

### Fiscal Estimate - 2013 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>13-4139/1</b>	<b>Introduction Number</b> <b>SB-543</b>
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**Description**  
 Eligibility requirements under the managed forest land program relating to parcel size and production of merchantable timber, management plans for managed forest lands, orders adding and withdrawing managed forest land, renewal of orders designating managed forest land, areas of managed forest lands that are open for public access, allowing managed forest lands to be used for recreational activities, regulation of cutting of timber on managed forest land and on forest croplands, withdrawal taxes and fees imposed on the withdrawal of managed forest land and yield taxes imposed for cutting timber from managed forest land, the sale or transfer of managed forest land, expiration of orders designating managed forest land, withdrawal of forest croplands that are held in trust for Indian tribes, a study of the managed forest land program, a report on exempt withdrawals from the managed forest land program and the forest cropland program, elimination of references to the woodland tax law, granting rule-making authority, requiring the exercise of rule-making authority, and providing a penalty

**Fiscal Effect**

**State:**

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		
<input type="checkbox"/> Create New Appropriations		

**Local:**

<input type="checkbox"/> No Local Government Costs	3. <input type="checkbox"/> Increase Revenue	<b>5. Types of Local Government Units Affected</b> <input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Village <input checked="" type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<input checked="" type="checkbox"/> Indeterminate	4. <input type="checkbox"/> Decrease Revenue	
1. <input type="checkbox"/> Increase Costs	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

<b>Agency/Prepared By</b> DOR/ Daniel Huegel (608) 266-5705	<b>Authorized Signature</b> Robert Schmidt (608) 266-5773	<b>Date</b> 3/4/2014
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## Fiscal Estimate Narratives

DOR 3/4/2014

LRB Number	<b>13-4139/1</b>	Introduction Number	<b>SB-543</b>	Estimate Type	<b>Original</b>
<b>Description</b> Eligibility requirements under the managed forest land program relating to parcel size and production of merchantable timber, management plans for managed forest lands, orders adding and withdrawing managed forest land, renewal of orders designating managed forest land, areas of managed forest lands that are open for public access, allowing managed forest lands to be used for recreational activities, regulation of cutting of timber on managed forest land and on forest croplands, withdrawal taxes and fees imposed on the withdrawal of managed forest land and yield taxes imposed for cutting timber from managed forest land, the sale or transfer of managed forest land, expiration of orders designating managed forest land, withdrawal of forest croplands that are held in trust for Indian tribes, a study of the managed forest land program, a report on exempt withdrawals from the managed forest land program and the forest cropland program, elimination of references to the woodland tax law, granting rule-making authority, requiring the exercise of rule-making authority, and providing a penalty					

### Assumptions Used in Arriving at Fiscal Estimate

The bill makes several changes to the statutes governing the special forest tax laws. The Department of Natural Resources(DNR) is the agency that is charged with the almost all of the administrative responsibilities regarding this program. The Department of Revenue's (DOR) administrative duties regarding these laws is to assist the DNR in areas such as the calculation of certain penalties and in cross-checking acreage enrollment data. This fiscal note is limited to those parts that have a direct effect on the DOR.

#### WOODLAND TAX LAW

Under the Woodland Tax Law (WTL), an owner of a forested parcel of 10 to 40 acres could apply to the DNR to enroll the land for a 15 year period in order to grow trees for harvest. Land enrolled under the WTL was exempt from property taxes but subject to an annual in lieu of taxes per acre fee that was collected through the property tax system. The program was closed to new entrants in 1986. The last WTL per acre fee was charged in the 2000/2001 property tax year.

The woodland tax law was repealed in 2013 Wisconsin Act 54. However, cross-references to the tax in the property tax settlement statutes were not eliminated. This bill eliminates these cross-references.

#### FOREST CROP LAW

Under the forest crop law (FCL) an owner of an entire quarter-quarter section (generally 40 acres) of land in a town or village could petition the DNR to enroll that land in the program. ~~If the~~ DNR agreed to enroll the land, a DNR and the landowner signed a contract with a 25 year or 50 year term.

Land enrolled under the FCL is exempt from property taxes. In lieu of property taxes, certain annual fees and special taxes are paid by the landowner. One of these special taxes is imposed when land under a FCL contract is withdrawn from the program. The tax equals the sum for each year the contract has been in place of the difference between the real estate taxes that that could have been levied on the land and any annual fees and severance taxes paid on the land, plus interest (5% for pre-1977 contracts and 12% for other contracts). The DNR retains sufficient funds to recover any payments it has made on the land and remits the remainder to the municipality where the land is located, which retains 80% and remits 20% to the county. For the period from 2009 to 2013, the average payment by the DNR to local governments has averaged about \$220,000 per year.

Under the bill, the FCL withdrawal tax would not be imposed if all of the following conditions are met: (1) the withdrawal is requested by an Indian tribe, (2) the land is owned in fee by the tribe, (3) the tribe provides the DNR with the date of the order to transfer the land to the United States to be held in trust for the tribe, and (4) the DNR and the tribe have agreed in writing that the land shall continue to be treated as if they were still under the FCL up to the time the FCL contract would have expired. Based on data for 2013 provided to the DOR by the DNR, the DOR estimates about 8,500 acres of the 160,000 acres enrolled under the FCL are owned by an Indian tribe and therefore potentially subject to the change in the law.

The DOR assists the DNR in calculating the FCL withdrawal tax by providing information on assessed values and tax rates for the years over which the withdrawal tax needs to be calculated. To the extent that Indian tribes choose to take advantage of this provision, there will be fewer instances when the DNR will need DOR assistance to calculate the withdrawal tax.

## MANAGED FOREST LAND

An owner of 10 or more contiguous forest acres may apply to the DNR to enter the land under the MFL program. If the DNR determines that at least 80% of the parcel is producing or capable of producing at least 20 cubic feet of merchantable timber per acre per year and that the land is not developed in a manner incompatible with the practice of forestry, the DNR issues an order entering the land under the program. The landowner agrees to follow a forest management plan and to permit, with limited exceptions, public access for hunting and recreation.

MFL land is exempt from property taxes. In lieu of property taxes, certain payments on the land are made. (1) DNR payment: This is an annual payment by the DNR of \$0.20 per acre paid to the municipality where the land is located; the municipality remits 20% to the county. (2) Acreage share: This is an annual payment by the landowner to the municipality where the land is located of either \$0.79 per acre (orders that took effect before April 28, 2004) or \$2.14 per acre (all other orders); the municipality remits 20% to the county. (3) Closure fee: This is an annual payment by the landowner to the municipality where the land is located on land closed to public access. The fee is in addition to the acreage share. The closure fee is either \$1.08 per acre (orders that took effect before April 28, 2004) or \$8.54 per acre (all other orders). All collections are remitted to the DNR. (4) Yield tax: This tax equals 5% of the value of the merchantable timber cut on enrolled land. The tax is assessed and collected by the DNR. Proceeds are paid to the municipality where the land is located, which in turn remits 20% to the county. (5) Non-compliance fee. This fee, set at \$250, is imposed by the DNR if an MFL landowner has not complied with the management plan for his or her land. The DNR notifies the municipality that the fee is to be imposed. The municipality bills the landowner. The municipality keeps 80% of any collections and remits 20% to the county. (6) Withdrawal fee: The DNR assesses a fee of \$300 on all withdrawals from the MFL program that occur before the expiration of the MFL agreement. The DNR retains the entire fee. (7) Withdrawal Tax: If land is withdrawn from the MFL program during an initial order, the landowner pays 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 (less any acreage share and yield taxes paid), or (b) 5% of the value of the merchantable timber on the land. If land is withdrawn from the MFL program during a renewed order, the tax-related calculation under (a) above is made from the year the agreement was renewed. The DNR remits 100% of this tax to the municipality where the land is located, which remits 20% to the county.

Under the bill, the minimum acreage for enrollment into the MFL program is increased from 10 acres to 20 acres. Based on a DOR analysis of data provided by the DNR, in 2011, 2012, and 2013, there were 5,628 entries into the MFL program covering 362,049 acres. Of these, 523 entries covering 7,635 acres were for less than 20 acres. Because of the relatively small percentage of total enrollments represented by entries of less than 20 acres, this part of the bill is expected to have only a small effect on the acres enrolled under the bill and the number of entries under the program. For the DOR, this will result in a small decrease in the workload for tracking MFL land data.

Sometimes land enrolled under the MFL program that is designated as open to public access is surrounded by MFL land closed to public access, effectively negating the open access designation. Under the bill, if land enrolled under the MFL program is designated as open to public access, the landowner must provide access that is equivalent to the method and location used by the landowner to access the land. Based on a DOR analysis of data provided by the DNR, in 2011, 2012, and 2013, for the 362,049 acres that were enrolled under the MFL program, 83,052 acres, or 29.7%, were open to public access and 278,997 acres, or 70.3%, were closed to public access. Given that recent enrollees have tended to choose to close their lands, this part of the bill could lead to higher percentages of land being closed than under current law.

Under current law, the DNR may issue an order withdrawing a parcel of land enrolled under the MFL program if it determines the land does not comply with the eligibility requirements or the owner does not comply with the management plan for the land. The owner can voluntarily request that all of a quarter-quarter section (generally 40 acres) be withdrawn, or that 1 acre be withdrawn for the purpose of construction of a residence. This bill expands the circumstances under which an owner can withdraw land to include selling the land or to use it as a non-residential construction site. Withdrawals would also be permitted if the landowner and the DNR agree that part of or all of the parcel is unsuitable for producing merchantable timber due to environmental, ecological, or economic concerns. A withdrawal tax is required on all of these withdrawals except for withdrawals due to environmental, ecological, or economic concerns. This

part of the bill has the potential to increase the number of withdrawals from the program. The DOR is unable to project the potential increase in such withdrawals.

For the period from 2009 to 2013, the average amount of withdrawal taxes remitted by the DNR to local governments has averaged about \$2.92 million per year. Under the bill, the calculation of the withdrawal tax would be changed in two ways. First, the tax would be equal to (a) the net property tax rate imposed in the municipality where the property is located times (b) the assessed value of the property being withdrawn times (c) the lesser of 10 or the number of years the land was enrolled. Second, the county where the land is located, not the DNR, would be responsible for calculating and collecting this tax. The current county/municipal 80%/20% split of the collections would be maintained. The DOR is unable to estimate the potential reduction in withdrawal taxes that this part of the bill could engender.

For the DOR, the changes to how the withdrawal tax is calculated, notably the part that directs counties to use the assessed value of the land as determined by the DOR, will require the DOR to change its administrative procedures regarding whom to contact regarding this tax and the information to be provided. In recent years, the number of withdrawals per year has generally ranged between 175 and 200 per year. The number of acres withdrawn is not tracked by the DOR and therefore an estimate of this amount is not available. The one-time costs engendered by this part of the bill can be absorbed in current budgetary resources.

An MFL landowner may request the DOR to estimate the amount of withdrawal he or she would potentially pay if a formal withdrawal request were filed. A fee is imposed on such requests. The fee is the greater of (a) \$100 or (b) \$5 per whole and partial acre. The number of requests has ranged from about 30 to 40 per year, with revenues averaging about \$8,000. To the extent that the bill could increase the number of MFL withdrawals, the number of estimate requests submitted to the DOR could also increase from current levels.

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