

## CHAPTER 88

## DIVISION OF LANDS AND FORESTRY

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**88.065 EQUIPMENT FURNISHED.**

Subject to applicable provisions of state laws respecting purchases, the commissioner of natural resources may purchase for and furnish to any governmental subdivisions of the state authorized to engage in forest fire prevention or suppression materials or equipment therefor, and may transport, repair, and renovate forest fire prevention and suppression materials and equipment for governmental subdivisions of the state. The commissioner may use any funds available for the purchase of forest fire prevention or suppression equipment or for its repair, transportation, and renovation under federal grants, if permitted by the terms thereof, or under state appropriations, unless otherwise expressly provided. Except as otherwise authorized or permitted by federal or state laws or regulations, the governmental subdivision receiving any such materials or services shall reimburse the state for the cost. All moneys received in reimbursement shall be credited to the fund from which the purchase, transportation, repair, or renovation was made, and are hereby reappropriated annually and shall be available for the same purpose as the original appropriation.

**History:** 1987 c 404 s 108

**88.11 FOREST OFFICERS; AID FOR FIGHTING FIRES; REFUSAL; COMMANDEERING PROPERTY.**

Subdivision 1. At any time forest officers, with the approval of the commissioner, may employ suitable persons to prevent and extinguish any fires. Each forest officer so employed shall be supplied with the necessary equipment. The commissioner, or any forest officer, may summon any person of the age of 18 years and upward to assist in stopping any fire burning in the district under the care of such state employee and may incur any other necessary and reasonable expense for this purpose, but shall promptly report the matter to the next superior officer or other state employee over the forest officer.

*[For text of subd 2, see M.S.1986]*

**History:** 1987 c 49 s 2

**88.13** [Repealed, 1987 c 109 s 13]

**88.17 PERMISSION TO START FIRES; PROSECUTION FOR UNLAWFULLY STARTING FIRES.**

*[For text of subd 1, see M.S.1986]*

Subd. 2. In any prosecution under sections 88.03 to 88.22 for unlawfully starting or setting or having or permitting the continuation or spread of any fire or backfire, proof upon the part of the prosecution that such fire or backfire originated upon, or was permitted to burn upon, or that it spread from, lands or premises occupied by the person charged with the offense, and that this person had knowledge of the fire and made no effort to put it out, shall be prima facie evidence of guilt.

**History:** 1987 c 271 s 1

**88.49 CONTRACTS.**

*[For text of subs 1 to 4, see M.S.1986]*

**Subd. 5. Cancellation.** Upon the failure of the owner faithfully to fulfill and perform such contract or any provision thereof, or any requirement of sections 88.47 to 88.53, or any rule adopted by the commissioner thereunder, the commissioner may cancel the contract in the manner herein provided. The commissioner shall give to the owner, in the manner prescribed in section 88.48, subdivision 4, 60 days notice of a hearing thereon at which the owner may appear and show cause, if any, why the contract should not be canceled. The commissioner shall thereupon determine whether the contract should be canceled and make an order to that effect. Notice of the commissioner's determination and the making of the order shall be given to the owner in the manner provided in section 88.48, subdivision 4. On determining that the contract should be canceled and no appeal therefrom be taken, the commissioner shall send notice thereof to the auditor of the county and to the town clerk of the town affected and file with the recorder a certified copy of the order, who shall forthwith note the cancellation upon the record thereof, and thereupon the land therein described shall cease to be an auxiliary forest and, together with the timber thereon, become liable to all taxes and assessments that otherwise would have been levied against it had it never been an auxiliary forest from the time of the making of the contract, any provisions of the statutes of limitation to the contrary notwithstanding, less the amount of taxes paid under the provisions of section 88.51, subdivision 1, together with interest on such taxes and assessments at six percent per annum, but without penalties.

The commissioner may in like manner and with like effect cancel the contract upon written application of the owner.

The commissioner shall cancel any contract if the owner has made successful application under sections 270.31 to 270.39 inclusive, the Minnesota tree growth tax law, and has paid to the county treasurer the difference between the amount which would have been paid had the land under contract been subject to the Minnesota tree growth tax law from the date of the filing of the contract and the amount actually paid under section 88.51, subdivisions 1 and 2. If the amount which would have been paid, had the land under contract been under the Minnesota tree growth tax law from the date of the filing of the contract, is less than the amount actually paid under the contract, the cancellation shall be made without further payment by the owner.

When the execution of any contract creating an auxiliary forest shall have been procured through fraud or deception practiced upon the county board or the commissioner or any other person or body representing the state, it may be canceled upon suit brought by the attorney general at the direction of the commissioner. This cancellation shall have the same effect as the cancellation of a contract by the commissioner.

*[For text of subs 6 to 8, see M.S.1986]*

**Subd. 9. Auxiliary forests; withdrawal of land from.** Land needed for other purposes may be withdrawn from an auxiliary forest as herein provided. A verified application therefor in a form prescribed by the commissioner of natural resources may be made by the owner to the county board of the county in which the land is situated, describing the land and stating the purpose of withdrawal. Like proceedings shall be had upon the application as upon an application for the establishment of an auxiliary forest, except that consideration need be given only to the questions to be determined as provided in this subdivision. If the county board shall determine that the land proposed to be withdrawn is needed and is suitable for the purposes set forth in the application, and that the remaining land in the auxiliary forest is suitable and sufficient for the purposes thereof as provided by law, the board may, in its discretion, grant the application, subject to the approval of the commissioner. Upon such approval a supplemental contract evidencing the withdrawal shall be executed, filed, and recorded or registered as the case may require, in like manner as an original auxiliary forest contract. Thereupon the land described in the supplemental contract shall cease to be

part of the auxiliary forest, and, together with the timber thereon, shall be liable to taxes and assessments in like manner as upon cancellation of an auxiliary forest contract.

Subd. 9a. **Land trades with governmental units.** Notwithstanding subdivisions 6 and 9, or section 88.491, subdivision 2, if an owner trades land under auxiliary forest contract for land owned by a governmental unit and the owner agrees to use the land received in trade from the governmental unit for the production of forest products, upon resolution of the county board, no taxes and assessments shall be levied against the land traded, except that any current or delinquent annual taxes or yield taxes due on that land while it was under the auxiliary forest provision must be paid prior to the land exchange. The land received from the governmental unit in the land trade automatically qualifies for inclusion in the tree growth tax law.

*[For text of subd 10, see M.S.1986]*

Subd. 11. **Auxiliary forests; transfer of title; procedure on division.** The title to the land in an auxiliary forest or any part thereof is subject to transfer in the same manner as the title to other real estate, subject to the auxiliary forest contract therefor and to applicable provisions of law. In case the ownership of such a forest is divided into two or more parts by any transfer or transfers of title and the owners of all such parts desire to have the same made separate auxiliary forests, they may join in a verified application therefor to the county board of the county in which the forest is situated in a form prescribed by the commissioner of natural resources. If the county board determines that each of the parts into which the forest has been divided is suitable and sufficient for a separate auxiliary forest as provided by law, it may, in its discretion, grant the application, subject to the approval of the commissioner. Upon such approval, the commissioner shall prepare a new auxiliary forest contract for each part transferred, with like provisions and for the remainder of the same term as the prior contract in force for the entire forest at the time of the transfer, and shall also prepare a modification of such prior contract, eliminating therefrom the part or parts of the land transferred but otherwise leaving the remaining land subject to all the provisions of such contract. The new contract or contracts and modification of the prior contract shall be executed and otherwise dealt with in like manner as provided for an original auxiliary forest contract, but no such instrument shall take effect until all of them, covering together all parts of the forest existing before the transfer, have been executed, filed, and recorded or registered, as the case may require. Upon the taking effect of all such instruments, the owner of the forest prior to the transfer shall be divested of all rights and relieved from all liabilities under the contract then in force with respect to the parts transferred except such as may have existed or accrued at the time of the taking effect of such instruments, and thereafter the several tracts into which the forest has been divided and the respective owners thereof shall be subject to the new contract or contracts or the modified prior contract relating thereto, as the case may be, as provided for an original auxiliary forest contract. The provisions of this subdivision shall not supersede or affect the application of any other provision of law to any auxiliary forest which is divided by transfer of title unless the procedure herein authorized is fully consummated.

**History:** 1987 c 109 s 1-3; 1987 c 268 art 7 s 2

### **88.75 VIOLATIONS; PENALTIES.**

Subdivision 1. Any person who violates any of the provisions of sections 88.03 to 88.22 for which no specific penalty is therein prescribed shall be guilty of a misdemeanor and be punished accordingly.

Failure by any person to comply with any provision or requirement of sections 88.03 to 88.22 to which such person is subject shall be deemed a violation thereof.

Any person who violates any provisions of sections 88.03 to 88.22, in addition to any penalties therein prescribed, or hereinbefore in this section prescribed, for such violation, shall also be liable in full damages to any and every person suffering loss or injury by reason of such violation, including liability to the state, and any of its political

subdivisions, for all expenses incurred in fighting or preventing the spread of, or extinguishing, any fire caused by, or resulting from, any violation of these sections. All expenses so collected by the state shall be returned to, and deposited in, the original fund from which the expenses were paid and are available for expenditure for the purposes for which the funds were originally appropriated. When a fire set by any person spreads to and damages or destroys property belonging to another, the setting of the fire shall be prima facie evidence of negligence in setting and allowing the same to spread.

At any time the state, or any political subdivision thereof, either of its own motion, or at the suggestion or request of the director, may bring an action in any court of competent jurisdiction to restrain, enjoin, or otherwise prohibit any violation of sections 88.03 to 88.22, whether therein described as a crime or not, and likewise to restrain, enjoin, or prohibit any person from proceeding further in, with, or at any timber cutting or other operations without complying with the provisions of those sections, or the requirements of the director pursuant thereto; and the court may grant such relief, or any other appropriate relief, whenever it shall appear that the same may prevent loss of life or property by fire, or may otherwise aid in accomplishing the purposes of sections 88.03 to 88.22.

*[For text of subd 3, see M.S.1986]*

**History:** 1987 c 271 s 2

#### **88.76 REWARDS.**

Upon conviction of any person for violating any of the provisions of sections 88.03 to 88.22, the director may pay, from any money placed at the director's disposal under those sections, a reward of not more than \$100 to the person or persons giving the information leading to such conviction.

**History:** 1987 c 271 s 3

#### **88.79 STATE FOREST SERVICE TO PRIVATE OWNERS.**

*[For text of subd 1, see M.S.1986]*

Subd. 2. **Charge for service; receipts to forest management fund.** The commissioner of natural resources may charge the owner receiving such services such sums as the commissioner shall determine to be fair and reasonable. The receipts from such services shall be credited to the forest management fund.

**History:** 1987 c 226 s 1