

Fiscal Estimate - 2005 Session

Original Updated Corrected Supplemental

LRB Number 05-3356/2		Introduction Number AB-878	
Description Open burning of solid waste, illegal storage or disposal of waste tires, and providing a penalty			
Fiscal Effect			
State:			
<input type="checkbox"/> No State Fiscal Effect			
<input type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
Local:			
<input type="checkbox"/> No Local Government Costs			
<input type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected			
<input type="checkbox"/> Towns		<input type="checkbox"/> Village	
<input type="checkbox"/> Counties		<input type="checkbox"/> Cities	
<input type="checkbox"/> School Districts		<input type="checkbox"/> Others	
		<input type="checkbox"/> WTCS Districts	
Fund Sources Affected		Affected Ch. 20 Appropriations	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.370(3)(mq)			
Agency/Prepared By		Authorized Signature	
DNR/ Joe Polasek (608) 266-2794		Joe Polasek (608) 266-2794	
		Date	
		2/14/2006	

Fiscal Estimate Narratives

DNR 2/15/2006

LRB Number	05-3356/2	Introduction Number	AB-878	Estimate Type	Updated
Description Open burning of solid waste, illegal storage or disposal of waste tires, and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

Bill Summary:

This bill authorizes DNR and local town, municipal and county law enforcement officials to issue citations for violations of law regulating the open burning of solid waste and to use the DNR's Natural Resources Citation for such violations. Although open burning of solid waste is already illegal, the current enforcement method requires documentation and referral to the state Attorney General's office for charges and prosecution. As a result, typically only major violations of this law are currently referred for prosecution. Most violations for the burning of smaller amounts of solid waste have largely gone unreported in the past due to little likelihood of prosecution, or if reported, are referred to DNR air quality staff for follow-up and a letter or notice of violation issued to the responsible party. The bill provides a maximum forfeiture of \$500 for violation where a citation is issued, except a \$5 maximum forfeiture for the first offense involving a person burning a limited amount (60 or fewer gallons) of residential solid waste on the person's own property. The bill also exempts a person who is subject to the \$5 maximum forfeiture from other related surcharges. There would be no forfeiture, surcharges or other penalty imposed until after one year. Citations could still be issued and would need to be tracked for future repeat offense penalty provisions. Information on past convictions will need to be available to DNR wardens and all other law enforcement agencies that take enforcement action under this new authority.

This bill also authorizes DNR to issue a citation to a person who operates a solid waste facility at which waste tires are stored, treated, or disposed of without a license or in violation of an approved plan of operation. Under s. 289.96(3)(a), Wis. Stats., any person who operates a facility without license or in violation of any approved plan shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is considered a separate offense. While an order is suspended, stayed or enjoined, the penalty does not accrue.

Fiscal Estimate:

The Department expects that reports or complaints of such open burning violations will increase as the public learns that DNR wardens and other local law enforcement agencies can issue citations for such violations of current law. Reported violations will also likely increase in the more rural areas of the state as these areas become more populated or urbanized as more people build homes in these areas and tolerance for burning violations decreases.

The Department estimates that after the public becomes aware of the citation authority for open burning, there will be about 450 open burning complaints (about 3 per warden) received annually that will require investigation after 4:30 pm or on weekends as this is when a significant amount of open burning occurs and air or waste management staff are unavailable. It is assumed the \$5.00 citations that are issued for first time burning of 60 or fewer gallons of residential solid waste will not include court costs or the \$10 Environmental Surcharge; it is not possible to determine the number of potential citations that will fall into this category. Specific penalties for citations issued for burning violations where over 60 gallons of waste is involved, for commercial entities and for 2nd offenses will be established by the Uniform Bond Committee of the Wisconsin Judicial Conference which meets annually in August to set the bond schedule for the following calendar year. Until that time, the forfeiture imposed would be set at 50% of the maximum penalty which would be \$250, or \$325 with surcharges and court costs included. Penalties will be deposited into the school fund but it is difficult to reasonably predict the number of citations issued (and amount of revenue generated) given the one year waiting period and overall focus on achieving compliance through education for all but the more serious offenses.

The DNR Bureau of Law Enforcement estimates the implementation of this new citation authority will result in \$54,725 in additional annual costs for Conservation Wardens, calculated as follows:

- 450 complaints X 2.5 hrs/complaint (travel, investigate, process through court and disposition) = 1125 hrs. This would be equivalent to 0.5 FTE (Salary/Fringe = \$90,000/FTE, supplies = \$10,000/FTE) = \$45,000 salary/fringe, \$5,000 supplies.
- 450 complaints X 30 miles/complaint = 13,500 miles X .35/miles = \$4,725 in warden travel costs.

It is estimated that at least half of the 450 anticipated complaints will be received via the DNR Hotline. Assuming that each hotline call requires 1.2 hours of time for collecting information from the caller, entering information into our data system, relaying information to a Conservation Warden and completing final data entry on the disposition of the hotline, it is estimated to total 540 hrs per year of dispatcher time, which at this time is staffed primarily by LTE's making \$10.00/hour, equating to \$5,400 in hotline LTE time.

The DNR may receive requests from additional LE agencies for DNR citation forms if they choose to use this new citation authority. The DNR does not anticipate most local law enforcement agencies will request the DNR citations, but rather continue to refer such violations to the DNR for follow-up and enforcement action if needed. For any requests that are received, the DNR would likely need to provide some minimum level of training on the use of the DNR citation form, the open burning law and the filing of dispositions with the DNR.

The cost of printing the Natural Resources Citation forms is approximately 6 cents per citation. When last purchased in July 2005, it cost the DNR \$2,400 for the printing of 40,000 citation forms. The forms have been provided in the past to some local law enforcement agencies that operate Boat, Snowmobile or ATV patrols for the enforcement of the applicable sections of Chapters 23, 30 and 350, Wis. Stats.

It is assumed that law enforcement can allocate the expected increased workload (.5 FTE) and the related supplies within their current staff complement. Funding for this increased effort will come through a reallocation of an Air Management funding source, such as mobile sources funding, or a Waste Management funding source, such as the Environmental Management Account of the Environmental Fund, or some combination of Air and Waste Division funding sources.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2005 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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Description Open burning of solid waste, illegal storage or disposal of waste tires, and providing a penalty			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$50,400	
(FTE Position Changes)		(0.5 FTE)	
State Operations - Other Costs		9,725	
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category		\$60,125	\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S		60,125	
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues		\$	\$
NET ANNUALIZED FISCAL IMPACT			
		State	Local
NET CHANGE IN COSTS		\$60,125	\$
NET CHANGE IN REVENUE		\$	\$
Agency/Prepared By		Authorized Signature	
DNR/ Joe Polasek (608) 266-2794		Joe Polasek (608) 266-2794	
		Date	
		2/14/2006	