

2013 DRAFTING REQUEST

Bill

Received: **2/26/2013** Received By: **rkite**
Wanted: **As time permits** Same as LRB:
For: **Leah Vukmir (608) 266-2512** By/Representing: **Jason Rostan**
May Contact: Drafter: **rkite**
Subject: **Nat. Res. - miscellaneous** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Vukmir@legis.wisconsin.gov**
Carbon copy (CC) to: **Scott.grosz@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Suspension of rule concerning leasing of DNR towers

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 3/7/2013			_____			
/P1	rkite 3/12/2013	jdyer 3/8/2013	jfrantze 3/11/2013	_____	lparisi 3/11/2013		
/P2	rkite 3/14/2013	jdyer 3/13/2013	jfrantze 3/13/2013	_____	mbarman 3/13/2013		
/P3	rkite	jdyer	phenry	_____	lparisi		

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	3/14/2013	3/14/2013	3/14/2013	_____	3/14/2013		
/P4	rkite 3/18/2013	rschluet 3/14/2013	rschluet 3/14/2013	_____	lparisi 3/14/2013		
/1		jdyer 3/18/2013	jmurphy 3/18/2013	_____	lparisi 3/18/2013	mbarman 3/18/2013	

FE Sent For:

<END>

Not
needed

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			pm 3/14	self			

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Jb 3113

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/?	rkite	P1 3/8 jld		J 3/11			

FE Sent For:

<END>

Tradewell, Becky

From: Rostan, Jason
Sent: Tuesday, February 26, 2013 1:50 PM
To: Tradewell, Becky
Cc: Grosz, Scott
Subject: NR 1.483 JCRAR Suspension

Hi Becky,

Here is the motion we passed at our hearing this morning. As I mentioned, we are specifically allowing the DNR to lease space on these towers to private parties. They are currently allowed to lease space to state or local governmental agencies.

Let me know if you have any questions. I've copied in Scott from the Leg Council as he has also been working on this for the committee.

The committee will need to act on the legislation within the next 30 days.

Thanks.

Jason Rostan
Clerk – JCRAR
Sen. Vukmir's Office



Motion on s. NR 1.483

That the Joint Committee for Review of Administrative Rules suspend the following provisions included in s. NR 1.483, pursuant to s. 227.26 (2) (d), Stats., effective February 26, 2013, on the basis of testimony received at its February 26, 2013 meeting, and on the grounds that these provisions included in s. NR 1.483 impose an undue hardship on telecommunications users in northern Wisconsin, as stated in s. 227.19 (4) (d) 6.

NR 1.483 (3): The department will ~~only~~ consider a request to install a telecommunications system at a department tower site ~~if it meets one of the criteria set forth in sub. (4)~~. The department may reject a request to install a telecommunications system at a department tower site for any reason, including technical, legal or environmental problems associated with the request, or if granting the request could conflict with future department needs.

NR 1.483 (4) (intro.): The department will ~~only~~ consider a request to install a telecommunications system at a department tower site if the request is for a telecommunications system which is a:

23.11(1)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1741/8
RNK:A...

Handwritten initials: jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Handwritten: D-Note

Handwritten: In 3/7

Handwritten: LX

Handwritten: Gen

1 AN ACT ...; relating to: telecommunications systems installed on tower sites
 2 under the management and control of the Department of Natural Resources
 3 and the suspension of ^e ~~a~~ portion^s of a rule of the Department of Natural
 4 Resources.✓

Analysis by the Legislative Reference Bureau

This bill prohibits the Department of Natural Resources (DNR) from establishing certain conditions for entering into a lease of a DNR radio tower or a lookout tower site (tower site) for the purpose of installing a telecommunications system. Under the bill, DNR may not require that the telecommunications system be owned or operated only by this state or another governmental entity (public entity), that the telecommunications system be used to provide communication only between employees of public entities, or that the telecommunications system provide broadcast services that are only noncommercial broadcast services. The suspended rule prohibits DNR from considering a request to install a telecommunications system at a tower site unless the telecommunications system is owned by a public entity and is used either to provide noncommercial broadcast services to the public or to provide necessary communications between employees of public entities.

This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending

portions of NR 1.483 (3) and (4) (intro.), Wis. Adm. Code, rules of the Department of Natural Resources on February 26, 2013. *a* *DNR* *

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

1 SECTION 1. 23.145^x of the statutes is created to read:

2 **23.145 Installation of telecommunications systems.** (1) In this^v section,
3 "tower site" means a site on land under the management and control of the
4 department and on which the department operates a radio tower or lookout tower.^v

5 (2) The department may not require, as a condition of entering into a lease of
6 a tower site^v for the purpose of installing a telecommunications system, any of the
7 following:

8 (a) That the owner or operator of the telecommunications system be this state
9 or another governmental entity.

10 (b) That the^e owner or operator of the telecommunications system provide
11 telecommunications services only to persons who are employees of this state or
12 employees of another governmental entity.

13 (c) That the owner or operator of the telecommunications system provide only
14 noncommercial broadcast services.^v

15 (END)

d-note
↓

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

PI
LRB-1741/9dn
RNK:.....

date

Jld

This draft is in preliminary form. If the draft is satisfactory, please let me know and I will prepare it in introducible form.✓

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

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

LRB-1741/P1dn
RNK:jld:jf

March 11, 2013

This draft is in preliminary form. If the draft is satisfactory, please let me know and I will prepare it in introducible form.

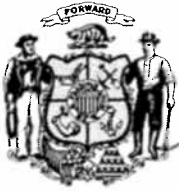
Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

3/12

Redraft instructions from Scott Grozy

make changes to clarify -
if DNR leases tower for telecommunications,
can't refuse to lease to someone only
for the reason that they are a
private party or that they will
provide commercial services

Also, per rule - provide that DNR
may not charge a fee for the
lease if the system is owned
by the state
may charge a fee for governmental
entities if the fee is not more
than \$25/month



Wanted 3/15 (Fri.)
State of Wisconsin
2013 - 2014 LEGISLATURE

RM
run
P2
LRB-1741/PT
RNK:jld:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In
3/12

X

Regen

1 AN ACT *to create* 23.145 of the statutes; **relating to:** telecommunications
2 systems installed on tower sites under the management and control of the
3 Department of Natural Resources and the suspension of portions of a rule of the
4 Department of Natural Resources.

91 INSERT ANALYSIS ✓

Analysis by the Legislative Reference Bureau

This bill prohibits the Department of Natural Resources (DNR) from ~~establishing certain conditions for entering~~ into a lease of a DNR radio tower or a lookout tower site (tower site) for the purpose of installing a telecommunications system. Under the bill, DNR may not require that the telecommunications system be owned or operated ~~only by this state or another governmental entity (public entity)~~, that the telecommunications system be used to provide communication only between employees of public entities, or that the telecommunications system provide broadcast services that are only noncommercial broadcast services. The suspended rule prohibits DNR from considering a request to install a telecommunications system at a tower site unless the telecommunications system is owned by a public entity and is used either to provide noncommercial broadcast services to the public or to provide necessary communications between employees of public entities. ✓

This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending portions of NR 1.483, Wis. Adm. Code, a rule of DNR on February 26, 2013.

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

1 SECTION 1. 23.145^X of the statutes is created to read:

2 **23.145 Installation of telecommunications systems.** (1) In this section,
3 "tower site" means a site on land under the management and control of the
4 department and on which the department operates a radio tower or lookout tower.

5 (2) The department may not require, as a condition of entering into a lease of
6 a tower site for the purpose of installing a telecommunications system, any of the
7 following:

8 (a) That the owner or operator of the telecommunications system be this state
9 or another governmental entity.

10 (b) That the owner or operator of the telecommunications system provide
11 telecommunications services only to persons who are employees of this state or
12 employees of another governmental entity.

13 (c) That the owner or operator of the telecommunications system provide only
14 noncommercial broadcast services.

15 (END)

FNS,
2-15

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1741/P2ins.
RNK:.....

INSERT ANALYSIS

* This bill prohibits the Department of Natural Resources (DNR) from refusing to enter into a lease of a DNR radio tower or a lookout tower site (tower site) for the purpose of installing a telecommunications system if the refusal is based only on certain reasons. Under the bill, the refusal may not be on the basis that the owner or operator of the telecommunications system is a private person, that the owner or operator of the telecommunications system provides commercial telecommunications services, or that the owner or operator of the telecommunications system provides telecommunications services to persons who are not governmental employees. ✓

The bill also provides that, if the owner of the telecommunications system is this state, then DNR may not charge a fee to lease the tower site. ✓ If the owner of the telecommunications system is another governmental entity, then DNR may charge a fee but the fee may not exceed \$25 per month. ✓ *

INSERT 2-15

1 (2) The department may not refuse to enter into a lease of a tower site for the
2 purpose of installing a telecommunications system if the only basis for the refusal
3 is that the owner or operator of the telecommunications system is a private person,
4 that the owner or operator of the telecommunications system provides commercial
5 telecommunications services, or that the owner or operator of the
6 telecommunications system provides telecommunications services to persons who
7 are not employees of this state or of another governmental entity. ✓

8 (3) (a) The department may not charge a fee to lease a tower site if the purpose
9 of the lease is to install a telecommunications system that is owned by this state. ✓

10 (b) The department may not charge a fee that exceeds \$25 per month to lease
11 a tower site if the purpose of the lease is to install a telecommunications system that
12 is owned by a governmental entity other than this state. ✓

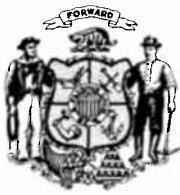
(end ins)

3/13

Redraft instructions per Jason

Draft should be written to "allow" rather than prohibit that is - DNR wants to invalidate this rule but have discretion in deciding who to enter into a lease with

so - allow DNR to enter into a lease with a private person & allow lease to provide for either commercial or noncommercial services (and to allow services to people who aren't govt. employees)



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

✓ Regen

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3 Department of Natural Resources and the suspension of portions of a rule of the
4 Department of Natural Resources.

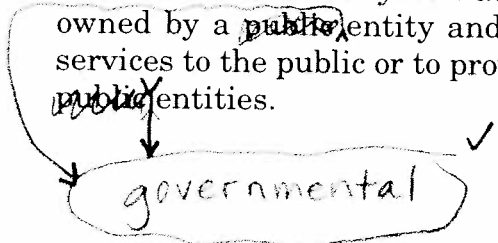
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INS. ANALYSIS ✓

The bill also provides that, if the owner of the telecommunications system is this state, then DNR may not charge a fee to lease the tower site. If the owner of the telecommunications system is another governmental entity, then DNR may charge a fee but the fee may not exceed \$25 per month.

The suspended rule prohibits DNR from considering a request to install a telecommunications system at a tower site unless the telecommunications system is owned by a public entity and is used either to provide noncommercial broadcast services to the public or to provide necessary communications between employees of public entities.



This bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending portions of NR 1.483, Wis. Adm. Code, a rule of DNR on February 26, 2013.

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✓ with a private person or a governmental entity

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2 **23.145 Installation of telecommunications systems.** (1) In this section,
3 "tower site" means a site on land under the management and control of the
4 department and on which the department operates a radio tower or lookout tower.

5 (2) The department may not refuse to enter into a lease of a tower site for the
6 purpose of installing a ^{commercial or noncommercial} telecommunications system if the only basis for the refusal
7 is that the owner or operator of the telecommunications system is a private person,

8 that the owner or operator of the telecommunications system provides commercial
9 telecommunications services, or that the owner or operator of the
10 telecommunications system provides telecommunications services to persons who
11 are not ^{other than} employees of this state or of another governmental entity. ✓ a governmental entity

12 (3) (a) The department may not charge a fee to lease a tower site if the purpose
13 of the lease is to install a telecommunications system that is owned by this state.

14 (b) The department may not charge a fee that exceeds \$25 per month to lease
15 a tower site if the purpose of the lease is to install a telecommunications system that
16 is owned by a governmental entity other than this state.

17 (END)

↓ The lease may allow (NO \$)

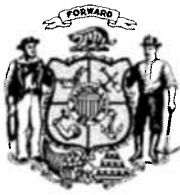
**2013-2014 DRAFTING INSERT
FROM THE
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LRB-1741/P3ins.
RNK:.....

INSERT ANALYSIS

This bill authorizes the Department of Natural Resources (DNR) to enter into a lease of a DNR radio tower or a lookout tower site (tower site) with a private person or a governmental entity for the purpose of installing a commercial or noncommercial telecommunications system. The bill provides that the lease may allow the owner or operator of the telecommunications system to provide telecommunications services to persons other than employees of a governmental entity.

(end ins)



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

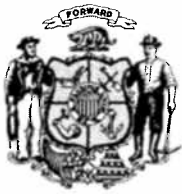
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This bill authorizes the Department of Natural Resources (DNR) to enter into a lease of a DNR radio tower or a lookout tower site (tower site) with a private person or a governmental entity for the purpose of installing a commercial or noncommercial telecommunications system. The bill provides that the lease may allow the owner or operator of the telecommunications system to provide telecommunications services to persons other than employees of a governmental entity.

The bill also provides that, if the owner of the telecommunications system is this state, then DNR may not charge a fee to lease the tower site. If the owner of the telecommunications system is another governmental entity, then DNR may charge a fee but the fee may not exceed \$25 per month.

The suspended rule prohibits DNR from considering a request to install a telecommunications system at a tower site unless the telecommunications system is owned by a governmental entity and is used either to provide noncommercial broadcast services to the public or to provide necessary communications between employees of governmental entities.



Rm
run
1

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2013 BILL

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4 Department of Natural Resources.

Analysis by the Legislative Reference Bureau

This bill authorizes the Department of Natural Resources (DNR) to enter into a lease of a DNR radio tower or a lookout tower site (tower site) with a private person or a governmental entity for the purpose of installing a commercial or noncommercial telecommunications system. The bill provides that the lease may allow the owner or operator of the telecommunications system to provide telecommunications services to persons other than employees of a governmental entity.

The bill also provides that, if the owner of the telecommunications system is this state, then DNR may not charge a fee to lease the tower site. If the owner of the telecommunications system is another governmental entity, then DNR may charge a fee but the fee may not exceed \$25 per month.

The suspended rule prohibits DNR from considering a request to install a telecommunications system at a tower site unless the telecommunications system is owned by a governmental entity and is used either to provide noncommercial broadcast services to the public or to provide necessary communications between employees of governmental entities.

Barman, Mike

From: Rostan, Jason
Sent: Monday, March 18, 2013 12:43 PM
To: LRB.Legal
Subject: Draft Review: LRB -1741/1 Topic: Suspension of rule concerning leasing of DNR towers

Please Jacket LRB -1741/1 for the SENATE.