

Fiscal Estimate - 2011 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 11-3460/1	Introduction Number AB-0402	
Description Creating forest enterprise areas; the creation of a managed forest land board of review; review of certain decisions of the Department of Natural Resources regarding forestry practices on managed forest land; annual allowable timber harvests; management plans for large ownerships of managed forest land and for group enrollments; designation of additional managed forest land; leasing of managed forest land; the taxation of managed forest land; granting rule-making authority; requiring the exercise of rule-making authority; and making an appropriation		
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 checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input checked="" type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Create New Appropriations <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 checked="" type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory <input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Village <input checked="" type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <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 (1)(mv)		
Agency/Prepared By DNR/ Joe Polasek (608) 266-2794	Authorized Signature Joe Polasek (608) 266-2794	Date 12/12/2011

Fiscal Estimate Narratives

DNR 12/12/2011

LRB Number	11-3460/1	Introduction Number	AB-0402	Estimate Type	Original
Description Creating forest enterprise areas; the creation of a managed forest land board of review; review of certain decisions of the Department of Natural Resources regarding forestry practices on managed forest land; annual allowable timber harvests; management plans for large ownerships of managed forest land and for group enrollments; designation of additional managed forest land; leasing of managed forest land; the taxation of managed forest land; granting rule-making authority; requiring the exercise of rule-making authority; and making an appropriation					

Assumptions Used in Arriving at Fiscal Estimate

This bill makes several changes to the Managed Forest Law (MFL) program.

1. Creation of Forest Enterprise Areas.

Summary of Bill Provision: The bill directs the Department to designate forest enterprise areas with a combined statewide area of no more than 200,000 acres. The minimum size of a forest enterprise area must be 5,000 acres. DNR must give preference to areas that include 1,000 acres of lands enrolled in the MFL program. Towns or counties must apply to the DNR to designate a Forest Enterprise Area within the MFL program. DNR is required make annual payments from the Forestry Account of \$1 per acre to a town and 50 cents per acre to a county for each acre of MFL lands. A town or county must use the funds for sustainable forestry and forest-based economic development within the town or county, including educational activities and contracting with a private forestry consultant to assist landowners in preparing MFL applications and management plans.

Assumptions: Due to present participation rates in the MFL program and the fiscal incentive involved, the Department expects that the maximum limit of 200,000 acres will be enrolled into the program, which will have the following fiscal impact:

Total payments to townships would equal \$200,000 (200,000 acres x \$1/acre = \$200,000). Total payment to counties would equal \$100,000 (200,000 acres x \$.50/acre = \$100,000). Therefore total Forestry SEG expenditures are expected to increase by \$300,000 annually.

One-time costs to develop the rule would include 80 hours of staff time for a Senior Forester at an estimated cost of \$2,600 (\$32/hour wage and fringe benefit x 80 hours = \$2,560.). In addition, the Department would incur one-time costs to set up the tracking of Forest Enterprise Areas into a DNR database. The Department estimates 296 hours of computer programming time at a total cost of \$19,900, which includes \$17,300 of contractor costs (216 hours x \$80/hour = \$17,280) and \$2,600 of DNR staff costs (80 hours x \$32/hour = \$2,560.)

2. Review of sound forestry practices by Managed Forest Land Review Board.

Summary of Bill Provision: Currently, landowners who disagree with a DNR Forester's forestry management prescription work through the DNR supervisory chain of command to reach consensus on management prescriptions. Most disagreements between landowners and foresters regarding sound forestry practices are resolved at this level.

The bill provides that MFL owners who receive a decision that MFL lands are being managed inconsistent with sound forestry practices may request review of the decision by a newly-established seven member MFL Review Board. The board will hear individual cases and make a recommendation to the Chief State Forester regarding the DNR decision and possible management alternatives. The Chief State Forester must review the Board's recommendations and render a decision to the MFL landowner. Landowners who are not satisfied with the decision of the Chief State Forester are entitled to a contested case hearing.

Assumptions: Since the bill does not provide funding for this board, the Department assumes that all board expenses would be paid from the Forestry Division's current operating budget, thus requiring a reallocation of resources from other budgeted programs.

It is difficult to estimate how often land owners will utilize the review board. There are approximately 3,700

mandatory practices for potential review under this board, and it is unknown how many will be challenged under the provisions of the bill. The Department assumes that anywhere from 1-10% (37-370) of the practices could potentially be reviewed during a calendar year and that hearings could last a few hours each or in some cases, multiple days.

For example, a one-day, eight-hour board hearing could cost as much as \$5,700. These costs include the following:

A. Board Reimbursement Costs

Board members on similar state review boards receive compensation for mileage, meal expenses, and lodging to participate. MFL Review Board members would be reimbursed for actual expenses not to exceed the maximum State of Wisconsin travel rates. The Department also assumes that it will have to provide a stipend to board members considering the potential amount of time that they would have to spend in preparation and participation in each hearing (an estimate of 37 to 370 a year, with hearings taking a few hours each). The Department assumes that a stipend paid to a board member would be at the same salary level of a DNR Senior Forester. Based upon a one-day hearing of eight work hours the estimated costs of the board would be \$2,475, which would include:

1. \$595 for mileage for seven board members based on a 200 mile round trip per month at \$0.425 cents/mile (7 board members x 200 miles x \$0.425 cents per mile = \$595).
2. \$238 for meals (7 board members x \$34 per diem = \$238)
3. \$490 for lodging (7 board members x \$70 = \$490)
4. \$1,152 for stipend (6 public members x \$24/hour x 8 hours = \$1,152)

B. Department Staffing Costs

The Department would have a few staff members prepare, organize, conduct, and testify for these hearings. The following positions would typically be involved in a one-day hearing and cost a total of \$1,936, which includes:

1. \$528 for a Staff Attorney (8 hours of preparatory work + 8 hours of hearing x \$33/hr. billing rate = \$528)
2. \$896 for a Forest Tax Operations and Enforcement Specialist (8 hours of preparatory work + 8 hours of hearing x \$56 salary/fringe benefits = \$896)
3. The two Senior Foresters that would have played a role in making a Department determination on a practice that is being appealed to the board for review would most likely be involved in providing testimony during the hearing. Their combined cost for an all day hearing would be \$512 (8 hours of work x \$32 x 2 Foresters = \$512)

C. Recording Costs

Each hearing would need to be digitally recorded for the purpose of appealing the decision of this board. In the advent of an appeal, the digital recording would need to be professionally transcribed. Based on information from the Division of Hearing and Appeals, the Department estimates that the transcription of a day's worth of hearings would cost approximately \$1,300.

In addition to the aforementioned hearing costs, the Department would incur one-time costs of \$2,600 to develop the rule, which includes 80 hours of staff time for a DNR Senior Forester (\$32/hour wage and fringe benefit x 80 hours = \$2,560).

3. Managed Forest Land Management Plan and Timber Harvests

Summary of Bill Provision: Under current law, the Department may modify requirements of MFL management plans for ownerships exceeding 1,000 acres after certain considerations have been taken into effect. The bill would expand this allowance for modifications to include groups of two or more owners of MFL lands with a combined ownership of 1,000 acres or more.

The bill also requires annual allowable harvests for owners of 1,000 acres or more of MFL lands, as part of a management plan modification, unless the management plan is prepared by an independent 3rd party who is certified by a recognized forestry organization that has expertise in the use of sustainable forestry practices. An annual allowable harvest is not required for groups of two or more owners of 1,000 acres of MFL lands. The bill also requires that if landowners are required to harvest timber within a specified time period, the time period may not be less than three years.

Assumptions:

A. Large Landowners

Between 2007 and 2011 there were 22 large landowner MFL applications totaling 13,026 acres. Since most large landowners would likely hire a certified plan writer to prepare their management plan, it is unlikely that any large landowner would be required to establish an annual allowable harvest as required by the bill. Therefore, the Department estimates that the requirement of an annual allowable harvest for large landowners will have no fiscal effect.

B. Group Enrollments

It is expected that group management plans, similar to management plans for a large landowners, will cost less for the Department to develop than individual, site-specific management plans for small landowners. The Department assumes that it would develop/review 3 group management plans annually under the provisions of the bill as opposed to reviewing as many as 27 individual, site specific management plans. Therefore, staff costs are estimated to be reduced by \$5,000 annually, which is calculated as follows:

- Current law: Individual, site specific review--\$32/hour salary/fringe benefits x 6.5 hours per plan to review x 27 plans annually = \$5,600
- Proposed in bill: Group plan review--\$32/hour in salary/fringe benefits x 6.5 hours per plan to review x 3 plans annually= \$600.

C. Tracking Mandatory Timber Harvests

Currently, landowners are sent reminder letters of mandatory timber harvests one year prior to the scheduled harvest completion date. Harvests are generally established by private cooperating consultants, loggers or DNR Foresters. In general it may take one year to establish a timber sale and two years to complete the harvest, for a total harvest period of 4 years (one year of reminder, one year of establishment, two years to cut). Since the bill allows landowners a three year window in which to initiate the establishment of a timber sale, management plans and reminder letters will need adjustment to allow for the three-year reminder window, thus increasing the effective time from the start of the reminder letter to the final harvest completion from 4 years to 6 years (three years of reminder, one year of establishment, two years to cut). The Department estimates one-time costs of \$113,500 for computer programming to change the DNR database to track the various components of this bill provision, which include the following:

- (1) \$102,800 for 1,380 hours to track group enrollments, including \$97,600 for 1,220 hours of contractor time (1,220 hours x \$80/hour = \$97,600) and \$5,200 for 160 hours of DNR staff time (160 hours x \$32/hour = \$5,120.)
- (2) \$6,400 for 86 hours for tracking annual allowable harvests, including \$6,100 for 76 hours of contractor time (76 hours x \$80/hour = \$6,080) and \$300 for 10 hours of DNR staff time (10 hours x \$32/hour = \$320.)
- (3) \$4,300 for 60 hours to program the database to include a 3-year range to initiate a mandatory practice, including \$4,000 for 50 hours of contractor time (50 hours x \$80/hour = \$4,000) and \$300 for 10 hours of DNR staff time (10 hours x \$32/hour = \$320.)

The cost to develop the rule would include 80 hours of staff time for a DNR Senior Forester at an estimated cost of \$2,600 (\$32/hour wage and fringe benefit x 80 hours = \$2,560.).

4. Designation of Additional Managed Forest Land.

Summary of Bill Provision: Under current law, an owner of land designated as MFL under an order that takes effect on or after April 28, 2004, may apply to the DNR to designate an additional parcel of land as MFL if the additional parcel is at least 3 acres and is contiguous to any of the owner's designated land. The act of adding an additional parcel of land to an existing MFL designated parcel has the effect of applying the current requirements of the MFL program, including a higher rate of taxation, to both the additional parcel and the designated land from the original order.

The bill allows landowners to enroll an additional parcel of land to an MFL entry that took effect before April 28, 2004 if the parcel is three acres in size or larger, is contiguous to the existing MFL lands, and meets other eligibility requirements. This would have the effect of applying the current requirements of the MFL program, including a higher rate of taxation, to the additional parcel, whereas the lower rate of taxation would remain in effect for the designated land from the original order.

Assumptions: Based on MFL enrollment data for 2009 through 2011, the Department estimates that approximately 52 acres of land per year would be added to 164 acres of existing MFL designated land, which would have the following fiscal effect:

Forestry Account revenues will be reduced by approximately \$1,000 annually since the average of 164 acres of existing MFL lands will be taxed at \$0.90/acre, which is the closed acreage fee rate established prior to April 28, 2004, instead of having to re-enroll the acreage under the current closed acreage fee rate of \$6.67/acre ($\$6.67/\text{acre} - \$0.90/\text{acre} = \$5.77/\text{acre} \times 164 = \946). On the other hand, Forestry Account revenues would increase by a small, but indeterminate amount since an estimated 52 acres/year of MFL land will be added to the program.

Municipal acreage share taxes will be reduced by approximately \$200 annually since the average of 164 acres of existing MFL lands will be taxed at \$0.67/acre, which is the acreage share tax rate established prior to April 28, 2004, instead of the current acreage share tax rate of \$1.67/acre ($\$1.67/\text{acre} - \$0.67/\text{acre} = \$1.00/\text{acre} \times 164 = \164). On the other hand, municipal acreage share taxes would increase by a small, but indeterminate amount since an estimated 52 acres/year of MFL land will be added to the program.

The Department will incur one-time costs for computer programming to change the DNR database to allow for different tax rates within the same MFL entry totaling \$20,200. This estimate includes \$18,900 for 236 hours of contractor time ($236 \text{ hours} \times \$80/\text{hour} = \$18,880$) and \$1,300 for 40 hours of DNR staff time ($40 \text{ hours} \times \$32/\text{hour} = \$1,280$.)

The cost to amend existing administrative code would be minimal.

5. Leasing of Managed Forest Land

Summary of Bill Provision: The bill repeals the prohibition on leasing MFL lands, thus allowing landowners to lease MFL lands for any purpose if the use does not conflict with any forest management objectives contained in the MFL management plan or with any sound forestry practice.

Assumptions: This provision has no fiscal impact to the Department since staff foresters will continue its current practice of investigating leases for recreational activity on open MFL lands if the landowner or lessee is preventing the public from accessing the lands for hunting, fishing, hiking, cross-country skiing or sight-seeing, or for the purposes of determining that the lease is not conflicting with any forest management objectives in the management plan or conflicting with any sound forestry practices.

There would be no computer programming costs associated with this provision, and the cost to amend existing administrative code would be minimal.

6. Taxation of Managed Forest Land

Summary of Bill Provision: This bill specifies new calculations for the closed land acreage shares for MFL orders that take effect on or after the effective date of the bill. Under the bill, owners of closed land under new MFL orders would pay the greater of the following:

1. The acreage share applicable to MFL orders that take effect on or after April 28, 2004.
2. A total of 25% of the full value of the closed MFL times the full value effective rate of taxation applicable to general property in the same taxation district as the closed managed forest land.

Assumptions:

The Department is unable to accurately determine the fiscal impact that this provision will have on state and local revenues since the effects will likely vary from one taxation district to another. Therefore, the Department characterizes the fiscal effect of this provision as indeterminate.

The Department estimates one-time costs of \$13,500 to change a computer reporting database to reflect this provision of the bill, including \$12,500 for contracting time ($156 \text{ hours} \times \$80/\text{hour} = \$12,480$) and \$1,000 of staff time ($32 \text{ hours} \times \$32/\text{hour} = \$1,024$.)

7. Distribution of Moneys Received by DNR.

Summary of Bill Provision: The bill modifies the distribution of moneys received by local units of government and the Department in connection with the MFL program. Under current law, 100% of closed acreage fees are deposited into the State's Forestry Account, whereas the bill specifies that a municipality would retain 32% of closed acreage fees, counties would retain 48%, while the remaining 20% would be deposited into the State's Forestry Account.

Assumptions: The modifications to how closed acreage fees are distributed will result in a revenue increase for towns and counties and a revenue decrease for the State's Forestry Account. For the purposes of estimating the fiscal effect to towns, counties and the Forestry Account, the Department makes the following

assumptions:

Annual closed acreage fees and taxes collected would be \$7,497,522, which includes:

1. \$2,167,272 for land enrolled from 1988 through 2004 (2,408,080 acres x \$0.90/acre)
2. \$4,280,439 for land enrolled from 2005 until passage of SB161 (641,745 acres x \$6.67/acre)
3. \$1,049,811 for lands enrolled after passage of SB161 assuming that the bill passes and takes effect for MFL lands effective January 1, 2012 (157,393 acres x \$6.67/acre)

Under these assumptions, revenue to townships would increase by \$2,400,000 ($\$7,497,522 \times 32\%$), revenues to counties would increase by \$3,599,000 ($\$7,497,522 \times 48\%$), and revenues to the Forestry Account would be reduced by \$5,998,000 ($\$7,497,522 \times 20\%$ instead of $\$7,497,522 \times 100\%$ under current law).

There will be a one-time costs of \$400 to change DNR database records to reflect the change in distribution of money, including \$320 for contractor time (4 hours x \$80/hour = \$320), and \$64 of DNR staff time (2 hours x \$32/hour = \$64.)

Long-Range Fiscal Implications

The fiscal impact to the Forestry Account of changing the closed acreage fee distribution formula (see Section 7 of narrative) will increase over time as acres that are enrolled under the old \$0.90/acre formula are re-enrolled under the current \$6.67/acre formula.

Fiscal Estimate Worksheet - 2011 Session

Detailed Estimate of Annual Fiscal Effect

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): The Department would incur one-time costs of \$175,300 for computer programming (95%) and rule development (5%.) One-time costs for local units of government are not included.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$		\$-5,000
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance	300,000		
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$300,000		\$-5,000
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S	300,000		-5,000
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			-5,999,000
TOTAL State Revenues	\$		\$-5,999,000
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$295,000	\$
NET CHANGE IN REVENUE		\$-5,999,000	\$6,297,800
Agency/Prepared By		Authorized Signature	Date

