



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2013 Senate Bill 278

Senate Substitute Amendment 2

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Senate Substitute Amendment 2 (“the substitute amendment”) to 2013 Senate Bill 278 makes various changes to current law governing public access to certain managed forest land located within a proposed ferrous (i.e., iron) mining site. The bill defines a “proposed ferrous mining site” to mean a site for which a person has notified the Department of Natural Resources (DNR) of his or her intent to file an application for a ferrous mining permit.

Temporary Closure of Certain Managed Forest Land

Under current law, land that is designated as open land under the managed forest land program generally must be open to the public for hunting, fishing, hiking, sightseeing, and cross-country skiing. [s. 77.83 (2) (a), Stats.]

The substitute amendment provides for the temporary closure of such land in certain circumstances. First, the substitute amendment specifies that areas designated as managed forest land open within a proposed ferrous mining site that are within 600 feet of roads used for purposes associated with ferrous mining and within 600 feet of fixed sampling equipment are closed to public access for the lesser of the following amounts of time:

- Until the date the DNR approves or denies the application for a mining permit.
- Until the date the DNR determines that the applicant is no longer pursuing a mining permit for the site.
- For two years, unless the DNR determines, after consulting with the applicant and regulatory bodies, that it should extend this time period because it is likely that the applicant or a regulatory body will need additional time to conduct evaluation activities at the proposed ferrous mining site, but not to exceed an additional two years.

For this purpose, the substitute amendment defines “fixed sampling equipment” to mean physical equipment that will be in the same location for more than 24 hours and that is used for the evaluation of a proposed ferrous mining site, including equipment that is used for boring, drilling, bulk sampling, or obtaining climatological data or other data relating to the environment or the state’s natural resources.

In addition, the substitute amendment provides that the DNR may, during the time period described above, close additional acres of managed forest land in the proposed mining site to one or more of the five recreational activities (hunting, fishing, hiking, sight-seeing, and cross-country skiing) authorized on open managed forest land if the DNR determines that the closure is necessary to ensure the safety of the public, the employees and agents of the applicant, or the employees and agents of regulatory bodies.

The substitute amendment also requires the DNR to post information on its website regarding what areas in a proposed mining site are open to public access for what periods of time with respect to each managed forest land recreational activity.

As an exception to the closure to public access described above, the substitute amendment requires that the managed forest land be open to hunting deer during the regular nine-day gun deer season around the Thanksgiving holiday and that the land within 50 feet of Class I and II trout streams be open for fishing.

Payment of Taxes and Fees

Under current law, an owner of managed forest land generally must pay acreage share taxes through the managed forest law program in lieu of regular property tax rates. For managed forest land orders that take effect before April 28, 2004, each owner pays an acreage share of \$0.74 cents per acre and an additional \$1.00 for each acre that is closed to public access. For managed forest land orders that take effect on or after April 28, 2004, each owner pays an acreage share tax equal to 5% of the average statewide tax on forest land, calculated every five years. The closed acreage payment for these orders is equal to an additional 20% of the average statewide tax on forest land, calculated every five years. [s. 77.84, Stats.]

The substitute amendment requires that the owner of the proposed mining site must make the regular annual managed forest land closed acreage payment for each acre that is closed to any of the five recreational activities authorized on open managed forest land during any time during the previous calendar year.

In addition, for managed forest orders that took effect before April 28, 2004, the substitute amendment requires that the owner pay an annual amount equal to 15% of the average statewide property tax per acre of productive forest property, for each acre not open to all five managed forest land recreational activities for any part of the previous calendar year. This amount would be paid to the county and municipality (20%/80%, respectively) and would be subtracted from the total withdrawal tax if the property were to be removed from the managed forest land program prior to the end of the managed forest land order applicable to the property.

Timeline for Withdrawal of Land From the Managed Forest Land Program

Under current law, an owner of managed forest land generally may request that the DNR withdraw all of part of the land from the managed forest land program. [s. 77.88 (3), Stats.] A withdrawal is effective on January 1 of the following year if the request is made no later than December 1. [s. NR 46.22 (2), Wis. Adm. Code.]

Under the substitute amendment, if an owner withdraws managed forest land that is located within a proposed ferrous mining site, the DNR must issue the order for withdrawal within 30 days after receiving the request.

Bill History

Senate Substitute Amendment 2 to 2013 Senate Bill 278 was offered by Senator Cowles. The substitute amendment was adopted and Senate Bill 278 was passed by the Senate on November 5, 2013, by votes of Ayes, 18; Noes, 15.

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