed forest
land orders would remain subject to the same acreage shares that apply to orders that
take effect after April 28, 2004.

16 SECTION 21. 77.86 (1) of the statutes is renumbered 77.86 (1m), and 77.86 (1m)
17 (c), as renumbered, is amended to read:

18 77.86 (1m) (c) If the proposed cutting conforms to the management plan and
19 is consistent with sound forestry practices, the department shall approve the
20 request. In determining whether a proposed cutting is consistent with sound forestry
21 practices, the department may also consider, if consistent with the objectives of the
22 owner, the effect of the proposed cutting on the management of forest resources, other

SENATE BILL 161**SECTION 21**

1 than trees, including wildlife habitat, watersheds, aesthetics, and endangered and
2 threatened plant and animal species.

3 **SECTION 22.** 77.86 (1g) of the statutes is created to read:

4 77.86 **(1g)** In this section:

5 (a) “Board” means the managed forest land review board.

6 (b) “Sound forestry practices” means forest cultural methods, including
7 methods for timber cutting and for transporting timber, that the department
8 determines are effective in propagating and improving the various timber types that
9 are common in this state.

10 **SECTION 23.** 77.86 (3) of the statutes is amended to read:

11 77.86 **(3)** TIME LIMIT. All cutting specified in the notice under sub. ~~(4)~~ (1m) (b)
12 shall be commenced within one year after the date the proposed cutting is approved.
13 The owner shall report to the department the date on which the cutting is
14 commenced.

15 **SECTION 24.** 77.86 (5) (a) of the statutes is amended to read:

16 77.86 **(5)** (a) Any person who fails to file the notice required under sub. ~~(4)~~ (1m)
17 (b), who fails to file a report as required under sub. (4), or who files a false report
18 under sub. (4) shall forfeit not more than \$1,000.

19 **SECTION 25.** 77.865 of the statutes is created to read:

20 **77.865 Review. (1)** In this section:

21 (a) “Board” means the managed forest land review board.

22 (b) “Sound forestry practices” has the meaning given in s. 77.86 (1g) (b).

23 **(2)** If the department decides that an owner of managed forest land is
24 managing the land in a manner that the department determines is inconsistent with

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1 sound forestry practices, the owner may challenge that decision by requesting that
2 the board review the decision.

3 (3) An owner who requests review of a department decision under sub. (2) shall
4 submit a written request to the board within 30 days after the date on which the
5 owner receives notice of the department's decision.

6 (4) Upon receiving a request from an owner under sub. (3), the board shall,
7 within a reasonable time, review the department's decision, render an opinion on
8 whether or not the owner's management of the managed forest land is consistent
9 with sound forestry practices, and forward its opinion to the chief state forester. The
10 chief state forester shall review the board's opinion and issue a decision, in writing,
11 that states whether or not he or she concurs with the board's opinion. The chief state
12 forester shall include in his or her decision sufficient facts to support the decision.

13 (5) If the chief state forester decides, after considering the board's opinion
14 under sub. (4), that the owner's management of the managed forest land is consistent
15 with sound forestry practices, the department shall adopt the decision of the chief
16 state forester as the department's decision on the issue.

17 (6) An owner adversely affected by the decision of the chief state forester under
18 sub. (5) shall have the right to a contested case hearing under s. 227.42 on the issues
19 decided by the chief state forester.

20 (7) The department shall promulgate rules that establish additional
21 procedures, including filing, review, and decision deadlines, with regard to an
22 owner's challenge of a department decision under this section.

NOTE: SECTION 1 ^{← a.s.} creates the managed ^{← a.s.} forest land review board in DNR and specifies the membership of the board. SECTION 25 creates an optional procedure for MFL owners who are dissatisfied with a DNR decision regarding the practice of sound forestry to request review of the decision by the board. The board must review and decide upon the issues in the request and issue an opinion for review by the chief state forester. The

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SECTION 25

chief state forester then determines whether to accept the board's recommendation and must issue a decision in writing. DNR is required to promulgate rules regarding the procedures for the board's review. An MFL owner retains the right to a contested case hearing on the issues decided under this procedure by the chief state forester.

1 **SECTION 26.** 77.88 (5) (a) 1. and 2. and (b) 1. and 2. of the statutes are amended
2 to read:

3 77.88 (5) (a) 1. An amount equal to the past tax liability multiplied by the
4 number of years the land was designated as managed forest land, less any amounts
5 paid by the owner under ss. 77.84 (2) (a) ~~and, (am), (d), and (e) 1. or 2.,~~ and 77.87.

6 2. Five percent of the stumpage value of the merchantable timber on the land,
7 less any amounts paid by the owner under ss. 77.84 (2) (a) ~~and, (am), (d), and (e) 1.~~
8 ~~or 2.,~~ and 77.87.

9 (b) 1. An amount equal to the past tax liability multiplied by the number of
10 years since the renewal, less any amounts paid by the owner under ss. 77.84 (2) (a)
11 ~~and, (am), (d), and (e) 1. or 2.,~~ and 77.87.

12 2. Five percent of the stumpage value of the merchantable timber on the land,
13 less any amounts paid by the owner under ss. 77.84 (2) (a) ~~and, (am), (d), and (e) 1.~~
14 ~~or 2.,~~ and 77.87.

NOTE: This SECTION updates cross-references used in the calculation of
withdrawal taxes.

15 **SECTION 27.** 77.89 (2) (b) of the statutes is amended to read:

16 77.89 (2) (b) The municipal treasurer shall pay all 48 percent of the amounts
17 received under s. 77.84 (2) (b) ~~and, (bm), and (e) 1. and 2.~~ to the county treasurer, as
18 provided under ss. 74.25 and 74.30. The county treasurer shall, by June 30 of each
19 year, pay all 20 percent of the amounts received under this paragraph to the
20 department. ~~All amounts received by the department shall be credited to the~~
21 ~~conservation fund and shall be reserved for land acquisition, resource management~~

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1 ~~activities, and grants under s. 77.895~~ The municipal treasurer shall deposit the
2 remainder in the municipal treasury.

NOTE: The percentages specified in this paragraph have the effect of sending 20% of the total amounts received under s. 77.89 (2) (b), stats. (generally, closed acreage shares for managed forest land), to the department and sending 60% of the amount remaining to the counties. Directives on the use of the funds by the county are described below in par. (c).

3 **SECTION 28.** 77.89 (2) (c) of the statutes is created to read:

4 77.89 (2) (c) 1. Except as provided in subd. 2., from the amounts received by a
5 county under par. (b), at least five-sixths of the amounts shall be expended by the
6 county to acquire by purchase, lease, easement, or other agreement land that will be
7 open to the public for hunting, fishing, hiking, sight-seeing, and cross-country
8 skiing.

9 2. A county with at least 40 percent of its total area consisting of public access
10 lands shall spend at least five-sixth of the amounts received under par. (b) for
11 acquisitions as described in subd. 1. or for activities to improve resource
12 management, or any combination thereof. Resource management activities may
13 include forest growth, forest health, fish habitat, wildlife habitat, or watershed
14 protection.

NOTE: This paragraph specifies that at least five-sixths of the amount a county receives under s. 77.89 (2) (b), stats. (generally, the county portion of the closed acreage shares), shall be expended to acquire by purchase, lease, easement, or other agreement land that will be open to the public for hunting and certain other recreational activities, unless the county meets a 40% threshold for ownership of public access lands, as defined above. If the county meets the 40% public access threshold, the county shall spend this "closed acreage share" amount for these types of acquisitions or for activities to improve resource management. These activities include forest growth, forest health, fish habitat, wildlife habitat, and watershed protection.

15 **SECTION 29.** 77.896 of the statutes is created to read:

16 77.896 (1) DESIGNATION. (a) 1. The department shall promulgate rules under
17 which the department may designate forest enterprise areas targeted for
18 sustainable forestry and forest-based economic development. The department shall

SENATE BILL 161**SECTION 29**

1 promulgate rules to establish criteria for determining eligibility and approval of a
2 proposed forest enterprise area and the modification or termination of the
3 designation of a forest enterprise area.

4 2. A town or county that proposes to create a forest enterprise area shall apply
5 to the department. If a town submits an application to the department, the proposed
6 forest enterprise area shall be consistent with the town plan for forest preservation
7 and development if the town has a plan for forest preservation and development. If
8 a county submits an application to the department, the proposed forest enterprise
9 area shall be consistent with the county plan for forest preservation and
10 development if the county has a plan for forest preservation and development.

11 3. The department shall promulgate rules that set forth the information that
12 is required to be included in an application submitted under subd. 2.

13 (b) The department may not designate an area as a forest enterprise area
14 unless the department receives an application requesting the designation and the
15 application complies with par. (a).

16 (c) Subject to par. (d), the department may designate forest enterprise areas
17 with a combined area of not more than 200,000 acres of land.

18 (d) Before January 1, 2013, the department may designate not more than 10
19 forest enterprise areas with a combined area of not more than 75,000 acres of land.

20 (e) The minimum size of a forest enterprise area designated under this
21 subsection shall be 5,000 acres of land.

22 (f) In designating forest enterprise areas under this subsection, the department
23 shall give preference to areas that include at least 1,000 acres of land designated as
24 managed forest land under s. 77.82.

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1 (g) In designating forest enterprise areas under this subsection, the
2 department may not include an acre of land in more than one enterprise area.

3 (2) EFFECT OF DESIGNATION. (a) A town, for which a forest enterprise area has
4 been designated under sub. (1), shall receive, from the appropriation account under
5 s. 20.370 (1) (ow), an annual payment of \$1 for each acre in the town that is
6 designated as managed forest land under s. 77.82 and that is included in a forest
7 enterprise area.

8 (b) A county, for which a forest enterprise area has been designated under sub.
9 (1), shall receive, from the appropriation account under s. 20.370 (1) (cw), an annual
10 payment of 50 cents for each acre in the county that is designated as managed forest
11 land under s. 77.82 and that is included in a forest enterprise area.

12 (c) A town or county that receives a payment under par. (a) or (b) shall use the
13 funds for sustainable forestry and forest-based economic development within the
14 town or county, including educating landowners about the benefits of participating
15 in a forest enterprise area, and contracting with a forester who engages in the
16 practice of providing consultation services on forestry issues to assist landowners in
17 preparing applications under s. 77.82 (2) or owners of managed forest land in
18 preparing management plans under s. 77.82 (3).

NOTE: This SECTION requires the DNR to designate forest enterprise areas in administrative rule. The DNR may designate forest enterprise areas with a combined area of up to 200,000 acres. However, before 2013, DNR may only designate up to 10 forest enterprise areas with a combined area of up to 75,000 acres. When designating forest enterprise areas, the DNR must give preference to areas that include at least 1,000 acres of MFL land. A town within a forest enterprise area is eligible to receive an annual payment of \$1 for each acre of MFL land in the forest enterprise area. A county within a forest enterprise area is eligible to receive an annual payment of 50 cents for each acre of MFL land in the forest enterprise area. These payments for towns and counties come from the forestry mill tax revenues. The payments must be used for sustainable forestry and forest-based economic development within the town or county.

19 **SECTION 30. Nonstatutory provisions.**

SENATE BILL 161**SECTION 30**

1 (1) RULES. The department of natural resources shall submit in proposed form
2 the rules required under section 77.82 (3e) (b) 2. and (3m) of the statutes, as created
3 by this act, to the legislative council staff under section 227.15 (1) of the statutes no
4 later than the first day of the 12th month beginning after the effective date of this
5 subsection.

NOTE: This SECTION requires DNR to submit proposed rules regarding the
modification of management plans for group enrollments and for annual allowable
timber harvests no later than the first day of the 12th month beginning after the effective
date of the bill.

6 SECTION 31. Nonstatutory provisions.

7 (1) The initial members of the managed forest land review board under section
8 15.345 (7) (a) to (g) of the statutes, as created by this act, shall be appointed for the
9 following terms:

10 (a) Three members for a term that expires on July 1, 2014.

11 (b) Two members for a term that expires on July 1, 2015.

12 (c) Two members for a term that expires on July 1, 2016.

13 (2) The department of natural resources shall submit in proposed form the
14 rules required under section 77.865 (7) of the statutes, as created by this act, to the
15 legislative council staff under section 227.15 (1) of the statutes no later than the first
16 day of the 6th month beginning after the effective date of this subsection.

17 SECTION 32. Initial applicability.

18 (1) The treatment of section 77.82 (4g) (title), (a), and (b) and (8) of the statutes,
19 the renumbering and amendment of section 77.82 (4) of the statutes, the amendment
20 of section 77.82 (4) (title) of the statutes, and the creation of section 77.82 (4) (b) of
21 the statutes first apply to applications to designate additional land as managed

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1 forest land that are filed with the department of natural resources on the effective
2 date of this subsection.

3

(END)

D-note



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

LRB-3460/~~3~~dn

JK:.....

date

JLd

Rachel and Scott:

This draft is identical to 2011 Senate Bill 161 and is intended to be its assembly companion.

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

LRB-3460/1dn
JK:jld:rs

November 10, 2011

Rachel and Scott:

This draft is identical to 2011 Senate Bill 161 and is intended to be its assembly companion.

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Godwin, Gigi

From: Letzing, Rachel
Sent: Friday, November 11, 2011 1:58 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-3460/1 Topic: Managed forest land

Please Jacket LRB 11-3460/1 for the ASSEMBLY.