



## Legislative Fiscal Bureau

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September 21, 2005

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 254: Management of State Forest Lands

Assembly Bill 254 would implement certain changes to laws regulating the management of state forest lands by the Department of Natural Resources (DNR). The bill was introduced on March 18, 2005, and referred to the Assembly Committee on Forestry. On April 26, 2005, Assembly Substitute Amendment 1 was adopted by the Committee by a vote of Ayes, 4; Noes, 0. The bill, as amended, was recommended for passage by a vote of Ayes, 3; Noes, 1, and referred to the Joint Committee on Finance.

### **CURRENT LAW**

Under current law, the Division of Forestry within DNR manages the northern state forests, operates three tree nurseries, and oversees efforts relating to the prevention, detection, and suppression of forest fires. Forestry also assists certain DNR bureaus with forestry management on other state properties (such as state parks, southern state forests, recreational areas, natural areas, and fish and wildlife areas). Further, DNR foresters assist private landowners with a variety of forest and timber management activities on private land, and provide support to counties for the operations and management of county forest land. State forests are managed under sustainable forestry practices and to provide a full range of benefits, including soil protection, public hunting, protection of water quality, production of recurring forest products, outdoor recreation, native biological diversity, aquatic and terrestrial wildlife, and aesthetics.

## **SUMMARY OF SUBSTITUTE AMENDMENT**

The chief state forester would be authorized to declare, and required to manage, emergencies that threaten state forest land under the bill. For the purpose of this provision, the bill would define "state forest land" to mean all forested lands owned by the State and under the jurisdiction of DNR. The bill would specify that the chief state forester's emergency authority does not apply to a state of emergency declared by the Governor, and that the emergency authority does not supercede the authority of the Department of Agriculture, Trade, and Consumer Protection (DATCP) as it relates to declaring and managing emergencies relating to the detection and control of pests injurious to plants. The bill would also specify that DATCP's authority to manage and control plant pests does not supersede DNR's authority to prevent, detect, and control pests on forest lands.

Under ASA 1, DNR would be directed to promulgate administrative rules specifying which emergencies the chief state forester would have management responsibility over. The rules would specifically include invasive species or pest infestation, disease, and damage to timber from fire, snow, hail, ice, or wind. The bill would provide DNR with emergency rule making authority, without the finding of an emergency, to develop these rules, and would direct the Department to submit permanent rules in their proposed form to Legislative Council staff no later than the first day of the sixth month beginning after the effective date of the bill, unless an economic impact report would be required by the Secretary of the Department of Administration (DOA). Further, the bill would specify that the emergency rules promulgated to implement this provision would remain in effect until the date on which permanent rules take effect. The provisions relating to the chief forester's responsibility for managing forest emergencies would take effect on the first day of the fourth month after the effective date of the bill.

The bill also would require DNR to undertake and maintain a current inventory of state forest lands, and require that the inventory include the condition of the forest resources in those lands. For the purpose of this provision, "state forest lands" are defined as any parcel of 10 or more contiguous acres of forested land owned by the state and under the jurisdiction of DNR. Further, if DNR prohibits the harvesting of timber on any state forest land, the bill would require DNR to prepare a report containing a projection of the long-term health effects, a projection of the economic effects, and a projection of the public benefits that would result from the prohibition. The Department is directed to complete this report no later than January 1, 2010, and to update the report every 15 years thereafter, except for any forest land for which a master plan has not yet been approved. (Under DNR's master planning process, a comprehensive management and use plan is developed for certain properties or geographical areas to guide future Department decisions as they relate to the management of the property. These plans establish goals and objectives for the property and identify how the property will be managed and developed.) For state forest land for which a master plan has not yet been approved, DNR would be directed to prepare a report upon the approval of the plan, and then every 15 years thereafter. The provision requiring DNR to undertake and maintain a current inventory of state forest lands would become effective the first day of the 13<sup>th</sup> month after the effective date of the bill.

Further, the bill would require DNR to establish annual allowable timber harvests for all forested property owned by the state and under the jurisdiction of DNR, from which timber is harvested. Under the bill, DNR may establish a single annual allowable timber harvest that would apply to two or more forested properties in a particular region (as determined by DNR) if each of those properties were smaller than 5,000 forested acres and if all the proceeds from the sale of the timber harvested on the combined forested properties were credited to the appropriate accounts of the conservation fund. The Department would be required to submit a report to the Council on Forestry by January 1, 2007, and again in each subsequent biennium. However, if the forested property has not been inventoried as of that date, the report may be delayed until January 1, 2009. If DNR establishes an annual allowable timber harvest for several forested properties combined, the Department may submit a report that specifies the total timber harvest for these combined properties.

If DNR submits a report that states that the timber harvest for a forested property is less than 90% or more than 110% of the allowable harvest in a given biennium, the Council on Forestry would be directed to prepare a report for the Governor, DNR, and the appropriate standing committees of the Legislature documenting the reasons for the noncompliance with the allowable harvest plan, as well as recommendations on methods for assuring that the timber harvest is consistent with the annual allowable harvest previously specified by the Department. This provision would become effective the first day of the 13<sup>th</sup> month after the effective date of the bill.

Further, the bill would require DNR to establish (by rule) a program that would allow private cooperating foresters to assist the state in the harvesting and sale of timber from state forest lands in order to meet the annual allowable harvest goals established by the Department. Specifically, the rules would be required to include provisions authorizing DNR to contract with cooperating foresters for the purpose of harvesting and selling timber from state forest lands and authorizing cooperating foresters to receive a portion of the proceeds from each timber sale. Also, DNR would be directed to specify in administrative rule a method for determining what portion of the proceeds received from each timber sale would be paid to the private cooperating forester for their service in assisting DNR in the harvesting and sale of timber from state forest lands under the bill. The bill would further direct DNR to ask the Council on Forestry to recommend a method for determining what portion of the proceeds received from each timber sale would be paid to the private cooperating forester for their service. Under the bill, each private cooperating forester with whom DNR contracts to harvest and sell timber from state forest lands would be entitled to receive a portion of the proceeds from the sale of the timber.

The bill would provide DNR with emergency rule making authority, without the finding of an emergency, to develop the administrative rules relating to cooperating foresters, and would direct the Department to submit permanent rules in their proposed form to Legislative Council staff no later than the first day of the sixth month beginning after the effective date of the bill, unless an economic impact report is required by DOA. Further, the bill would specify that the emergency rules promulgated to implement this provision would remain in effect until the date on which permanent rules take effect. The provisions relating to a program that would allow private

cooperating foresters to assist the state in the harvesting and sale of timber from state forest lands would take effect on the first day of the fourth month after the effective date of the bill.

Finally, the bill would specifically require the Division of Forestry, rather than the Department, to manage state forest lands and to develop forest management plans. Under this provision, "state forest land" is defined as any parcel of 10 or more contiguous acres of forested land owned by the state and under the jurisdiction of the Department. State forest lands would continue to be managed consistent with sustainable forestry practices and to provide a full range of benefits for present and future generations. However, current law specifies that the Department is responsible for the management of certain DNR properties that would also be considered "state forest lands" under the bill. This would include section 27.01 (2) of the statutes relating to state parks (currently managed by the Bureau of Parks). The bill does not affect this section and, therefore, it is unclear who would have the primary responsibility for managing most state parks under the bill. Since most DNR lands are forested, the bill could, arguably, shift primary responsibility for the management of southern state forests (currently managed by Parks), most fish and wildlife areas, state natural areas and recreational areas (such as the Willow, Turtle-Flambeau and Chippewa flowages) to the Division of Forestry. It may be desirable to clarify who would have the primary management responsibility for various DNR properties (such as state parks) under the bill.

Assembly Amendment 1 to Assembly Substitute Amendment 1 was introduced on June 2, 2005. The amendment would require DNR to consult with the chief state forester on the development, review, or implementation of any management or master plan for any forest land under the jurisdiction of the Department. Further, the amendment would direct DNR to manage forest land under its jurisdiction in a manner that is consistent with, and furthers the purpose of, the designation of that forest land as a state forest, southern state forest, state park, state trail, state natural area, state recreation area, or similar designation.

AA 1 to ASA 1 would also delete the provision specifically requiring the Division of Forestry, rather than the Department, to manage state forested lands and to develop related forest management plans. This would eliminate the potential uncertainty created under the substitute amendment concerning the management authority for other state lands which may also be forested (such as parks, southern forests, wildlife areas, and natural areas). The amendment would generally maintain the current management responsibilities (such as the Bureau of Parks overseeing state parks, trails and southern forests), other than in declared emergency circumstances.

## **FISCAL EFFECT**

Several aspects of the bill, including the management of forest emergencies and the specified responsibilities of the chief state forester are typically performed currently, and therefore are not anticipated to increase Department costs. Provisions relating to maintaining a forest inventory and instituting reporting requirements may increase demands on forestry staff time to complete within

the timeframes required under the bill. In its fiscal note, DNR included estimates for the total cost of implementing the requirements included in the original bill as well as for eliminating all timber harvest backlogs identified as a result of the inventory and reporting requirements. The Department identified potential costs of perhaps 51 staff and \$3.5 million annually (for at least five years).

While the Department's fiscal note includes cost estimates for resolving all backlogged practices on state land (DNR estimates timber harvests are overdue on approximately 170,000 acres of Department property), the bill would only require DNR to undertake and maintain a current inventory of state forest land, to use that inventory to establish an estimated annual allowable harvest for forested properties, to report on the projected effect of prohibiting timber harvest on certain properties, and to report on an annual basis instances where actual timber harvests do not meet the estimated allowable annual timber harvests. The activities actually required by the bill (as opposed to those included in the Department's fiscal note) are anticipated to have a more modest effect on forestry operations. Further, as the bill would not provide additional resources, DNR would be required to reallocate existing staff and resources to meet the directives included under the bill.

Under the bill, DNR would be required to undertake and maintain an inventory of all forested lands owned by the Department greater than 10 acres in size. Currently, the inventory is almost 80% complete. DNR expects that it would require 10.6 FTE worth of effort, for a one-time cost of \$729,500 to conduct an inventory of the remaining 20% of state-owned forested land. Maintaining the inventory on the 15-year cycle mandated under the bill is estimated to require up to 4.0 positions, at a cost of \$275,300 annually. Currently, inventories are considered lower-priority practices, and are completed (when time permits) as part of other forestry activities (such as timber sales, forest fire prevention work, or other state owned land management activities). As such, it is difficult to estimate what portion of effort may be allotted to completing the inventory under current work plans, and how much would need to be reallocated away from other activities in order to meet the time requirements specified under the bill. However, DNR indicates that this inventory is approximately 80% complete using existing staff, and the Department received additional resources to increase the amount of field forestry staff time available to complete this sort of work under 2005 Act 25 (the 2005-07 biennial budget).

The Department would also be directed to prepare a report, including information on the justification and benefits of refraining from active timber management on certain parcels of DNR managed land. Researching the information required for this report for the approximately 178,000 acres of forested land not currently being actively managed is estimated by DNR to take a one-time effort of 7.8 FTE, at a cost of \$540,000. It should be noted that this report is not required to be completed under the substitute amendment until January 1, 2010. The time frame for completion provided under the bill would allow for substantial flexibility in meeting this requirement. Further, if the Department determined that additional resources were required to complete this project, the over four-year time frame would permit the Department to request additional staff as part of its biennial budgeting process, if necessary.

The bill would also require DNR to establish an annual allowable harvest for all DNR owned lands greater than 10 acres in size, and would require the Department file an annual report with the Council on Forestry if the timber harvest for the previous year on a parcel were less than 90% or greater than 110% of the annual allowable harvest. The bill would allow DNR to group smaller parcels for reporting purposes. Reporting on harvest activity is estimated to require approximately 180 hours of a senior level forester's time annually, for a cost of \$5,400.

As previously noted, the bill does not provide additional resources to address these new inventory and reporting requirements. Consequently, DNR would be required to reallocate resources from other areas, such as private forestry work, assistance to county foresters, and management efforts on state owned land. In total, DNR estimates would indicate the activities required under the bill may represent approximately 18.4 FTE worth of effort costing approximately \$1.27 million on a one-time basis, followed by up to 4.0 FTE worth of effort at an annual cost of \$280,700 on an ongoing basis. However, to the extent that varying amounts of effort are currently devoted to these activities, the actual unmet need created by the bill may differ from the level DNR estimated in the fiscal note.

It should be noted that in the time since the fiscal note for the bill was prepared, additional resources to support forestry activities were provided under 2005 Act 25, the 2005-07 biennial budget. Under the budget act, \$64,300 in 2005-06 and \$405,300 in 2006-07 is provided for improvements in processing applications, transfers, withdrawals, and corrections in the MFL program. Further, \$581,700 is provided annually for the management and operation of state forest land properties, including funding for LTE assistance to implement site work, conduct timber sale contract monitoring, and conduct forest health monitoring surveys on DNR managed properties, as well as to implement sustainable forestry projects on Department lands (such as the management of backlogged timber harvests, reforestation efforts, and forest pest monitoring and control). Both of these initiatives are expected to increase staff efficiencies, and to free up field forestry staff time to address other priorities. In addition, \$587,000 SEG is provided annually to fund estimated overtime costs primarily relating to forest fire management. This amount is expected to fully fund forestry overtime costs, allowing the Department to fill field forester positions that had been previously held vacant in order to maintain salary costs within budgeted levels. Based on hiring practices and market considerations, DNR expects to be able to fill approximately nine vacant field forestry positions in each of the next two years as a result of the full funding of estimated overtime costs.

Finally, Act 25 deleted the requirement that DNR prepare a management plan for private forest landowners intending to enroll property under MFL, effective with applications received after June 1, 2005. Instead, the act allows DNR to prepare such plans, and directs DNR to establish, by rule, on an annual basis a fee that the Department would charge to prepare a management plan, or to contract for a certified plan writer to prepare a plan for the landowner. Revenues generated by the fee would be available for both contracting and DNR forestry staff costs. The Department is currently developing rules to establish and implement the fee, and anticipate bringing a final draft rule package before the National Resources Board in December. This provision is expected to free up approximately 24 field forestry positions that had previously been devoted to preparing MFL

management plans to address other needs. For example, Act 25 directs DNR to prioritize reducing the backlog of incomplete timber harvest, reconnaissance, and forest inventory work on state-owned land. This directive would be generally consistent with the inventory and reporting requirements included under AB 254.

If DNR focuses the resources made available under the 2005-07 biennial budget on backlogged timber harvest activities on state lands, revenues to the forestry account of the conservation fund are expected to increase. The rate at which the account experiences these increases may vary based on several factors, including the timing of timber sales, the length of time required for private contractors to complete marked harvests, the ability of the Division of Forestry to hire and train foresters to assist with the work, and market conditions at the time of the harvest. While the timing is uncertain, under the 2005-07 budget, increased timber harvest revenues of up to \$870,000 may be received in 2006-07. However, it should be noted that as revenues from timber sales are returned to the account of the conservation fund that is responsible for funding the property's management costs, not all of the funds will be deposited to the forestry account. For example, if the timber harvest occurs on property managed by the Bureau of Wildlife Management for public hunting, revenues from the harvest would be deposited to the fish and wildlife account. Of the timber sale revenues received annually, an average of over 70% has been credited to the forestry account. If this trend continues, under Act 25 provisions the forestry account might be expected to receive, perhaps, \$600,000 in additional revenues from increased timber sales in 2006-07. Revenues from the timber harvest could, potentially, increase by approximately \$2 million in 2007-08 and up to \$4 million in 2008-09.

Further, AB 254 would require DNR to establish a program allowing private cooperating foresters to assist the Department with timber harvests. To the extent contractors are available and DNR would utilize this option, timber harvest revenues could be expected to further increase.

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