

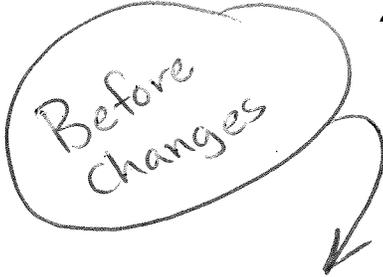


State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-4139/1  
MGG:eev:jf

## 2013 SENATE BILL 543



February 3, 2014 – Introduced by Senator TIFFANY, cosponsored by Representatives MURSAU and CLARK, by request of Wisconsin Council on Forestry. Referred to Joint Committee on Finance.

1       **AN ACT to repeal** 20.370 (1) (cx), 77.81 (5), 77.82 (2m) (ac), 77.82 (2m) (ag), 77.82  
2           (2m) (am), 77.82 (2m) (c), 77.82 (2m) (dm) 1., 77.82 (2m) (dm) 2., 77.82 (3) (am),  
3           77.82 (4g), 77.82 (4m) (d), 77.83 (2) (am), 77.83 (4) (b), 77.86 (2), 77.86 (3) (title),  
4           77.87 (1g) (d), 77.88 (2) (a) 1., 77.88 (3g) (a), 77.88 (4), 77.88 (5) (a) 1. and 2., 77.88  
5           (5) (ab), 77.88 (5) (ar), 77.88 (5) (b), 77.88 (5) (c), 77.88 (6) and 77.91 (3); **to**  
6           **renumber** 77.81 (1), 77.83 (4) (a), 77.86 (1) (a), 77.86 (1) (b) and 77.89 (2) (b);  
7           **to renumber and amend** 77.06 (1), 77.81 (2m), 77.82 (1) (bn), 77.82 (12), 77.86  
8           (1) (title), 77.86 (1) (c), 77.86 (1) (d), 77.86 (3), 77.88 (2) (a) (intro.), 77.88 (2) (a)  
9           2., 77.88 (2) (a) 3., 77.88 (2) (e), 77.88 (2) (f), 77.88 (3), 77.88 (5) (a) (intro.) and  
10          77.89 (2) (a); **to amend** 20.370 (5) (bv), 74.23 (1) (a) 2., 74.25 (1) (a) 2., 74.25 (1)  
11          (a) 3., 74.30 (1) (b), 74.30 (1) (c), 77.07 (2), 77.07 (3), 77.81 (6), 77.82 (1) (a) 1.,  
12          77.82 (1) (a) 2., 77.82 (1) (b) 3., 77.82 (2m) (title), 77.82 (3) (title), 77.82 (3) (ag),  
13          77.82 (3) (ar), 77.82 (3) (c) (intro.), 77.82 (3) (g), 77.82 (4), 77.83 (2) (b), 77.84 (3)  
14          (b), 77.86 (4), 77.86 (5) (a), 77.86 (5) (b), 77.87 (1), 77.87 (2), 77.87 (3), 77.87 (5),

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property, making it impossible for the public to have access to the land without having permission from an owner of some of the surrounding land. Under the bill, the method and location of access to open MFL must be equivalent to the method and location that is used by the owner of the MFL. If the owner is unable to provide such access, DNR must modify the designation of the land from being open to being closed.

***Leasing of managed forest land***

Under current law, an owner of MFL may not lease the land or enter into any other agreement under which the owner receives consideration for the purpose of allowing persons to engage in certain recreational activities, such as hunting, hiking, horseback riding, and staying in cabins on the MFL. Current law provides an exception for agreements under which reasonable membership fees are charged by a nonprofit organization and that are approved by DNR.

This bill repeals this prohibition and specifically authorizes owners of MFL to enter into leases or other agreements to allow closed MFL that is not part of a large property to be used for recreational activities. The bill also expands the types of recreational activities for which the land may be leased to include any recreational outdoor activity that DNR determines to be compatible with the practice of forestry.

***Sales and transfers of land under the managed forest land program***

Under current law, an owner may sell or otherwise transfer an entire parcel of MFL. An owner may also sell or transfer part of a parcel of MFL if the land being sold or transferred is all of the owner's land located in a quarter quarter section or in a government lot or fractional lot. Forty acres make up a quarter quarter section. A government or fractional lot is an irregularly shaped lot usually fronting on water, which could not be divided practically into sections when it was surveyed by the federal government. This bill eliminates these restrictions so that any owner may sell or transfer an entire parcel or any part of a parcel.

Under current law, the land remaining under an MFL order after a sale or transfer of part of a parcel continues to be eligible as MFL and does not need to be withdrawn regardless of its size if it is all in one piece (contiguous) and will meet the productivity requirements for producing merchantable timber, if it is not developed for a human residence, and if it is not used for commercial recreation, for industry, or for any other purpose that DNR determines to be incompatible with the practice of forestry. Under the bill, the remaining land does not have to be contiguous but must be at least 20 acres in size in order to continue to be eligible as MFL.

***Withdrawals of managed forest land***

Under current law, DNR may issue an order withdrawing land from a parcel that has been designated as MFL under certain circumstances. These include a determination by DNR that the land does not comply with the eligibility requirements under the program or that the owner has failed to comply with the requirements of the program or with the management plan prepared for the land. Current law also allows owners to voluntarily withdraw land under certain circumstances. Under current law, an owner may withdraw all of the owner's land

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or all of the land that is in a quarter quarter section or in a government or fractional lot. An owner may also voluntarily withdraw land on a one-time basis under certain circumstances for the purpose of construction of a residence. When land is voluntarily withdrawn for this purpose, the owner must pay withdrawal taxes on the MFL that is withdrawn and a withdrawal fee.

This bill creates additional provisions that allow MFL to be voluntarily withdrawn. Under the bill, an owner may voluntarily withdraw part of an MFL parcel for the purpose of selling it or using it as a construction site, other than a construction site for a residence. Under this provision, the land withdrawn may not be less than one acre and may not be more than five acres. The bill limits the number of times that MFL may be withdrawn for this purpose and requires the owner to pay the withdrawal taxes and the withdrawal fee.

Under the bill, MFL may also be voluntarily withdrawn by an owner if DNR determines that part of a parcel is unsuitable for the production of merchantable timber, due to environmental, ecological, or economic or other concerns, or if DNR determines that the parcel is unable to produce merchantable timber in the amount required under the MFL program. The owner may withdraw only the number of acres that is necessary for the parcel to resume sustainable production of merchantable timber or to resume its ability to meet the merchantable timber production requirement described above. The owner is exempt from paying a withdrawal tax or fee for these types of withdrawal.

***Assessment of withdrawal taxes and yield taxes***

Under current law, when DNR issues an order of withdrawal that requires the payment of a withdrawal tax and fee, DNR determines the amount of the tax and assesses the tax and fee against the owner. Withdrawal taxes are assessed for voluntary and DNR withdrawals, as described above, withdrawals that are required when land is no longer eligible as MFL due to the sale or transfer of part of a parcel, and withdrawals that are required as a result of failing to pay property taxes.

Under this bill, once DNR has issued the order of withdrawal, the county in which the MFL is located, instead of DNR, determines the amount of the tax and assesses the tax and the fee against the owner.

Similarly, under current law, when merchantable timber is cut from MFL, DNR determines the amount of the yield tax and assesses that amount. Under the bill, the county in which the MFL is located assesses the yield tax.

***Calculation of withdrawal taxes***

Under current law, the withdrawal tax is the higher of two amounts: the amount of past tax liability, less the acreage share payments and yield taxes paid (taxes paid), or 5 percent of the stumpage value of the merchantable timber on the land, less the taxes paid. Under current law, variations on this method of calculating the withdrawal taxes are used depending on when the land was designated as MFL, how long the land has been designated as MFL, and whether the MFL is subject to an original order or an order that has been renewed.



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Corrected copy

property, making it impossible for the public to have access to the land without having permission from an owner of some of the surrounding land. Under the bill, the method and location of access to open MFL must be equivalent to the method and location that is used by the owner of the MFL. If the owner is unable to provide such access, DNR must modify the designation of the land from being open to being closed.

***Leasing of managed forest land***

Under current law, an owner of MFL may not lease the land or enter into any other agreement under which the owner receives consideration for the purpose of allowing persons to engage in certain recreational activities, such as hunting, hiking, horseback riding, and staying in cabins on the MFL. Current law provides an exception for agreements under which reasonable membership fees are charged by a nonprofit organization and that are approved by DNR.

This bill repeals this prohibition and specifically authorizes owners of MFL to enter into leases or other agreements to allow closed MFL that is not part of a large property to be used for recreational activities. The bill also expands the types of recreational activities for which the land may be leased to include any recreational outdoor activity that DNR determines to be compatible with the practice of forestry.

***Sales and transfers of land under the managed forest land program***

Under current law, an owner may sell or otherwise transfer an entire parcel of MFL. An owner may also sell or transfer part of a parcel of MFL if the land being sold or transferred is all of the owner's land located in a quarter quarter section or in a government lot or fractional lot. Forty acres make up a quarter quarter section. A government or fractional lot is an irregularly shaped lot usually fronting on water, which could not be divided practically into sections when it was surveyed by the federal government. This bill eliminates these restrictions so that any owner may sell or transfer an entire parcel or any part of a parcel.

Under current law, the land remaining under an MFL order after a sale or transfer of part of a parcel continues to be eligible as MFL and does not need to be withdrawn regardless of its size if it is all in one piece (contiguous) and will meet the productivity requirements for producing merchantable timber, if it is not developed for a human residence, and if it is not used for commercial recreation, for industry, or for any other purpose that DNR determines to be incompatible with the practice of forestry. Under the bill, the remaining land does not have to be contiguous but <sup>and</sup> must be at least 20 acres in size in order to continue to be eligible as MFL. AMS

***Withdrawals of managed forest land***

Under current law, DNR may issue an order withdrawing land from a parcel that has been designated as MFL under certain circumstances. These include a determination by DNR that the land does not comply with the eligibility requirements under the program or that the owner has failed to comply with the requirements of the program or with the management plan prepared for the land. Current law also allows owners to voluntarily withdraw land under certain circumstances. Under current law, an owner may withdraw all of the owner's land

bill

***Sales and transfers of land under the managed forest land program***

Under current law, an owner may sell or otherwise transfer an entire parcel of MFL. An owner may also sell or transfer part of a parcel of MFL if the land being sold or transferred is all of the owner's land located in a quarter quarter section or in a government lot or fractional lot. This substitute amendment eliminates these restrictions so that any owner may sell or transfer an entire parcel or any part of a parcel.

Under current law, the land remaining under an MFL order after a sale or transfer of part of a parcel continues to be eligible as MFL and does not need to be withdrawn regardless of its size if it is all in one piece (contiguous) and will meet the productivity requirements for producing merchantable timber, if it is not developed for a human residence, and if it is not used for commercial recreation, for industry, or for any other purpose that DNR determines to be incompatible with the practice of forestry. Under the substitute amendment, in order for the remaining land to continue to be eligible as MFL, it must be contiguous and at least 15 acres in size and, under most circumstances, a building or structure may not be on the land.

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1/15***Withdrawals of managed forest land***

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This substitute amendment creates additional provisions that allow MFL to be voluntarily withdrawn. The substitute amendment eliminates the provisions that apply only to withdrawal for construction of a residence. Under the substitute amendment, an owner may voluntarily withdraw part of an MFL parcel for the purpose of selling it or using it as a construction site, regardless of whether the construction site is a construction site for a residence. Under this provision, the land withdrawn may not be less than one acre and may not be more than five acres. The substitute amendment limits the number of times that MFL may be withdrawn for this purpose and requires the owner to pay the withdrawal taxes and the withdrawal fee.

Under the substitute amendment, MFL may also be voluntarily withdrawn by an owner if DNR determines that part of a parcel is unsuitable for the production of merchantable timber, due to environmental, ecological, or economic or other concerns, or if DNR determines that the parcel is unable to produce merchantable timber in the amount required under the MFL program. The owner may withdraw



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After  
changes  
03-18-2014

changes made  
by WLT  
9MB

February 3, 2014 – Introduced by Senator TIFFANY, cosponsored by Representatives MURSAU and CLARK, by request of Wisconsin Council on Forestry. Referred to Joint Committee on Finance.

1        **AN ACT to repeal** 20.370 (1) (cx), 77.81 (5), 77.82 (2m) (ac), 77.82 (2m) (ag), 77.82

2        (2m) (am), 77.82 (2m) (c), 77.82 (2m) (dm) 1., 77.82 (2m) (dm) 2., 77.82 (3) (am),

3        77.82 (4g), 77.82 (4m) (d), 77.83 (2) (am), 77.83 (4) (b), 77.86 (2), 77.86 (3) (title),

4        77.87 (1g) (d), 77.88 (2) (a) 1., 77.88 (3g) (a), 77.88 (4), 77.88 (5) (a) 1. and 2., 77.88

5        (5) (ab), 77.88 (5) (ar), 77.88 (5) (b), 77.88 (5) (c), 77.88 (6) and 77.91 (3); **to**

6        **renumber** 77.81 (1), 77.83 (4) (a), 77.86 (1) (a), 77.86 (1) (b) and 77.89 (2) (b);

7        **to renumber and amend** 77.06 (1), 77.81 (2m), 77.82 (1) (bn), 77.82 (12), 77.86

8        (1) (title), 77.86 (1) (c), 77.86 (1) (d), 77.86 (3), 77.88 (2) (a) (intro.), 77.88 (2) (a)

9        2., 77.88 (2) (a) 3., 77.88 (2) (e), 77.88 (2) (f), 77.88 (3), 77.88 (5) (a) (intro.) and

10       77.89 (2) (a); **to amend** 20.370 (5) (bv), 74.23 (1) (a) 2., 74.25 (1) (a) 2., 74.25 (1)

11       (a) 3., 74.30 (1) (b), 74.30 (1) (c), 77.07 (2), 77.07 (3), 77.81 (6), 77.82 (1) (a) 1.,

12       77.82 (1) (a) 2., 77.82 (1) (b) 3., 77.82 (2m) (title), 77.82 (3) (title), 77.82 (3) (ag),

13       77.82 (3) (ar), 77.82 (3) (c) (intro.), 77.82 (3) (g), 77.82 (4), 77.83 (2) (b), 77.84 (3)

14       (b), 77.86 (4), 77.86 (5) (a), 77.86 (5) (b), 77.87 (1), 77.87 (2), 77.87 (3), 77.87 (5),

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property, making it impossible for the public to have access to the land without having permission from an owner of some of the surrounding land. Under the bill, the method and location of access to open MFL must be equivalent to the method and location that is used by the owner of the MFL. If the owner is unable to provide such access, DNR must modify the designation of the land from being open to being closed.

***Leasing of managed forest land***

Under current law, an owner of MFL may not lease the land or enter into any other agreement under which the owner receives consideration for the purpose of allowing persons to engage in certain recreational activities, such as hunting, hiking, horseback riding, and staying in cabins on the MFL. Current law provides an exception for agreements under which reasonable membership fees are charged by a nonprofit organization and that are approved by DNR.

This bill repeals this prohibition and specifically authorizes owners of MFL to enter into leases or other agreements to allow closed MFL that is not part of a large property to be used for recreational activities. The bill also expands the types of recreational activities for which the land may be leased to include any recreational outdoor activity that DNR determines to be compatible with the practice of forestry.

***Sales and transfers of land under the managed forest land program***

Under current law, an owner may sell or otherwise transfer an entire parcel of MFL. An owner may also sell or transfer part of a parcel of MFL if the land being sold or transferred is all of the owner's land located in a quarter quarter section or in a government lot or fractional lot. Forty acres make up a quarter quarter section. A government or fractional lot is an irregularly shaped lot usually fronting on water, which could not be divided practically into sections when it was surveyed by the federal government. This bill eliminates these restrictions so that any owner may sell or transfer an entire parcel or any part of a parcel.

Under current law, the land remaining under an MFL order after a sale or transfer of part of a parcel continues to be eligible as MFL and does not need to be withdrawn regardless of its size if it is all in one piece (contiguous) and will meet the productivity requirements for producing merchantable timber, if it is not developed for a human residence, and if it is not used for commercial recreation, for industry, or for any other purpose that DNR determines to be incompatible with the practice of forestry. Under the bill, in order for the remaining land to continue to be eligible as MFL, it must be contiguous and at least 20 acres in size and, under most circumstances, a building or structure may not be on the land.

***Withdrawals of managed forest land***

Under current law, DNR may issue an order withdrawing land from a parcel that has been designated as MFL under certain circumstances. These include a determination by DNR that the land does not comply with the eligibility requirements under the program or that the owner has failed to comply with the requirements of the program or with the management plan prepared for the land. Current law also allows owners to voluntarily withdraw land under certain

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circumstances. Under current law, an owner may withdraw all of the owner's land or all of the land that is in a quarter quarter section or in a government or fractional lot. An owner may also voluntarily withdraw land on a one-time basis under certain circumstances for the purpose of construction of a residence. When land is voluntarily withdrawn for this purpose, the owner must pay withdrawal taxes on the MFL that is withdrawn and a withdrawal fee.

This bill creates additional provisions that allow MFL to be voluntarily withdrawn. Under the bill, an owner may voluntarily withdraw part of an MFL parcel for the purpose of selling it or using it as a construction site, other than a construction site for a residence. Under this provision, the land withdrawn may not be less than one acre and may not be more than five acres. The bill limits the number of times that MFL may be withdrawn for this purpose and requires the owner to pay the withdrawal taxes and the withdrawal fee.

Under the bill, MFL may also be voluntarily withdrawn by an owner if DNR determines that part of a parcel is unsuitable for the production of merchantable timber, due to environmental, ecological, or economic or other concerns, or if DNR determines that the parcel is unable to produce merchantable timber in the amount required under the MFL program. The owner may withdraw only the number of acres that is necessary for the parcel to resume sustainable production of merchantable timber or to resume its ability to meet the merchantable timber production requirement described above. The owner is exempt from paying a withdrawal tax or fee for these types of withdrawal.

***Assessment of withdrawal taxes and yield taxes***

Under current law, when DNR issues an order of withdrawal that requires the payment of a withdrawal tax and fee, DNR determines the amount of the tax and assesses the tax and fee against the owner. Withdrawal taxes are assessed for voluntary and DNR withdrawals, as described above, withdrawals that are required when land is no longer eligible as MFL due to the sale or transfer of part of a parcel, and withdrawals that are required as a result of failing to pay property taxes.

Under this bill, once DNR has issued the order of withdrawal, the county in which the MFL is located, instead of DNR, determines the amount of the tax and assesses the tax and the fee against the owner.

Similarly, under current law, when merchantable timber is cut from MFL, DNR determines the amount of the yield tax and assesses that amount. Under the bill, the county in which the MFL is located assesses the yield tax.

***Calculation of withdrawal taxes***

Under current law, the withdrawal tax is the higher of two amounts: the amount of past tax liability, less the acreage share payments and yield taxes paid (taxes paid), or 5 percent of the stumpage value of the merchantable timber on the land, less the taxes paid. Under current law, variations on this method of calculating the withdrawal taxes are used depending on when the land was designated as MFL, how long the land has been designated as MFL, and whether the MFL is subject to an original order or an order that has been renewed.

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This bill eliminates these methods of calculating the withdrawal tax. Instead, the bill creates a single method of calculating this tax. Under the bill, the amount of withdrawal tax is calculated by multiplying the total net property tax rate imposed by the city, town, or village (municipality) in which the land is located by the assessed value of the land being withdrawn, and then multiplying that amount by ten years, or the number of years the MFL was subject to the order, whichever is fewer.

***Distribution of assessed withdrawal taxes and yield taxes***

Under current law, DNR deposits the yield taxes and withdrawal taxes it collects in the conservation fund. DNR then makes a payment to each municipality in which the MFL is located that is equal to the amount of withdrawal tax or yield tax assessed by DNR that is applicable to the MFL in that municipality. Under this bill, the county that assesses the yield and withdrawal taxes distributes to each municipality in the county in which the MFL is located 80 percent of applicable yield or withdrawal taxes. The county retains the remaining 20 percent. The county also keeps the withdrawal fees.

***Renewals of MFL orders***

Under current law, an MFL order may be renewed at the end of its 25-year or 50-year term. DNR may deny an application for renewal only if the land does not comply with the eligibility requirements, the owner has failed to comply with the management plan for the MFL, or delinquent taxes are owed on the land. This bill creates additional grounds that DNR may use for denying a renewal application. Under the bill, DNR may deny the application if the land that is subject to the renewal application is not identical to the MFL under the existing order or if certain requirements for establishing, updating, and reviewing mandatory forestry soil and conservation practices in a management plan are not met.

***Large properties; cuttings; management plans***

This bill creates different cutting notice requirements for parcels of either MFL or FCL that are under the same ownership and that are collectively greater than 1,000 acres in size (large property). Under current law, an owner of MFL or FCL must file with DNR a notice of intent to cut merchantable timber at least 30 days before the cutting. DNR must approve the cutting if it finds that the cutting is in conformance with the owner's management plan and is consistent with sound forestry practices. The bill exempts the owner of a large property from having to file cutting notices if an independent forestry organization recognized by DNR certifies that the owner is qualified to ensure that its timber cutting is consistent with sound forestry practices and if the owner complies with rules regulating cutting practices that are promulgated by DNR.

Under current law, a landowner must submit with the MFL application a management plan that contains a statement of the owner's forest management objectives, a description of the forestry and soil conservation practices that will be undertaken on the MFL, and supporting maps, aerial photographs, or diagrams. Under the bill, DNR may modify these general requirements for management plans

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that are prepared for large properties. In determining whether to do so, DNR must consider certain factors. These factors include how much MFL the applicant already owns and whether the applicant has consistent access to technical forest management assistance.

***Other provisions***

This bill creates a provision that allows an owner of MFL that has been damaged by a natural disaster to restore the productivity of the land so that it meets the requirements under the MFL for producing merchantable timber. DNR determines the amount of time that the owner will have to restore the land. If the owner fails to complete the restoration within that time period, either DNR may order withdrawal of the land or the owner of the land may request withdrawal of the land. The owner is exempt from payment of withdrawal taxes if the owner makes the request and DNR determines that the MFL is unable to meet the production requirements for merchantable timber and if the owner withdraws only the number of acres necessary for the parcel to again meet the production requirements.

Under current law, DNR must prepare management plans if DNR determines that an owner submitting an application to have land designated as MFL is unable to have a management plan prepared by an independent plan writer who is certified by DNR but who is not acting on behalf of DNR. Also, DNR may complete a plan if it does not initially meet DNR's approval. Under current law, DNR charges fees for preparing and completing plans. This bill repeals all of the provisions relating to DNR's preparation and completion of plans.

Under current law, DNR must issue a withdrawal order removing all lands owned by an Indian tribe from the MFL program if requested to do so by the tribe and if the tribe provides DNR with the date on which the MFL will be transferred to the federal government to be held in trust for the tribe and if the tribe and DNR have in effect a written agreement that the land will continue to be treated as MFL until the date that the MFL order would have expired. This bill creates a parallel provision for withdrawals from the FCL program.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 20.370 (1) (cx) of the statutes is repealed.
- 2           **SECTION 2.** 20.370 (5) (bv) of the statutes is amended to read:
- 3           20.370 (5) (bv) *Resource aids — county forests, forest croplands and managed*
- 4           *forest land aids.* A sum sufficient to pay county forest aids under s. 28.11 (8) (a),

**SENATE BILL 543****SECTION 133**

1           (3) CALCULATION OF PAST TAX LIABILITY UPON WITHDRAWAL. The treatment of  
2 section 77.88 (5) (a) (intro.), 1., and 2., (ab), (ac), (am) (title) and 1., (ar), (b), and (c)  
3 and (6) of the statutes first applies to orders of withdrawal that are issued on the  
4 effective date of this subsection.

5           **SECTION 134. Effective dates.** This act takes effect on the day after  
6 publication, except as follows:

7           (1) ASSESSMENTS OF YIELD AND WITHDRAWAL TAXES AND FEES BY COUNTIES. The  
8 treatment of sections 77.84 (3) (b), 77.87 (1), (2), (3), and (5), 77.88 (1) (c), (2) (am),  
9 (c), and (f), (3) (c), (3m), (5m), and (7) of the statutes and the amendment of section  
10 77.88 (3g) (c) and (3j) (c) of the statutes take effect on January 1, 2015.

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(END)