

CHAPTER 345

AN ACT to repeal 28.12, 28.125, 28.13, 28.14 and 77.13; to amend 20.280 (72), (74b) (title) and (78) (c), 23.09 (17) (a), 25.29, 28.10, 59.07 (1) (e) and (74), 77.04 (2), 77.05, 77.06 (5) and 77.10 (2) (a); to repeal and recreate 28.11; and to create 20.551 (1e) of the statutes, relating to county forests and making appropriations.

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

SECTION 1. 20.280 (72), (74b) (title) and (78) (c) of the statutes are amended to read:

20.280 (72) On July 1, 1961, \$4,180,125, and annually, beginning July 1, 1962, \$4,275,997 for the execution of its functions under chs. 26 and 28 and s. 23.09 relating to forestry, county forest aid under s. \* \* \* 28.11 (8), and forest crop aid and the administration thereof under ch. 77.

(74b) (title) STATE AIDS FOR RECREATIONAL DEVELOPMENTS IN COUNTY FOREST LANDS.

(78) (c) County \* \* \* forest aids pursuant to s. \* \* \* 28.11 (8);

SECTION 2. 20.551 (1e) of the statutes is created to read:

20.551 (1e) COUNTY FORESTS; STATE AID. There is appropriated from the general fund to the conservation fund annually, beginning July 1, 1963, a sum sufficient to pay county forest aids at the rate of 15 cents per acre pursuant to s. 28.11 (8) (a).

SECTION 3. 23.09 (17) (a) of the statutes is amended to read:

23.09 (17) (a) The county board of any county which, by resolution, indicates its desire to develop outdoor recreation facilities on county lands entered under \* \* \* s. 28.11 may make application to the conservation commission for the apportionment of funds for state aids to counties for such purposes.

SECTION 4. 25.29 of the statutes is amended to read:

25.29 Except for fines and moneys payable to the reforestation fund, all moneys accruing to the state for \* \* \* the state conservation commission, shall constitute the "Conservation Fund" and, unless otherwise provided by law, shall be paid, within one week after receipt into the state treasury and credited to said fund. License fees and other state moneys collected by each field employe of the conservation commission shall be remitted to the commission within one month after receipt together with a report of the number of licenses issued and details covering the type and the amount of money remitted. No money shall be expended or paid from the conservation fund except in pursuance of an appropriation by law. Funds accruing to the conservation fund from license fees paid by hunters and from sport and recreation fishing license fees shall not be diverted for any other purpose than those provided by the conservation commission, except that the commission shall spend for acquisition and leasing of public hunting and fishing grounds not less than an amount

equal to the revenue received from that portion of the fee paid for each sportsmen's license which exceeds \$7.50. A gift or bequest shall be used in accordance with the directions of the donor. All of the proceeds of the tax which is levied under s. 70.58 (2), and all moneys paid into the state treasury as the counties' share of compensation of emergency fire wardens pursuant to s. 26.14 shall be used for acquiring, preserving and developing the forests of the state, including the acquisition of lands owned by counties by virtue of any tax deed and of other lands suitable for state forests, and for the development of lands so acquired and the conduct of forestry thereon, including the growing and planting of trees; for forest and marsh fire prevention and control; for compensation of emergency fire wardens; for maintenance, permanent property and forestry improvements; for other forestry purposes authorized by law and for the payment of aid for county \* \* \* forests as authorized in s. \* \* \* 28.11. Eight per cent of the tax which is levied under s. 70.58 (2) or of the funds provided for in lieu of such levy shall be used to acquire and develop state forest lands within areas approved by the conservation commission and the governor and located within the region composed of Manitowoc, Calumet, Winnebago, Sheboygan, Fond du Lac, Ozaukee, Washington, Dodge, Milwaukee, Waukesha, Jefferson, Racine, Kenosha, Walworth, Rock and Outagamie counties. Four per cent of the tax levied under s. 70.58 (2), or of the funds provided in lieu of such levy shall be used for the purchase of state forest lands within areas approved by the conservation commission and the governor and located within the region specified above. All moneys received from the United States for fire prevention and control, forest planting and other forestry activities shall be devoted to the purposes for which these moneys are received. All moneys received from the United States for wildlife restoration projects and for other purposes, and as provided in s. 29.174 (13), shall be devoted to the purposes for which these moneys are received. One-fourth of the gross income received after July 1, 1953, from the sale of standing timber and one-fourth of the stumpage value of forest products sold after cutting from each state forest shall be apportioned annually to those counties which have areas within the boundaries of such state forests. The sum payable to such counties shall be prorated on the basis of state forest acreage in each county as given in the conservation commission land record as of June 30. As soon as feasible after August 1 of each year the conservation commission shall certify to the commissioner of administration the amount due each county under this section for the preceding fiscal year and the amount so certified shall be paid to the respective counties. The county treasurer shall retain half of such sum for the county and shall apportion and pay the remainder to the several town treasurers on the basis of state forest acreage owned in each town, as certified to him by the conservation commission.

SECTION 5. 28.10 of the statutes is amended to read:

28.10 COUNTY FORESTS. The county board of any county may by resolution *establish a county public forest and* acquire land by tax deed or otherwise for \* \* \* *that purpose* \* \* \*.

SECTION 6. 28.11 of the statutes is repealed and recreated to read:

28.11 ADMINISTRATION OF COUNTY FORESTS. (1) PURPOSE. The purpose of this section is to provide the basis for a permanent program of county forests and to enable and encourage the planned development and management of the county forests for optimum production of forest products together with recreational opportunities, wildlife, watershed protection and stabilization of stream flow, giving full recognition to the

concept of multiple-use to assure maximum public benefits; to protect the public rights, interests and investments in such lands; and to compensate the counties for the public uses, benefits and privileges these lands provide; all in a manner which will provide a reasonable revenue to the towns in which such lands lie.

(2) DEFINED. "County forests" include all county lands entered under and participating under ch. 77 on the effective date of this section (1963), and all county lands designated as county forests by the county board or the forestry committee and entered under the county forest law and designated as "county forest lands" or "county special-use lands" as hereinafter provided.

(3) POWERS OF COUNTY BOARD. The county board of any such county may:

(a) Enact an ordinance designating a committee to have charge of the county forests and specifying the powers, duties, procedures and functions of such committee. The members of such committee shall be appointed pursuant to s. 59.06 and may include well-qualified residents of the county who are not members of the county board.

(b) Establish regulations for the use of the county forests by the public and to provide penalties for their enforcement.

(c) Appropriate funds for the purchase, development, protection and maintenance of such forests and to exchange other county-owned lands for the purpose of consolidating and blocking county forest holdings.

(d) Enter into co-operative agreements with the conservation commission for protection of county forests from fire.

(e) Establish aesthetic management zones along roads and waters and enter into long-term co-operative leases and agreements with the conservation commission and other state agencies or federal agencies for the use of the county forest for natural resources research.

(f) Establish transplant nurseries for growing seedlings, from the state forest nurseries, to larger size for planting in county forests, but no ornamental or landscape stock shall be produced in such nurseries.

(g) Establish forest plantations and engage in silviculture, forest management and timber sales.

(h) Engage in other projects designed to achieve optimum development of the forest.

(i) Enter into agreements, for terms not exceeding 5 years, to prospect for ore or minerals upon any county forest lands. Such agreements shall contain proper covenants to safeguard the public interests in the lands involved and to guard against trespass and waste. Proper security shall be taken that the prospector will fully inform the county of every discovery of ore or minerals and will restore the land surface to an acceptable condition and value if no discovery of valuable deposit is made or if said lands are not withdrawn from entry under this section. Before any such agreement shall be effective it shall first be submitted to the conservation commission for approval. If the conservation commission finds that the proposed agreement fully complies with the law and contains the proper safeguards it shall approve the same.

(4) ENTRY OF COUNTY FOREST LANDS. (a) A county may file with the conservation commission an application for entry of county-owned land

under this section. Such application shall include the description of the land and a statement of the purposes for which the lands are best suited. Upon the filing of such application the commission shall investigate the same and it may conduct a public hearing thereon if it deems it advisable to do so at such time and place as it sees fit.

(b) If after such investigation the commission finds that the lands constitute a well blocked county forest unit or that they block in with other established county forest lands and are otherwise suitable for the purposes of this section it shall make an order of entry designating such lands as county forest lands. All county lands entered under and participating under ch. 77 on the effective date of this section (1963) shall be designated "county forest lands" without further order of entry.

(c) If the commission finds that the lands are not suited primarily for timber production and do not otherwise qualify for entry under par. (b) but that they are suitable for scenic, outdoor recreation, public hunting and fishing, water conservation and other multiple-use purposes it shall make an order of entry designating such lands as "county special-use lands".

(d) A copy of the order of entry shall be filed with the county clerk, the register of deeds and with the county forestry committee. The register of deeds shall record the entry and withdrawal of all lands under this section without charge.

(e) From and after the filing of such order of entry, the lands therein described shall be "county forest lands" or "county special-use lands", as the case may be, and shall so remain until withdrawn as hereinafter provided.

(f) The conservation commission may construct and use forest fire lookout towers, telephone lines and fire lanes or other forest protection structures on any lands entered under this section and the county clerk of such county shall execute any easement on or over such lands which the conservation commission may require for forest protection. The general public shall enjoy the privilege of entering such lands for the purpose of hunting, fishing, trapping and other recreation pursuits subject to such regulation and restrictions as may be established by lawful authority.

(5) **MANAGEMENT.** (a) A comprehensive county forest land use plan shall be prepared for a 10-year period by the county forestry committee with the assistance of technical personnel from the conservation commission and other interested agencies, and shall be approved by the county board and the conservation commission. The plan shall include land use designations, land acquisition, forest protection, annual allowable timber harvests, recreational developments, fish and game management activities, roads, silvicultural operations and operating policies and procedures; it shall include a complete inventory of the county forest and shall be documented with maps, records and priorities showing in detail the various projects to be undertaken during the plan period. The initial plan shall be completed within 2 years from the effective date of this act and may be revised from time to time as changing conditions require and shall be revised upon expiration of the plan period.

(b) An annual work plan and budget based upon the comprehensive plan shall be prepared by the county forestry committee with the assistance of a forester of the conservation commission. The plan shall include a schedule of compartments to be harvested and a listing by location of management projects for the forthcoming year. In addition the plan shall include other multiple-use projects where appropriate. A budget, listing estimated expenditures for work projects, administration and protection

of the forest, shall accompany the annual plan both to be submitted to the county board for approval at the November meeting.

(6) **TIMBER SALES AND CULTURAL CUTTINGS.** (a) *Limitations.* The county forestry committee is authorized to sell merchantable timber designated in timber sale contracts and products removed in cultural or salvage cuttings. All timber sales shall be based on tree scale or on the scale, measure or count of the cut products; the Scribner Decimal C log rule shall be used in log scaling. All cuttings shall be limited to trees marked or designated for cutting by qualified personnel recognized as such by the conservation commission.

(b) *Procedures.* 1. Any timber sale in excess of \$500 shall be by sealed bid or public auction after publication of notice of sale in a newspaper having general circulation in the county. Timber sales with an estimated value below \$500 may be made without prior advertising. Any sale with an estimated value exceeding \$2,500 requires approval of the conservation director.

2. Timber sales shall be subject to presale appraisals by qualified personnel recognized as such by the conservation commission to establish minimum sales value. Appraisal methods and procedures shall be approved by the conservation commission.

3. No merchantable wood products shall be cut on any lands entered under this section unless a cutting notice on forms furnished by the conservation commission has been filed with and approved by said commission. Any unauthorized cutting shall render the county liable to the state in an amount equal to double the stumpage value of the cut products which amount shall be paid by the county to the state and credited to the appropriation under s. 20.280 (72). If the county does not pay the amount of such penalty to the state, the commission may withhold such amount from future state contributions to the county.

4. Within 90 days after completion of any cutting operation (including timber trespass) but not more than 2 years after filing the cutting notice, the county shall transmit to the conservation commission on forms furnished by the commission, a report of merchantable wood products cut. The commission may conduct such investigations on timber cutting operations as it deems advisable, including the holding of public hearings thereon, and may assess severance share payments accordingly.

(7) **COUNTY FOREST CREDIT.** The commission shall set up an account for each county showing the lands entered; the sums previously paid under s. 28.14; the sums hereafter paid under this section; the sums previously received in the form of four-fifths severance tax collected pursuant to s. 77.06 (5); the sums received as forestry fund severance share under this section; and the sums previously reimbursed to the state on withdrawn lands pursuant to s. 28.12 (4). Whenever the forestry fund account of any county shows an overpayment of such severance tax or severance share as of June 30 of any year, the commission shall return such overpayment to the county. All severance taxes previously paid by any county and deposited in the general fund shall be credited to the forestry fund account of the county. If such credit exceeds the balance due to the forestry fund account from such county, the overpayment shall be credited to the county and applied in lieu of future severance shares due to the state until the county account is balanced.

(8) **STATE CONTRIBUTION.** (a) *General fund account.* As soon after April 20 of each year as feasible, the conservation commission shall pay to each town treasurer 15 cents per acre, based on the average of such lands as of the preceding June 30, as a grant out of the appropriation

made by s. 20.280 (72) on each acre of county lands entered under this section. Payments so made shall be from the general fund transfer made by s. 20.551 (1e) and shall be known as the "general fund account."

(b) *Forestry fund account.* 1. Any county having established and maintaining a county forest under this section shall receive from the state out of the appropriation made by s. 20.280 (72) 10 cents for each acre entered and designated as "county forest land" as a noninterest bearing loan to be used for the purchase, development, preservation and maintenance of such county forest lands and such payment shall be credited to a county account to be known as the county forestry aid fund. If any lands purchased from said fund are sold the county shall restore the purchase price to the county forestry aid fund. The conservation commission shall pay to such county the amount due to it on or before March 31 of each year, based on the acreage of such lands as of the preceding June 30.

2. Out of the appropriation made by s. 20.280 (72) the conservation commission may allot additional interest free forestry aid loans on a project basis to individual counties to permit such counties to undertake meritorious and economically productive forestry operations. These additional aids shall not be used for the construction of roads, recreational facilities or for fish and game management projects. Application shall be made in the manner and on forms prescribed by the commission and specify the purpose for which the additional aids will be used. The commission shall thereupon make such investigation as it deems necessary to satisfy itself that the project is feasible, desirable and consistent with the comprehensive plan. If the commission so finds it may make allotments in such amounts as it determines to be reasonable and proper and charge the same to the forestry fund account of the county. Such allotments shall be credited by the county to the county forestry aid fund.

3. All payments made under this paragraph shall be known as the "forestry fund account."

(9) COUNTY FOREST SEVERANCE SHARE. (a) On timber cut from lands entered as "county forest lands" the county shall pay a severance share of not less than 20 per cent of the actual stumpage sales value of such timber, except that a higher rate of payment may be applied when so agreed upon by the conservation commission and the county. When cutting is done by the county and timber is not sold or is sold as cut forest products the severance share thereon shall be 20 per cent of the severance tax schedule in effect pursuant to s. 77.06 (2). Of the severance share paid by a county to the state the entire amount shall be restored to the appropriation made by s. 20.280 (72) and credited to the forestry fund account of the county.

(b) Of the gross receipts from all timber sales on the county forests 10 per cent shall be paid annually by the county to the towns having county forest lands on the basis of acreage of such lands in the towns.

(10) APPORTIONMENT BY TOWNS. Out of all moneys received by any town from any source on account of lands in such towns which are entered under this section the town treasurer shall retain 60 per cent for the town and apportion the remainder to the various school districts or parts of such districts in which the lands entered are located, in proportion to the acreage which such lands within each school district or part thereof bears to the total acreage of entered lands in the town. The amount so paid by a town to a joint school district shall be credited against the amount of taxes certified for assessment in the town by the clerk of the joint school district under s. 40.35 (8), and the assessment shall be reduced by such amount.

(11) **WITHDRAWALS.** (a) The county board may by resolution adopted by not less than two-thirds of its membership make application to the conservation commission to withdraw lands entered under this section. The county board shall first refer the resolution to the county forestry committee before acting on the same, and shall not take final action thereon until 90 days after such referral or until the report thereon of the forestry committee has been filed with the board. Such application shall include the land description and a statement of the reasons for withdrawal. Upon the filing of such application the commission shall investigate the same and it may conduct a public hearing thereon if it deems it advisable at such time and place as it sees fit. During the course of its investigation the commission shall make an examination of the character of the land, the volume of timber, improvements and any other special values and in the case of withdrawal for the purpose of sale to any purchaser other than the state or a local unit of government it shall establish a minimum value on the lands to be withdrawn. In making its investigation the commission shall give full weight and consideration to the purposes and principles set forth in sub. (1) and it shall also weigh and consider the benefits to the people of the state as a whole, as well as to the county, from the proposed use against the benefits accruing to the people of the state as a whole and to the county under the continued entry of such lands. If the commission finds that the benefits after withdrawal outweigh the benefits under continued entry and that the lands will be put to a better and higher use it shall make an order withdrawing such lands from entry, otherwise it shall deny the application. The findings and order of the commission shall be filed with the county clerk and the county forestry committee and in the case of orders of withdrawal a copy shall also be filed with the register of deeds who shall record the same.

(b) If the application is approved the county shall reimburse the state the amounts previously paid to the county pursuant to sub. (8) (b) which reimbursement shall be credited to the county forestry fund account; except that the conservation commission may waive all or part of such reimbursement if it finds that the lands are withdrawn for a higher public use or that the amount of such reimbursement is unreasonable when compared to the value of the land. If the commission has waived any portion of such reimbursement and if at any subsequent time the land ceases to be used for the purpose designated in the application for withdrawal, the full amount of reimbursement due the forestry fund account on the lands withdrawn shall immediately become due and payable to the conservation commission and shall be credited to the forestry fund account, unless the commission finds and determines that the lands will continue to be put to another higher public use in which case payments of such reimbursement may be deferred by the commission so long as the lands are devoted to a higher public use. If payment is not made prior to the time of the next forestry aid payment to the county, forestry aid payments in an amount to be determined by the commission shall be withheld until the amount due the forestry fund account is reimbursed.

(12) **ENFORCEMENT.** If at any time it appears to the commission that the lands are not being managed in accordance with this section it shall so advise the county forestry committee and the county clerk. If the condition persists the commission may proceed against the persons responsible for such noncompliance under s. 30.03 (4).

(13) **REVIEW.** All orders of the commission made under this section may be reviewed under ss. 227.15 to 227.21.

**SECTION 7.** 28.12, 28.125, 28.13 and 28.14 of the statutes are repealed.

SECTION 8. 59.07 (1) (e) and (74) of the statutes are amended to read:

59.07 (1) (e) Lease lands owned by the county to the state conservation commission for game management purposes. Lands so leased shall not be eligible for entry under \* \* \* s. 28.11. Of the rental paid by the state to the county for lands so leased 60 per cent shall be retained by the county and 40 per cent shall be paid by the county to the town in which said lands are located and of the amount received by the town, 40 per cent shall be paid by the town to the school district in which said lands are located. The amount so paid by a town to a joint school district shall be credited against the amount of taxes certified for assessment in that town by the clerk of the joint school district under s. 40.35 (8), and the assessment shall be reduced by such amount. In case any leased land is located in more than one town or school district the amounts paid to them shall be apportioned on the basis of area. This paragraph shall not affect the distribution of rental moneys received on leases executed before June 22, 1955.

(74) Return and distribute to the several towns in the county all or any part of any money received by the county from the sale of any product from county-owned \* \* \* lands which are not entered under the *county forest* \* \* \* law pursuant to \* \* \* s. 28.11.

SECTION 9. 77.04 (2) of the statutes is amended to read:

77.04 (2) Any owner \* \* \* shall be liable for and pay to the town treasurer on or before January 31 of each year on each such description a sum herein called the "acreage share" computed at the rate of 10 cents per acre on all lands. If such acreage share \* \* \* is not paid by January 31 to the town treasurer it shall be subject to interest at the rate of eight-tenths of one per cent per month or fraction thereof from January 1 preceding. \* \* \* *Such* lands shall be returned as delinquent and sold for delinquent taxes in the manner provided for the sale of lands for taxes but no bid shall be received on such sale except from the county, and the county shall not be liable to the town for any amount except the acreage share subsequently paid by the owner. At the expiration of 3 years from the date of sale of any tax certificate acquired by the county hereunder, the county clerk shall promptly take a tax deed under \* \* \* s. 75.36, except that county board authorization shall not be required. On taking such deed the county clerk shall certify that fact and specify the descriptions to the conservation commission.

SECTION 10. 77.05 of the statutes is amended to read:

77.05 (1) On or before April 20 the county treasurer of each county containing forest crop lands shall certify to the conservation commission for each owner \* \* \* the legal \* \* \* *description* in each town on which the owner has paid the acreage share pursuant to s. 77.04 (2), and also on acreage share previously returned delinquent and subsequently paid, except on lands on which an order of cancellation has been issued by the conservation commission pursuant to s. 77.10 (1).

(2) As soon after April 20 of each year as feasible, the conservation commission shall pay to each town treasurer on each description as above certified \* \* \* the sum of 10 cents per acre out of the appropriation made by s. 20.280 (72).

SECTION 11. 77.06 (5) of the statutes is amended to read:

77.06 (5) The conservation commission shall assess and levy against such owner a severance tax on the right to cut and remove wood products



covered by reports under this section, at the rate of 10 per cent of the value of such wood products based upon the stumpage value then in force. Upon making such assessment, the conservation commission shall mail a duplicate of such certificate by registered mail to the owner who made the report of cutting at his last known post-office address. The tax thereby assessed is due and payable to the conservation commission on the last day of the next calendar month after mailing such certificate. \* \* \*

SECTION 12. 77.10 (2) (a) of the statutes is amended to read:

77.10 (2) (a) Any owner of forest crop lands may elect to withdraw all or any of such lands from *under* this chapter, by filing with the conservation commission a declaration withdrawing from this chapter any description owned by him which he specified, and by payment by such owner \* \* \* to the conservation commission within 30 days the amount of all real estate tax that would ordinarily have been charged against such lands had they not been subject to this chapter with simple interest thereon at 5 per cent per annum, less any severance tax and supplemental severance tax or acreage share paid thereon, with interest computed according to the rule of partial payments at the rate of 5 per cent per annum. The exact amount of such tax shall be determined by the department of taxation after hearing and upon due notice to all parties interested, provided that when the tax rate of the current year has not been determined the rate of the preceding tax year may be used. On receiving such payment the conservation commission shall issue an order of withdrawal and file copies thereof with the department of taxation, the supervisor of assessments, the clerk of the town and the register of deeds of the county in which such land lies. Such land shall then cease to be forest crop lands. \* \* \*

SECTION 13. 77.13 of the statutes is repealed.

SECTION 14. This bill is declared to be an emergency appropriation bill in accordance with section 16.47 (2) of the statutes.

Approved September 19, 1963.

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