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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 2954

February 15, 2010

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The bill was read for the first time and referred to the Committee on Environment Policy and Oversight

March 4, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on State and Local Government Operations Reform, Technology and Elections

March 15, 2010

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to natural resources; providing for general burning permits; modifying
1.3 authority to establish forestry services fees; modifying the forest management
1.4 lease pilot project; modifying timber sales provisions; eliminating certain
1.5 pilot projects and reports; amending Minnesota Statutes 2008, sections 88.17,
1.6 subdivisions 1, 3; 88.79, subdivision 2; 90.041, by adding a subdivision;
1.7 90.121; 90.14; Minnesota Statutes 2009 Supplement, section 88.795; repealing
1.8 Minnesota Statutes 2008, section 90.172.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2008, section 88.17, subdivision 1, is amended to read:

1.11 Subdivision 1. **Permit Permission required.** (a) ~~A permit~~ Permission to start a fire
1.12 to burn vegetative materials and other materials allowed by Minnesota Statutes or official
1.13 state rules and regulations may be given by the commissioner or the commissioner's agent.

1.14 This permission shall be in the form of:

1.15 (1) a written permit issued by a forest officer, fire warden, or other person authorized
1.16 by the commissioner; ~~or~~

1.17 (2) an electronic permit issued by the commissioner, an agent authorized by the
1.18 commissioner, or an Internet site authorized by the commissioner; or

1.19 (3) a general permit adopted by the county board of commissioners according to
1.20 paragraph (c).

1.21 (b) Written and electronic burning permits shall set the time and conditions by which
1.22 the fire may be started and burned. The permit shall also specifically list the materials that
1.23 may be burned. The permittee must have the permit on their person and shall produce
1.24 the permit for inspection when requested to do so by a forest officer, conservation officer,
1.25 or other peace officer. The permittee shall remain with the fire at all times and before
1.26 leaving the site shall completely extinguish the fire. A person shall not start or cause a

2.1 fire to be started on any land that is not owned or under their legal control without the  
2.2 written permission of the owner, lessee, or an agent of the owner or lessee of the land.  
2.3 Violating or exceeding the permit conditions shall constitute a misdemeanor and shall be  
2.4 cause for the permit to be revoked.

2.5 (c) A general burning permit may be adopted by the county board of commissioners  
2.6 in counties that are determined by the commissioner either to not be wildfire areas as  
2.7 defined in section 88.01, subdivision 6, or to otherwise have low potential for damage  
2.8 to life and property from wildfire. The commissioner shall consider the history of and  
2.9 potential for wildfire; the distribution of trees, brush, grasslands, and other vegetative  
2.10 material; and the distribution of property subject to damage from escaped fires. Upon a  
2.11 determination by the commissioner and adoption by a vote of the county board, permission  
2.12 for open burning is extended to all residents in the county without the need for individual  
2.13 written or electronic permits, provided burning conforms to all other provisions of this  
2.14 chapter, including those related to responsibility to control and extinguish fires, no burning  
2.15 of prohibited materials, and liability for damages caused by violations of this chapter.

2.16 (d) Upon adoption of a general burning permit, a county must establish specific  
2.17 regulations by ordinance, to include at a minimum the time when and conditions under  
2.18 which fires may be started and burned. No ordinance may be less restrictive than state law.

2.19 (e) At any time when the commissioner or the county board determines that a general  
2.20 burning permit is no longer in the public interest, the general permit may be canceled by  
2.21 mutual agreement of the commissioner and the county board.

2.22 Sec. 2. Minnesota Statutes 2008, section 88.17, subdivision 3, is amended to read:

2.23 Subd. 3. **Special permits.** The following special permits are required at all times,  
2.24 including when the ground is snow-covered:

2.25 (a) **Fire training.** A permit to start a fire for the instruction and training of  
2.26 firefighters, including liquid fuels training, may be given by the commissioner or agent of  
2.27 the commissioner. Except for owners or operators conducting fire training in specialized  
2.28 industrial settings pursuant to applicable federal, state, or local standards, owners  
2.29 or operators conducting open burning for the purpose of instruction and training of  
2.30 firefighters with regard to structures must follow the techniques described in a document  
2.31 entitled: Structural Burn Training Procedures for the Minnesota Technical College System.

2.32 (b) **Permanent tree and brush open burning sites.** A permit for the operation of  
2.33 a permanent tree and brush burning site may be given by the commissioner or agent of  
2.34 the commissioner. Applicants for a permanent open burning site permit shall submit a  
2.35 complete application on a form provided by the commissioner. Existing permanent tree

3.1 and brush open burning sites must submit for a permit within 90 days of the passage of  
 3.2 this statute for a burning permit. New site applications must be submitted at least 90  
 3.3 days before the date of the proposed operation of the permanent open burning site. The  
 3.4 application must be submitted to the commissioner and must contain:

3.5 (1) the name, address, and telephone number of all owners of the site proposed for  
 3.6 use as the permanent open burning site;

3.7 (2) if the operator for the proposed permanent open burning site is different from the  
 3.8 owner, the name, address, and telephone number of the operator;

3.9 (3) a general description of the materials to be burned, including the source and  
 3.10 estimated quantity, dimensions of the site and burn pile areas, hours and dates of operation,  
 3.11 and provisions for smoke management; and

3.12 (4) a topographic or similarly detailed map of the site and surrounding area within  
 3.13 a one mile circumference showing all structures that might be affected by the operation  
 3.14 of the site.

3.15 Only trees, tree trimmings, or brush that cannot be disposed of by an alternative  
 3.16 method such as chipping, composting, or other method shall be permitted to be burned  
 3.17 at a permanent open burning site. A permanent tree and brush open burning site must  
 3.18 be located and operated so as not to create a nuisance or endanger water quality. The  
 3.19 commissioner shall revoke the permit or order actions to mitigate threats to public health,  
 3.20 safety, and the environment in the event that permit conditions are violated.

3.21 Sec. 3. Minnesota Statutes 2008, section 88.79, subdivision 2, is amended to read:

3.22 Subd. 2. **Charge for service; receipts to special revenue fund.** Notwithstanding  
 3.23 section 16A.1283, the commissioner of natural resources may ~~charge the owner,~~ by written  
 3.24 order published in the State Register, establish fees the commissioner determines to be  
 3.25 fair and reasonable that are charged to owners receiving such services ~~such sums as the~~  
 3.26 ~~commissioner shall determine to be fair and reasonable~~ under subdivision 1. The charges  
 3.27 must account for differences in the value of timber and other benefits. The receipts from  
 3.28 such services shall be credited to the special revenue fund and are annually appropriated to  
 3.29 the commissioner for the purposes specified in subdivision 1.

3.30 Sec. 4. Minnesota Statutes 2009 Supplement, section 88.795, is amended to read:

3.31 **88.795 FOREST MANAGEMENT LEASE PILOT PROJECT.**

3.32 (a) Notwithstanding the permit procedures of chapter 90, the commissioner of  
 3.33 natural resources may lease ~~up to 10,000 acres of~~ state-owned forest lands for forest

4.1 management purposes for a term not to exceed 21 years. No person or entity may lease  
4.2 more than ~~3,000~~ 20,000 acres. The lease shall provide:

4.3 (1) that the lessee must comply with timber harvesting and forest management  
4.4 guidelines developed under section 89A.05 and landscape-level plans under section  
4.5 89A.06 that have been adopted by the Minnesota Forest Resources Council, and in effect  
4.6 at the time of any management activity; and

4.7 (2) for public access for hunting, fishing, and motorized and nonmotorized recreation  
4.8 to the leased land that is the same as would be available under state management.

4.9 (b) For the purposes of this section, the term "state-owned forest lands" may include  
4.10 school trust lands as defined in section 92.025 or university land granted to the state by  
4.11 Acts of Congress.

4.12 (c) By December 15, 2009, the commissioner of natural resources shall provide a  
4.13 report to the house of representatives and senate natural resources policy and finance  
4.14 committees and divisions on the pilot project. The report will detail a plan for the  
4.15 implementation of the pilot project with a starting date that is no later than July 1, 2010.

4.16 (d) Upon implementation of the pilot project, the commissioner shall provide an  
4.17 annual report to the house of representatives and senate natural resources policy and  
4.18 finance committees and divisions on the progress of the project, including the acres leased,  
4.19 a breakdown of the types of forest land, and amounts harvested by species. The report  
4.20 shall include a net revenue analysis comparing the lease revenue with the estimated net  
4.21 revenue that would be obtained through state management and silvicultural practices cost  
4.22 savings the state realizes through leasing.

4.23 (e) Nothing in this section supersedes the duties of the commissioner of natural  
4.24 resources to properly manage forest lands under the authority of the commissioner, as  
4.25 defined in section 89.001, subdivision 13.

4.26 Sec. 5. Minnesota Statutes 2008, section 90.041, is amended by adding a subdivision  
4.27 to read:

4.28 Subd. 9. **Reoffering unsold timber.** To maintain and enhance forest ecosystems on  
4.29 state forest lands, the commissioner may reoffer timber tracts remaining unsold under the  
4.30 provisions of section 90.101 below appraised value at public auction with the required  
4.31 30-day notice under section 90.101, subdivision 2.

4.32 Sec. 6. Minnesota Statutes 2008, section 90.121, is amended to read:

4.33 **90.121 INTERMEDIATE AUCTION SALES; MAXIMUM LOTS OF 3,000**  
4.34 **CORDS.**

5.1 (a) The commissioner may sell the timber on any tract of state land in lots not  
5.2 exceeding 3,000 cords in volume, in the same manner as timber sold at public auction  
5.3 under section 90.101, and related laws, subject to the following special exceptions and  
5.4 limitations:

5.5 (1) the commissioner shall offer all tracts authorized for sale by this section  
5.6 separately from the sale of tracts of state timber made pursuant to section 90.101;

5.7 (2) no bidder may be awarded more than 25 percent of the total tracts offered at the  
5.8 first round of bidding unless fewer than four tracts are offered, in which case not more  
5.9 than one tract shall be awarded to one bidder. Any tract not sold at public auction may be  
5.10 offered for private sale as authorized by section 90.101, subdivision 1, to persons eligible  
5.11 under this section at the appraised value; and

5.12 (3) no sale may be made to a person having more than ~~20~~30 employees. For the  
5.13 purposes of this clause, "employee" means an individual working as a logger for salary or  
5.14 wages on a full-time or part-time basis.

5.15 (b) The auction sale procedure set forth in this section constitutes an additional  
5.16 alternative timber sale procedure available to the commissioner and is not intended to  
5.17 replace other authority possessed by the commissioner to sell timber in lots of 3,000  
5.18 cords or less.

5.19 (c) Another bidder or the commissioner may request that the number of employees a  
5.20 bidder has pursuant to paragraph (a), clause (3), be confirmed if there is evidence that the  
5.21 bidder may be ineligible due to exceeding the employee threshold. The commissioner  
5.22 shall request information from the commissioner of labor and industry including the  
5.23 premiums paid by the bidder in question for workers' compensation insurance coverage  
5.24 for all employees of the bidder. The commissioner shall review the information submitted  
5.25 by the commissioner of labor and industry and make a determination based on the  
5.26 information as to whether the bidder is eligible.

5.27 Sec. 7. Minnesota Statutes 2008, section 90.14, is amended to read:

5.28 **90.14 AUCTION SALE PROCEDURE.**

5.29 (a) All state timber shall be offered and sold by the same unit of measurement as it  
5.30 was appraised. No tract shall be sold to any person other than the purchaser in whose name  
5.31 the bid was made. The commissioner may refuse to approve any and all bids received and  
5.32 cancel a sale of state timber for good and sufficient reasons.

5.33 (b) The purchaser at any sale of timber shall, immediately upon the approval of the  
5.34 bid, or, if unsold at public auction, at the time of purchase at a subsequent sale under  
5.35 section 90.101, subdivision 1, pay to the commissioner a down payment of 15 percent

6.1 of the appraised value. In case any purchaser fails to make such payment, the purchaser  
6.2 shall be liable therefor to the state in a civil action, and the commissioner may reoffer the  
6.3 timber for sale as though no bid or sale under section 90.101, subdivision 1, therefor  
6.4 had been made.

6.5 (c) In lieu of the scaling of state timber required by this chapter, a purchaser of  
6.6 state timber may, at the time of payment by the purchaser to the commissioner of 15  
6.7 percent of the appraised value, elect in writing on a form prescribed by the attorney  
6.8 general to purchase a permit based solely on the appraiser's estimate of the volume of  
6.9 timber described in the permit, provided that the commissioner has expressly designated  
6.10 the availability of such option for that tract on the list of tracts available for sale as  
6.11 required under section 90.101. A purchaser who elects in writing on a form prescribed  
6.12 by the attorney general to purchase a permit based solely on the appraiser's estimate of  
6.13 the volume of timber described on the permit does not have recourse to the provisions  
6.14 of section 90.281.

6.15 (d) In the case of a public auction sale conducted by a sealed bid process, tracts shall  
6.16 be awarded to the high bidder, who shall pay to the commissioner a down payment of 15  
6.17 percent of the appraised value ~~within ten business days of receiving a written award~~  
6.18 ~~notice~~ that must be received or postmarked within 14 days of the date of the sealed bid  
6.19 opening. If a purchaser fails to make the down payment, the purchaser is liable for the  
6.20 down payment to the state and the commissioner may offer the timber for sale to the next  
6.21 highest bidder as though no higher bid had been made.

6.22 (e) Except as otherwise provided by law, at the time the purchaser signs a permit  
6.23 issued under section 90.151, the commissioner shall require the purchaser shall to make  
6.24 a bid guarantee payment to the commissioner in an amount equal to 15 percent of the  
6.25 total purchase price of the permit less the down payment amount required by paragraph  
6.26 (b) for any bid increase in excess of \$5,000 of the appraised value. If ~~the~~ a required bid  
6.27 guarantee payment is not submitted with the signed permit, no harvesting may occur, the  
6.28 permit cancels, and the down payment for timber forfeits to the state. The bid guarantee  
6.29 payment forfeits to the state if the purchaser and successors in interest fail to execute  
6.30 an effective permit.

6.31 Sec. 8. **REPEALER.**

6.32 Minnesota Statutes 2008, section 90.172, is repealed.

APPENDIX  
Repealed Minnesota Statutes: H2954-1

**90.172 ANNUAL REPORTS.**

Subdivision 1. **Report to legislature.** The commissioner shall file an annual report on or before September 30 of each year with the Legislative Reference Library providing detailed information on all auctions and informal sales made in the previous fiscal year. The report shall include but not be limited to the names and addresses of all purchasers, volumes of timber purchased, species, appraised value and sale price. The commissioner shall make copies of the report available to the public upon request.

Subd. 2. **Report to Executive Council.** The commissioner shall report on or before September 30 of each year or more frequently, as required, to the state Executive Council concerning the status of the state timber sales and timber management program, including any special problems or changes occurring since the previous report.