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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Forestry...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Assembly

Record of Committee Proceedings

Committee on Forestry

Assembly Bill 735

Relating to: petitions and management plans for the designation of managed forest land, transferrals of ownership of managed forest land, establishing stumpage values and estimating withdrawal taxes under the managed forest land program, signatures and authentication requirements for orders under the forest croplands program, granting rule-making authority, and making an appropriation.

By Representatives Friske, Mursau, Bies, Townsend and Musser; cosponsored by Senators Breske and Hansen.

January 29, 2008 Referred to Committee on Forestry.

February 12, 2008 **PUBLIC HEARING HELD**

Present: (6) Representatives Friske, Mursau, A. Ott, M.
 Williams, Hubler and Sherman.

Absent: (1) Representative Boyle.

Appearances For

- Donald Friske, Madison — Representative, 35th Assembly District
- Bob Mather, Madison — Wisconsin Department of Natural Resources - Division of Forestry

Appearances Against

- Merlin Becker, Manawa — Wisconsin Woodland Owners Association
- M. Scott Statz, Madison — 810 Woodrow St

Appearances for Information Only

- None.

Registrations For

- Roger Breske, Madison — Senator, 12th Senate District
- Gunnar Bergersen, Madison — Lake States Lumber Association and Great Lakes Timber Producers Association

Registrations Against

- None.

Registrations for Information Only

Committee Clerk

Vote Record Committee on Forestry

Date: 2-12-2008

Moved by: Hubler

Seconded by: Sherman

AB 735

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

S Amdt 1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Donald Friske, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Alvin Ott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Hubler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Frank Boyle	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Gary Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>	<u>0</u>	<u>1</u>	<u> </u>

Motion Carried

Motion Failed

Vote Record Committee on Forestry

Date: 2-12-2008

Moved by: Hubler

Seconded by: Sherman

AB 735

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

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Other _____

A/S Amdt 1

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Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Donald Friske, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Alvin Ott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Representative Frank Boyle	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Gary Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>	<u>0</u>	<u>1</u>	<u> </u>

Motion Carried

Motion Failed

Vote Record Committee on Forestry

Date: 2-12-2008

Moved by: Hubler

Seconded by: Friske

AB 735 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
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Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Donald Friske, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Representative Gary Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>6</u>	<u>0</u>	<u>1</u>	<u> </u>

Motion Carried

Motion Failed



WISCONSIN STATE LEGISLATURE





February 11, 2008

Rep. Donald Friske
Room 312 North
State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Rep. Friske and Committee on Forestry:

Wisconsin Consulting Foresters (WCF) members wish to support the proposed changes to the Managed Forest Law as provided in to AB 735.

There is a concern about the removal of establishing the stumpage rates by administrative rule. This was an excellent method of receiving input on recent timber prices. WCF recommends that a similar process continue to be used by the Division of Forestry to establish the stumpage rates.

I regret that I will not be able to attend the hearing on Feb. 12. WCF is holding our annual business meeting that day.

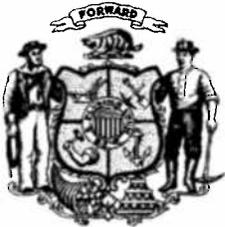
Thank you for the opportunity to provide input into the development of this program.

Sincerely,

Allan G. Waelchli, Chairman
Wisconsin Consulting Foresters (WCF)



WISCONSIN STATE LEGISLATURE





Wisconsin Woodland Owners Association, Inc.
P.O. Box 285, Stevens Point, WI 54481-0285
www.wisconsinwoodlands.org



**WWOA OFFICE
EXECUTIVE DIRECTOR**
Nancy C. Bozek
P.O. Box 285
Stevens Point, WI 54481
715/346-4798
FAX 715/346-4821

**WWOA OFFICERS
BOARD OF DIRECTORS
2007-2008**

PRESIDENT
Merlin C. Becker
N6888 State Rd. 22-110
Manawa, WI 54949
920/596-3416
mbecker@wolfnet.net

PRESIDENT ELECT
Loren Hanson
4227 E. Apollo Ln.
Janesville, WI 53546
608/868-3398
lnhanson45@charter.net

SECRETARY
Alvin L. Barden
4427 Chain O'Lakes Rd.
Eagle River, WI 54521
715/479-8449
bardenalb@nnet.net

TREASURER
Donna R. Johnston
7126 Cty Rd. I
Oconto Falls, WI 54154
920/848-2026
johnfor@bayland.net

DIRECTORS
John Czerwonka
565 S. State Rd. 49
Wittenberg, WI 54499
715/454-6440

William J. Horvath
350 McDill Ave.
Stevens Point, WI 54481
715/341-4021
bill.horvath@sbcglobal.net

Jan L. Lehrer
N10811 Co. Hwy. P
Iola, WI 54945
715/677-3850
leejlehrer@wi-net.com

Edwin R. Moberg
2300 Cty. Hwy. G
Nekoosa, WI 54457
715/886-4601
hemtrees@wctc.net

James Rivers
N5177 23rd Rd.
Wild Rose, WI 54984
920/622-5124
jarivers@charter.net

Eugene M. Roark
16 Grand Ave.
Madison, WI 53705
608/238-5349
geneandjeanroark@sbcglobal.net

Dale A. Zaug
N11862 Hunting Rd.
Tigerton, WI 54486
715/754-5774
mrz@mwwb.net

EDITOR
Timothy Eisele
129 South Segoe Rd.
Madison, WI 53705
608/233-2904
teisele@chorus.net

ADVERTISING MANAGER
Helen Moberg
2300 Cty Hwy G
Nekoosa, WI 54457
715/886-4601
FAX 715/886-4601

February 12, 2008

Assembly Committee on Forestry
State Capitol, Madison, WI

Representative Friske and Assembly Committee on Forestry members,

The Wisconsin Woodland Owners Association or WWOA, representing Wisconsin's private woodland owners provides the following comments for your consideration at this public hearing regarding AB 735.

MFL landowners sign either a 25 or 50 year contract with the WI DNR. A contract period unheard of with any other incentive program in the state. The MFL program isn't even 25 years old yet and we find ourselves at another public hearing again to say that we object to the one sided changes being proposed in AB 735. While WWOA understands that at times a bill may be needed to "clean up" conflicting language, AB 735 goes beyond this.

Therefore, WWOA does not support the following proposed changes in AB 735:

1. Changes throughout the bill to substitute "applicant or application" for "petitioner or petition". The word petition is legally defined as a formal, written request made to an official person or organized body. MFL is a petition for a contract with the state.
2. Language that states landowners will incur charges for DNR "to complete" a plan. DNR could not explain what was meant by adding this language and suggested that it might apply to "cosmetic changes" to the plan. The plan will either be written by DNR or a Certified Plan Writer (CPW) under the certification of the DNR. A landowner should not have to pay two bills for one plan. Again, no other incentive program requires a landowner to pay for a plan in order to enter into a contract with the state.
3. Sections 32, 58 and 59 which include wording that attempts to eliminate the contract nature of this program and allow DNR to go beyond "mutually agreed upon changes" to amend the MFL management plan.
4. Changes in the procedures for determining stumpage value. By eliminating the administrative rule process for this determination there are impacts to MFL landowners. This eliminates the requirement for a public hearing - a process through which WWOA has commented, and successfully changed inaccurate stumpage values in the past. This provision would also eliminate the public publishing of these rates in NR 46. DNR has already removed these tables from their website in an attempt to prevent public access to them. Since these tables are currently used to calculate a landowner's yield tax when harvesting timber under the MFL program, DNR should strive to be transparent in providing the information to the citizens being taxed.



Wisconsin Woodland Owners Association, Inc.

P.O. Box 285, Stevens Point, WI 54481-0285

www.wisconsinwoodlands.org



WFOA OFFICE
EXECUTIVE DIRECTOR
Nancy C. Bozek
P.O. Box 285
Stevens Point, WI 54481
715/346-4798
FAX 715/346-4821

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N6888 State Rd. 22-110
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920/596-3416
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N10811 Co. Hwy. P
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Nekoosa, WI 54457
715/886-4601
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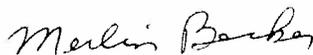
Dale A. Zaug
N11862 Hunting Rd.
Tigerton, WI 54486
715/754-5774
mrz@mwwb.net

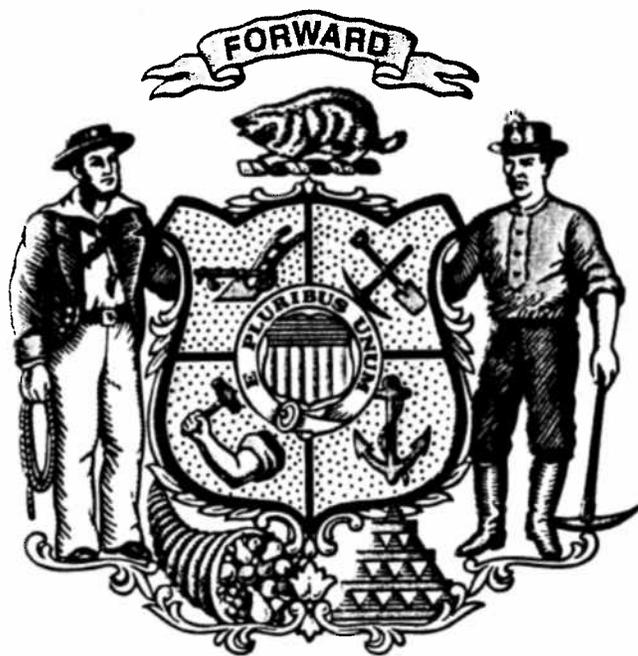
EDITOR
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129 South Segoe Rd.
Madison, WI 53705
608/233-2904
teisele@chorus.net

ADVERTISING MANAGER
Helen Moberg
2300 Cty Hwy G
Nekoosa, WI 54457
715/886-4601
FAX 715/886-4601

In addition, DNR currently requires private consultant and industrial foresters participating in the DNR Cooperating Forester program to submit non-industrial, private harvest volumes and values of stumpage on timber sales they are involved in to DNR. WWOA is requesting that this sale information be aggregated annually by zones and made available through public means, such as the DNR website, to private landowners. This would be one avenue of addressing DNR's concerns that landowners are using the stumpage tables incorrectly. WWOA believes that DNR has a responsibility to the citizens of this state to provide this information since they are already collecting it. This will assist landowners in becoming better informed consumers, as most landowners may only do a few timber sales during their MFL contract period.

WWOA members thank you for listening to our concerns regarding these proposed changes. We as MFL contract holders are becoming increasingly frustrated with what we view as one sided changes to our very long term MFL contracts. MFL landowners from across Wisconsin hope that you will uphold the contracts that we have entered into in good faith by rejecting these proposed changes.


Meriin Becker
WWOA President



Remarks for Assembly Committee on Forestry
Regarding AB 735 – Managed Forest Law Technical Changes
By Representative Donald Friske
February 12, 2008

Thank you Committee members.

I drafted this bill at the request of the Department of Natural Resources (DNR) in order to clean up the administration of the Managed Forest Law (MFL) program by DNR administrators.

1. The bill makes a terminology change by substituting the words “applicant” and “application” for “petitioner” and “petition” in the subchapter related to the MFL program. This change is non-substantive.
2. The bill changes the dates before which DNR must act on applications under the MFL program and changes the deadline for owners to file applications to renew MFL orders.
3. The bill requires that a forestry management plan for the MFL accompany the application and eliminates the requirement that DNR prepare the plan upon the request of the applying landowner. Under the bill, DNR must prepare the plan only if DNR determines that the applicant is not able to have a proposed management plan prepared by a certified independent plan writer. The bill requires DNR to promulgate rules establishing the criteria for when DNR will prepare the plan.
4. The bill requires DNR to prepare an estimate of the withdrawal tax that would be due if the MFL is withdrawn upon request of DNR or an MFL landowner. Under the bill, the Department of Revenue assists with the preparation of these estimates.
5. The bill eliminates the requirement that the stumpage value that is used to determine the amount of yield taxes and withdrawal taxes under the MFL program be established by rule.
6. The bill clarifies that when MFL is transferred to another owner, the person purchasing or otherwise receiving the land pays the transfer fee.
7. The bill allows facsimile signatures and exempts documents from register of deeds authentication requirements under the forest croplands program. These provisions exist for the MFL program under current law.

I would be happy to take any questions the Committee may have for me.

Thank you again for your time today to discuss this bill.





State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK RD. • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.revenue.wi.gov>

Jim Doyle
Governor

Roger M. Ervin
Secretary of Revenue

Assembly Committee on Forestry Hearing, February 12, 2008

2007 AB 735 – Regarding Changes in Managed Forest Land Laws -- Representative Friske

Description of Current Law and Proposed Change

There are two programs under which owners of land capable of producing merchantable timber can reduce their property tax burdens. The programs are the Forest Crop Land (FCL) program, which was closed to new participants in 1986, and the Managed Forest Land (MFL) program. Under both programs, annual per acre fees are imposed in-lieu of property taxes. Additional fees are imposed on timber harvested from these lands, based on the value of the harvested material.

A "withdrawal tax" can be imposed if land is withdrawn from the FCL program at the owner's option or by DNR order. This tax equals the sum, for the time the contract was in effect, of the differences between the real estate taxes that would have been levied on the land and the acreage shares payments (plus severances taxes of 10% of the value of harvested timber) actually paid. Each year's difference is subject to simple interest at 12% per year (5% for contracts entered into before December 31, 1977) for each year the real estate tax has been deferred. The tax is paid to the Department of Natural Resources (DNR).

A "withdrawal tax" is also imposed when land is withdrawn from the MFL program either by request of the landowner or by DNR order. For land that has been enrolled only under the MFL program, this tax equals the greater of (a) the product of the net assessed value tax rate in the year prior to withdrawal times the assessed value of the land in the year prior to withdrawal times the number of years the land was under an MFL order minus the acreage share and yield taxes paid on that parcel; or (b) 5% of the stumpage value of the merchantable timber on the land. The tax is paid to the DNR.

For land that was transferred from the FCL program into the MFL program, the calculation of the "withdrawal tax" is more complicated. For any withdrawal during the first 10 years after conversion, the withdrawal penalty for the years the land was in both programs is calculated, and the higher of the two is imposed. After 10 years, only the MFL withdrawal tax is calculated.

Under current law, when an owner of land enrolled under the MFL program submits a request to the DNR to withdraw the land, the land will be withdrawn. The process can't be reversed. A withdrawal penalty will be calculated and billed to the land owner. As the DNR warns on the MFL withdrawal application, the withdrawal penalty can be quite substantial.

Under the bill, an owner of land enrolled under the MFL can file a request with the Department of Revenue (DOR), assisted by the DNR, to prepare an estimate of the withdrawal tax that could become payable if the land were withdrawn from the MFL program. The request must be

accompanied by a nonrefundable fee equal to the greater of either \$100 or \$5 for each whole and partial acre.

The bill also includes other provisions pertaining to DNR's administration of the MFL program.

Fairness/Tax Equity

- As the DNR warns, the MFL withdrawal penalty can be substantial. Penalties of \$10,000 or more are common. Land owners are often surprised by the size of the penalty. By allowing a land owner to receive an estimate of the penalty that could be incurred upon withdrawal, landowners will have additional information to use in making land use decisions. There may also be fewer landowner requests to withdraw from the MFL program.

Impact on Economic Development

- While the bill has no effect on economic development, it may provide landowners with a way to obtain information that may influence development or use of certain land parcels.

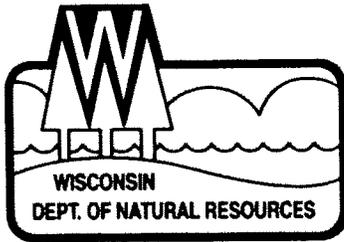
Administrative Impact/Fiscal Effect

- The Department of Revenue (DOR) plays a limited role in the administration of the Forest Crop Law (FCL) and Managed Forest Land (MFL) programs. For purposes of these programs, the main role is the recalculation of the "acreage share" and "closure fee" rates. (The "closure fee" is an additional annual fee landowners pay to close their MFL land to public access.) The other major role is to assist the Department of Natural Resources (DNR) in the calculation of the "withdrawal tax" for those parcels that are taken out of the either program.
- Because the bill does not specify an appropriation to which the proposed fee would be deposited, the fee would be considered GPR-Earned. Since it can take considerable time to calculate withdrawal taxes, DOR recommends that the proposed fee be deposited to a program revenue account to help offset the costs that would be incurred by the DOR under the bill.

Contact: Sherrie Gates-Hendrix, 267-1262

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State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

Assembly Bill 735

Assembly Committee on Forestry

Department of Natural Resources Testimony
Robert J. Mather, Director Bureau of Forest Management
Division of Forestry
February 12, 2008

Mr. Chairman and Committee Members:

Good morning. My name is Bob Mather and I am the Director of the Bureau of Forest Management in the Department of Natural Resources' Division of Forestry. I appreciate this opportunity to appear before you to discuss AB 735.

The Department of Natural Resources (DNR) supports AB 735 because it will streamline and provide efficiencies in a program that is often looked at as bureaucratic and difficult to work through. The changes will benefit landowners and foresters alike by simplifying the MFL program so that it is easier to explain, enter and enforce. These changes will also have an unexpected side effect in that there will be some time savings by staff, allowing for additional unmet high priority work to be done. AB 735 is a significant piece of legislation because it continues to encourage landowners to sustainably manage their properties and to keep as much land in large, working forests to benefit Wisconsin's forest industries.

I'd like to highlight some of the provisions of this bill to show how this legislation will benefit the explanation, entry and enforcement of the MFL program.

1. This bill will eliminate the two application deadlines of July 1 and May 15 and replace it with one deadline of June 1. This change will do the most to streamline the application process, eliminate confusion and allow additional time savings by department staff. It was in 2004 that the legislature created the July 1 deadline in response to record numbers of MFL applications, which was a full 18 months prior to entry into the program. A second application deadline was also created for landowners who worked through a private Cooperating Forester who has been trained as a certified plan writer (CPW) to prepare a complete management plan packet.

The certified plan writer program has been more successful than the department could have imagined. The referral system that the department developed has allowed most landowners to contract with CPWs for plan writing services. In fact, DNR foresters have written very few plans the past few years. DNR's role is now in plan review and quality control.

Because of the success of the CPW program, more and more landowners are choosing to hire a CPW directly and apply for the May 15 application deadline. This deadline provides landowners with more flexibility in determining the acreage and location of lands to be entered.

With this in mind, the July 1 application deadline is no longer needed and we can create a new deadline that allows for a shorter application period.

2. The bill will create the ability for the Department of Natural Resources and the Department of Revenue to calculate withdrawal tax estimates to provide landowners with as much information as possible for making land management and business decisions. Withdrawal tax payments have increased dramatically the past few years as forested lands are being reassessed. Landowners who are contemplating withdrawing their lands from the MFL program because they are not interested in completing mandatory practices have requested to re-enter the program after seeing the size of their withdrawal tax bill. These people have stated that had they known the actual amount of withdrawal tax they would have made different decisions and followed through with their mandatory practices. Unfortunately, the DNR is not allowed to reinstate lands that are withdrawn except for with a new application and full payment of the withdrawal tax bill.

The Department of Revenue works with the DNR to calculate actual withdrawal tax bills and is in the best position to work with us on withdrawal tax estimates. AB 735 provides for a fee to be submitted with the withdrawal tax estimate request payable to DOR. The fee is needed to help offset the costs to calculate the tax estimate and insure that only those individuals who are seriously interested in a potential withdrawal will be requesting an estimate. We will continue to provide worksheets on the internet for landowners to use who want to calculate the estimate themselves.

It is hoped that by providing accurate withdrawal tax estimates for landowners more people will make informed decisions on carrying out mandatory practices or withdrawing from the MFL program. Providing withdrawal tax estimates is a service that has not been provided by the DNR or DOR in the past. To provide better customer service to landowners this service is needed.

3. The bill will require that stumpage values be determined outside of the administrative rule making process. NR 46 is the administrative code that contains the chart of stumpage values used to determine the yield tax, severance tax and termination tax payments landowners make when timber is harvested from their tax law lands or when they choose not to re-enroll their lands into MFL after their FCL expires. DNR has received many complaints about the rates used in NR 46, especially at times when markets fall. NR 46 stumpage rates are calculated using a 3-year weighted average that is verified through public hearing. These rates are determined strictly for the purposes of landowners paying some of their deferred property tax at a time when they harvest timber from their MFL and FCL lands.

There is a definite time lag between the collection of actual timber values used to determine NR 46 stumpage rates and the use of those values due to the rule process. Actual values collected in 2007 will not be used until 2009 due to the length of time required by the rule making process.

To have stumpage values as current as possible, it is necessary to have those values used as quickly as possible after collecting and verifying them. To that end AB 735 is proposing to allow the department to determine stumpage values by department policy. The department will continue to gather stumpage data and hold public meetings to verify the calculated values. We estimate this process may take three to four months compared to the current thirteen months.

This provision of AB 735 will reduce the number of complaints received by the Division of Forestry and allow for greater customer satisfaction.

4. There are other language and administrative efficiencies in this bill that will make the MFL program easier to explain, enter and enforce. The change of language from "petition" to "application" may appear to be cosmetic, but these words have been shown to cause confusion for landowners. Foresters spend a lot of time explaining the word petition to landowners. We should use terms common to landowners if we want to encourage continued participation in the MFL program and encourage continued sound forestry management of private lands.

Clarifying that cutting notices must be consistent with management plans and be consistent with sound forestry practices is the crux of the intent of the MFL program. Over the years MFL management plans have been viewed as contracts by many landowners and in fact, the MFL plan previously used to use the term "contract" when defining the length of the order period.

The fact that MFL plans have been construed as contracts has caused confusion in situations where the prescribed management practices no longer reflect the conditions on the land. MFL plans are written for a 25 or 50 year period. The further management plan prescriptions are made into the future the more likely they need to be amended prior to implementation. A quick survey of field staff shows that roughly 50% of all management plans are amended by the time the practice is due. While most landowners readily amend plans when working with their foresters, the language change will make it clear that sound forestry must be practiced on MFL lands and that plans will be changed to reflect current stand conditions and current accepted silvicultural practices.

Other changes in AB 735 will allow for staff to process transfers and withdrawals of MFL and FCL in similar manners and do not have a great impact on external customers or certified plan writers. These changes will allow DNR to continue streamlining the program and provide for efficiencies in staff time and in making it easier to explain, enter and enforce the MFL program.

Again, the department supports AB 735 and looks forward to the efficiencies that will be created by this bill. I appreciate this opportunity to speak before you today and would be glad to answer any questions you might have.