

## **Barman, Mike**

**From:** Sweeney, Matthew - DOR [Matthew1.Sweeney@revenue.wi.gov]  
**Sent:** Friday, November 04, 2011 3:08 PM  
**To:** DOA Fiscal Estimates; Barman, Mike  
**Cc:** Hetzel, Shayna - DOA; Wagner, Michael W - DOR  
**Subject:** Need to re-write FE for AB0262/SB0182

DOR is requesting that we be authorized to re-write the fiscal estimate for AB0262 and SB0182. We have new information that should be included.

Thanks.

**Matt Sweeney**  
Legislative Relations Specialist  
*Division of Research and Policy*  
*Wisconsin Department of Revenue*  
608-267-1262

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**Barman, Mike**

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**From:** Vebber, Lucas  
**Sent:** Friday, November 04, 2011 2:42 PM  
**To:** Barman, Mike  
**Cc:** Gasper, Greg  
**Subject:** Fiscal to SB-182

Mike,

At the request of the Department of Revenue: please return the Department's fiscal estimate on SB-182 to the Department of Revenue to the attention of Mike Wagner.

Thank you,

**Lucas Vebber**  
Office of Senator Rich Zipperer  
33<sup>rd</sup> Senate District  
(608) 266-9174

## Barman, Mike

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**From:** FES User Mike Barman [DOAFiscalEstimates@wisconsin.gov]  
**Sent:** Friday, November 04, 2011 2:53 PM  
**To:** DOAFiscalEstimates@wisconsin.gov; DOAFiscalEstimates@wisconsin.gov;  
doafiscalestimates@wisconsin.gov; doafiscalestimates@wisconsin.gov;  
doafiscalestimates@wisconsin.gov  
**Cc:** Barman, Mike  
**Subject:** FISCAL ESTIMATE - RETURNED TO FEC - LRB # 11-1683/1 Estimate Type Original,  
INTRO # SB-182

The assignment for Agency DOR for LRB# 11-1683/1 Estimate Type Original is being returned to you. The assignment can once again be found under 'Returned Estimates' on the FEC Fiscal Estimates menu. It can be inactivated or returned to the Agency for corrections.

Return to DOR for rewrite (requested by DOR ... OKed by sponsor''s office)

Submitted from the web 11/4/2011 2:53:21 PM

Fiscal Estimates URL = <http://fes.doa.state.wi.us>



**Fiscal Estimate Narratives**  
**DOR 10/28/2011**

|   |           |                     |        |               |          |
|---|-----------|---------------------|--------|---------------|----------|
| LRB Number  | 11-1683/1 | Introduction Number | SB-182 | Estimate Type | Original |
| <b>Description</b><br>Excluding permits and licenses from the definition of real property for property tax purposes |           |                     |        |               |          |

**Assumptions Used in Arriving at Fiscal Estimate**

Under current law, taxable real property is valued at its highest and best use, which is generally deemed to be the price at which a property could sell for between a willing buyer and seller, neither of which is obligated to conduct the transaction. The state constitution permits limited exceptions to this for forest land and agricultural land.

A license or permit that applies to a parcel of real property or a personal property account that can be (or must be) transferred when the property is sold may have an effect on the taxable value of such property. This may occur when the license or permit affects the price a buyer will bid for the property and the price at which a seller will sell the property. A license or permit that affects buyers' and sellers' behavior essentially makes the license or permit inextricably intertwined with the property.

Chapter 9 (pages 9 to 14) of the Wisconsin Property Assessment Manual provides assessors with the following guidance: "The assessor should also consider the value of those non-realty items that become inextricably intertwined with the property. These items, though not real estate proper, enhance the value of the real estate at the time of the sale in such a significant way that they alter the behavior of buyers and sellers in the transaction. For example, a sale in which a license to use the particular parcel in a particular manner (such as a landfill) adds considerable value to the property, the license becomes inextricably entwined with the value of the parcel itself though a license is not typically considered 'real property' in traditional terms. When the existence of 'non-realty' items passes with the property and significantly influences the behavior of the typical buyer and seller, the assessor should include it in the value estimate."

Under the bill, permits and licenses would be excluded from the definition of real property, real estate, and land subject to assessment for property tax purposes. Thus, if a license or permit has become "inextricably intertwined" with a property, for taxation purposes the value will need to be calculated as if the permit or license did not exist. In effect, the bill may permit a partial exemption of a property for that part of its value created by the license or permit.

Since the bill provides no definition of license or permit to narrow the scope of the bill's impact, and since licenses and permits affect nearly every parcel of real estate and those personal property accounts involving improvements on leased land, the fiscal effect of the bill could be significant. The bill is especially anticipated to have an effect on the value of income producing property where the license or permit largely determines how the parcel may be used.

The following is a list of just a few of the licenses and permits that affect specific parcels or locations and whose value may need to be removed from the tax rolls under the bill:

- Conditional land use permits -- gravel pits, rock quarries
- Zoning permits -- mobile home courts, campgrounds, RV parks
- Water discharge permits -- paper manufacturers
- Federal Energy Regulatory Commission licenses -- small hydro-electric plants
- All pollution permits -- foundries, asphalt plants

The determination of how much value a license or permit imparts to a given property could be quite difficult. The preferred method of assessing property is to use the comparable sales method under which a property being assessed is compared to a recently sold property which has been used for the same or a similar purpose - and presumably possessing similar licenses and permits. The bill could render use of the comparable sales approach untenable. Property assessment of such property would then have to proceed under either the capitalized income method or the replacement cost less depreciation method.

Court decisions on cases deciding whether a license or permit has become "inextricably intertwined" with a property, and, if so, how the value created by the license or permit can be determined, have not developed to the point where clear direction on these issues can be given. As a result, it is not possible for the

Department of Revenue (DOR) to provide a precise estimate of the amount of property value attributable to licenses and permits that would be removed from the tax rolls as a result of the bill.

For purposes of this fiscal note, it is initially estimated that the bill has the potential to reduce taxable values of commercial and manufacturing real estate by 10% compared to current levels. The actual reduction could be lower or higher than this amount, depending on how local assessors implement the law and how courts could rule on the assessment appeals that are likely to be raised as a result of the bill.

Based on the statewide total equalized value in 2010 for commercial and manufacturing property of \$104.0 billion (\$91.1 billion commercial and \$12.5 billion manufacturing), the bill has could remove about \$10.4 billion of property (\$9.1 billion commercial and \$1.3 billion manufacturing) from the property tax rolls. This represents about 2.1% of the total equalized of taxable property in the state for 2010. Based on a total statewide net property tax levy of about \$9.6 billion, the bill would shift about \$200 million in property taxes from the exempted property owners to other property owners.

The state forestation property tax is currently imposed at a rate of about \$0.1697 per \$1,000 of equalized value. The bill is therefore expected to reduce collections of this tax by about \$1.7 million per year.

The DOR could incur significant one-time costs under the bill since a reassessment of all DOR-assessed manufacturing property would likely be needed. Local governments, which are responsible for the assessment of commercial property, could also incur significant one-time costs since the reassessment of all commercial property would likely be needed. An estimate of these costs is not available at this time.

### **Long-Range Fiscal Implications**

## Fiscal Estimate Worksheet - 2011 Session

Detailed Estimate of Annual Fiscal Effect

Original     
  Updated     
  Corrected     
  Supplemental

|   |  |  |                           |
|---|--|--|---------------------------|
| <b>LRB Number</b> 11-1683/1   |  | <b>Introduction Number</b> SB-182              |                           |
| <b>Description</b><br>Excluding permits and licenses from the definition of real property for property tax purposes   |  |  |                           |
| <b>I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):</b><br><br>One-time costs for the state related to reassessment of manufacturing property and for local governments related to reassessment of commercial property. |  |  |                           |
| <b>II. Annualized Costs:</b>  |  | <b>Annualized Fiscal Impact on funds from:</b> |                           |
|   |  | Increased Costs                                | Decreased Costs           |
| <b>A. State Costs by Category</b>   |  |  |                           |
| State Operations - Salaries and Fringes   |  | \$   | \$                        |
| (FTE Position Changes)  |  |  |                           |
| State Operations - Other Costs  |  |  |                           |
| Local Assistance  |  |  |                           |
| Aids to Individuals or Organizations  |  |  |                           |
| <b>TOTAL State Costs by Category</b>  |  | <b>\$</b>                                      | <b>\$</b>                 |
| <b>B. State Costs by Source of Funds</b>  |  |  |                           |
| GPR   |  |  |                           |
| FED   |  |  |                           |
| PRO/PRS   |  |  |                           |
| SEG/SEG-S   |  |  |                           |
| <b>III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>  |  |  |                           |
|   |  | Increased Rev                                  | Decreased Rev             |
| GPR Taxes   |  | \$   | \$                        |
| GPR Earned  |  |  |                           |
| FED   |  |  |                           |
| PRO/PRS   |  |  |                           |
| SEG/SEG-S   |  |  | -1,700,000                |
| <b>TOTAL State Revenues</b>   |  | <b>\$</b>                                      | <b>\$-1,700,000</b>       |
| <b>NET ANNUALIZED FISCAL IMPACT</b>   |  |  |                           |
|   |  | <u>State</u>                                   | <u>Local</u>              |
| NET CHANGE IN COSTS   |  | \$   | \$                        |
| NET CHANGE IN REVENUE   |  | \$-1,700,000                                   | \$see text of fiscal note |
| <b>Agency/Prepared By</b>   |  | <b>Authorized Signature</b>                    | <b>Date</b>               |
| DOR/ Daniel Huegel (608) 266-5705   |  | Paul Ziegler (608) 266-5773                    | 10/28/2011                |

**07-26-2012**

**AS OF TODAYS DATE ... DEPARTMENT OF REVENUE  
(DOR) HAS NOT YET SUBMITTED A RE-WRITTEN FISCAL  
ESTIMATE FOR 2011 SENATE BILL 182 (LRB-1683/1).**

**Mike Barman** (Lead Program Assistant)  
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