Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2013 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number **13-4139/1**	Introduction Number **SB-543**

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:

☐ No State Fiscal Effect
☒ Indeterminate

- ☐ Increase Existing Appropriations
- ☐ Decrease Existing Appropriations
- ☐ Create New Appropriations
- ☐ Increase Existing Revenues
- ☒ Decrease Existing Revenues
- ☐ Increase Costs - May be possible to absorb within agency's budget ☐ Yes ☐ No
- ☐ Decrease Costs

Local:

☐ No Local Government Costs
☒ Indeterminate

1. ☐ Increase Costs
   ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs
   ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenue
   ☐ Permissive ☐ Mandatory
4. ☒ Decrease Revenue
   ☐ Permissive ☒ Mandatory
5. Types of Local Government Units Affected
   ☒ Towns ☒ Village ☒ Cities
   ☒ Counties ☐ Others
   ☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☒ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	Authorized Signature	Date
DNR/ Joe Polasek (608) 266-2794	Joe Polasek (608) 266-2794	2/6/2014

Fiscal Estimate Narratives

DNR 2/6/2014

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Assumptions Used in Arriving at Fiscal Estimate

The bill makes several changes to the managed forest land (MFL) program.

The specific fiscal impact of this bill is indeterminate because the estimate will depend on individual landowner involvement in each component of the bill, including enrollment, withdrawal, transfers, and amount of timber harvesting. Historic data related to various components of the bill is included in the individual topics found throughout this document, however, a final estimate is indeterminate given all of the variable independent decisions involved.

Bill Provision Summary.

This bill proposal makes a multitude of changes, including the following:

1.THE PROPOSED BILL LIMITS THE NUMBER OF YEARS USED IN THE WITHDRAWAL TAX CALCULATION TO 10 YEARS, OR THE NUMBER OF YEARS ENROLLED IN THE MFL PROGRAM IF THE TERM OF ENROLLMENT WAS LESS THAN 10 YEARS. THE ABILITY TO CHARGE A WITHDRAWAL TAX BASED ON THE VALUE OF THE STANDING TIMBER, IF HIGHER THAN THE FORMULA METHOD, IS REPEALED.

On average there are 167 withdrawals per year that generated roughly $2,593,900. The withdrawal tax money is collected by the DNR and returned to the local municipality, who is directed to share the money with the county on an 80-20 split. Withdrawal taxes are currently calculated using the following formula—[Assessed value of the land in the year prior to withdrawal x Net Town Tax Rate x Number of Years under MFL minus acreage share taxes and yield taxes.]

The proposed legislation creates the following formula—[Assessed value of the land in the year prior to withdrawal x Net Town Tax Rate x Number of years under MFL or 10 years, whichever is fewer.]

2.THE PROPOSED BILL DIRECTS COUNTIES TO ISSUE AND COLLECT WITHDRAWAL TAXES AND FEES AND YIELD TAXES INSTEAD OF THE DNR.

The proposed bill removes the DNR as the agency who issues withdrawal tax and yield tax invoices (i.e. bills) to the landowner and collects the invoice money for re-distribution to local municipalities. The proposed bill directs each county to complete this work after receiving notification from DNR that lands have been withdrawn from the MFL program or that harvesting of MFL lands has been completed. The transfer of responsibilities to bill and collect the withdrawal tax and fee and yield taxes will decrease DNR administrative cost and increase county administrative cost accordingly, but likely be offset by the revenues generated. Counties and municipalities are expected to have money available for use sooner than having the DNR collect the money and return it to the municipalities.

3.THE PROPOSED BILL WOULD ALLOW SEVERAL TYPES OF WITHDRAWALS TO BENEFIT

LANDOWNER INVOLVEMENT IN THE MFL PROGRAM.

a.SMALL ACREAGE WITHDRAWALS FOR BUILDING SITES OR LAND SALES REGARDLESS OF LEGAL DESCRIPTION LINES. The proposed bill would allow landowners the ability to withdraw 1 to 5 acres of MFL lands for the purpose of building a human residence, sell or transfer lands for a human residence, or sell or transfer lands in any configuration.

b.EXEMPT WITHDRAWALS IF NATURAL EVENTS CAUSE LANDS TO NO LONGER MEET PRODUCTIVITY REQUIREMENTS. This bill establishes the ability for lands to exceed the non-productive level for a designated amount of time to provide for restoration of forest productivity levels due to a natural event (flooding, insect, disease, etc. DNR is required to establish the time frames through administrative code. Lands that are not able to become compliant with productivity requirements may be voluntarily withdrawn from MFL as an exempt withdrawal. An exempt withdrawal means a withdrawal with no assessment of a withdrawal tax and fees.

c. EXEMPT WITHDRAWAL OF LIMITED UNPRODUCTIVE ACREAGES IF SPLITS IN OWNERSHIP CAUSE LANDS TO NO LONGER MEET PRODUCTIVITY REQUIREMENTS. This bill establishes that lands that are transferred must meet the minimum productivity requirements (80% of the lands must be in productive forest lands and no more than 20% of the lands can be unsuitable for growing of timber products), and allows the minimum number of acreage to be voluntarily withdrawn from the MFL program as an exempt withdrawal in order to meet the minimum productivity requirements.

Since the proposed bill allows lands to remain in the MFL program if lands meet eligibility requirements, and since some lands would be withdrawn as an exempt withdrawal, municipalities and counties could realize an estimated loss in withdrawal tax revenue of approximately $724,900. DNR has used a workload analysis to determine the time and cost in processing certain MFL transactions. DNR could realize an increase in workload of 348 hours (0.2 FTE) and an associated cost of $ 12,200 due to the proposed changes in the bill.

4.THE BILL WOULD INCREASE THE MINIMUM ACREAGE ALLOWED UNDER THE MFL PROGRAM FROM 10 TO 20 ACRES.

The bill would increase the minimum parcel size to 20 acres for all future enrollments in the MFL program. Landowners who have previously enrolled into MFL would be allowed to complete the term of their enrollment period on any parcel acreage less than 20 acres, but would not be eligible to re-enroll those lands back into the program.

There could be a decrease in MFL enrollment of roughly 2900 acres annually (78,500 acres ÷ 27 Years (1987-2013) = 2900 acres averaged) as lands that are less than 20 acres become ineligible for re-enrollment into the MFL program. The lands that are not re-enrolled into MFL could be placed on the regular property tax roll resulting in a net increase in annual municipal property taxes of $ 91,200. Small businesses that develop MFL applications could realize a decrease in revenue of $41,000 annually since some of their clients would no longer be eligible for re-enrollment into the MFL program (2900 acres of land in MFLs Order that are less than 20 acres x $14.14 average statewide fee charged to landowners by certified plan writers (small business) = $41,000).

5.THE BILL WOULD ALLOW ADDITIONS TO EXISTING MFL ENTRIES REGARDLESS OF ENTRY YEAR.

This bill allows for contiguous acreage to be added to an existing pre-2005 MFL using the same tax rates as that order and the same withdrawal tax calculations if the lands should be withdrawn from the MFL program prior the expiration of the 25 or 50 year term. It is assumed that the fiscal impact of this provision will be negligible.

6.THE BILL WOULD ELIMINATE LANDS CONTAINING IMPROVEMENT WITH ASSESSED VALUES, EXCEPT THOSE IMPROVEMENT FOR LAND MANAGEMENT PURPOSES (CULVERTS, FENCES, BRIDGES, ROAD, ETC.)

This bill eliminates the entry of lands with improvements, and grandfathers buildings and other improvements that are in existence on MFL lands for a certain period of time as identified in the statute. Whole acreage exclusions will be required around any buildings excluded from entry into the MFL program.

DNR sampled the number of MFL Orders for the years 2008 through 2013 and found that 14% of all MFL Orders had cabins or another type of building or structure located on MFL lands. If building sites averaged between one (1) or more acres, over 280 acres annually would return to the regular property tax rolls during re-enrollment of MFL lands and be taxed as residential lands, thus increasing regular property taxes for local municipalities.

7.REVISE THE CURRENT APPLICATION PROCESS FOR RENEWAL OF MFL LANDS.

This bill eliminates the need for landowners to develop a new management plan for review by DNR. Renewals would be denied if (1) lands fail to meet eligibility requirements, (2) the landowner failed to comply with the management plan in effect on the date the application for renewal is filed, (3) there are delinquent taxes on the land, (4) ownership and entry acreage has changed from the what was originally enrolled in the MFL program, (5) forest acreage has not had an inspection, been updated in WisFIRS (DNR's Forest and Inventory Recording System) within the last 5 years, or has not been updated to reflect any recently completed management activities, and (6) the management plan does not contain scheduled mandatory practices for the duration of the new entry period.

The full fiscal impact cannot be determined until the following are created (1) policy to determine how a landowner would apply for an MFL renewal and (2) computer programs to identify renewal applications from regular applications.

8.REQUIRE LANDOWNERS TO IDENTIFY ACCESS FOR THE PUBLIC, EQUIVALENT TO THE LANDOWNER'S ACCESS, TO LANDS OPEN TO THE PUBLIC OR DENY THE ABILITY TO ENROLL (OR KEEP) MFL LANDS AS OPEN.

This bill creates a provision that requires landowners to identify access to land open to public recreation equivalent to the one that the landowner uses. A landowner, who cannot provide such access, is denied the ability to enroll or maintain such lands as MFL Open.

It is not clear how many parcels will be affected by this provision, how many of them will be able to brought into compliance, and how many will need to be withdrawn. There will be a short-term workload for the department to work with MFL owners to assess all existing parcels under the law.

9.MODIFY DNR OVERSIGHT IN ON-THE-GROUND MANAGEMENT FOR CERTAIN LARGE OWNERS.

This bill requires the DNR to develop a credible audit procedure to assure that management is occurring on large landownerships to meet the program intent of sound forest management and to eliminate the requirement to approve each and every timber cutting via the cutting notice process. DNR is required to develop rules that address how large landowners will file cutting notices and reports. Fiscal impacts will be minimal and will mostly include those associated with the development of rules. The time and expense DNR will save by not approving individual cutting notices will be shifted toward completing audits of large landowner management plans and systems, recon and inventory data, and other criteria specific to large landowners.

10. OTHER MFL PROVISIONS THAT HAVE NO FISCAL IMPACT, INCLUDING THE FOLLOWING ITEMS.

a. SHIFT THE CONTENTS OF NR 46.18(4), WIS. ADMIN. CODE FOR LARGE LANDOWNERS TO CH. 77., STATS. This change places existing administrative code wording into statutes and does not change how DNR has been administering the MFL program.

b. ELIMINATE CERTAIN PROCESSES ASSOCIATED WITH THE DNR'S DEVELOPMENT OF AN MFL APPLICATION AND MANAGEMENT PLAN. Removing this ability for DNR to develop MFL applications and management plans for new MFL enrollees does not have a fiscal impact since DNR has not recently expended any money or time into developing MFL applications or management plans.

c. ELIMINATE THE STUDY REQUIREMENT FOR THE MFL PROGRAM AFTER 5 YEARS OF ITS EXISTENCE. There are no fiscal impacts to eliminating wording from the statute since the 5-year study was completed in the early 1990s.

d. UPDATE THE PROVISION FOR DNR TO REPORT TO THE LEGISLATURE ON THE NUMBER OF EXEMPT WITHDRAWALS. This bill updates wording to acknowledge the ending of the Woodland Tax Law program and the beginning of exempt withdrawals for tribal withdrawals. There is no fiscal impact as a result of this bill since the calculations are done annually.

e. ELIMINATE WORDING THAT DIRECTS THE DNR TO ORDER MFL LAND WITHDRAWN AT THE EXPIRATION OF AN MFL ORDER PERIOD. Since this process is already in place, and since DNR has not issued Orders of Withdrawal for MFL expirations, there is no fiscal impact related to this bill provision.

f. ALLOW EXEMPT WITHDRAWALS FROM THE FOREST CROP LAW (FCL) PROGRAM FOR TRIBAL OWNERSHIP IF LANDS WILL BE PLACED IN TRUST STATUS AND THE TRIBES HAVE AN AGREEMENT WITH THE DNR TO TREAT THE LANDS AS IF THEY WERE FCL UNTIL THE DATE IN WHICH THEY WOULD NATURALLY EXPIRE FROM FCL. This provision is similar to that which was created for MFL in 2009 Wisconsin Act 28. There is no fiscal impact to this provision since DNR would have worked through exempt withdrawals and management agreements for MFL.

g. ALLOW RECREATIONAL LEASING OF CLOSED MFL LANDS. There is minimal fiscal impact for the DNR and local governments from this provision. Landowners may see a positive fiscal impact if they elect to lease closed MFL lands for recreational activities.

11.FTE POSITION & COST IMPACTS

The proposed legislation will likely change many aspects of how DNR personnel administer the Managed Forest Law and Forest Crop Law programs. It is difficult to quantify changes in FTE hours related to this proposal because workload varies depending on the circumstances related to the transaction. Although we expect work related to certain tasks to decrease as outlined above, it is also possible work related to other tasks will likely increase. For example, the proposed legislation may shift workload to processing transfers related to changes in MFL or FCL land ownership. As another example, in summary item #3, the Department may experience an increase in processing transfers related to splits in ownership, estimated at 0.2 FTE and $12,200 in costs.

Other segments of the bill will decrease certain segments of MFL administration. Based on an assessment of responsibilities and the proposed changes outlined in this bill, there could be a savings of approximately 5.7 FTE of time annually spent on MFL administration will be saved under this bill once fully implemented (which translates to a total reduction of $396,300). If the proposed legislation is passed and once it is fully implemented, the department would redirect the FTE time to the high priority program need of outreach to other non engaged private forest landowners as identified in the Division of Forestry Strategic Direction.

12.STATE REVENUE IMPACTS

In total, it is estimated that the state could receive $9,730 less in revenues as a result of this bill since withdrawal fees of $300 per withdrawal and other costs associated with the withdrawal will not be collected for exempt withdrawals, and lands that would have been withdrawn as a result of land transactions would not be withdrawn with payment of a $300 withdrawal fee, but transferred with a $100 transfer fee. The net result of the decreased revenue is offset since DNR will not expend money to develop withdrawal tax and yield tax invoices.

13.LOCAL COSTS AND REVENUES

After passage of this bill, local costs will increase by an indeterminate amount as a result of implementing certain MFL provisions that were previously handled by the state, including billing and collecting of withdrawal taxes and fees and yield taxes.

After passage of this bill, local revenues will decrease with limiting the number of years used in the withdrawal tax formula to 10 years, and by withdrawing lands that no longer qualify for MFL as a result of excessive non-productive and non-suitable lands due to land sales and natural events, small acreage withdrawals for building a residence and small acreage withdrawals for land sales. These lands will be placed on the regular property tax rolls which will be taxed at a higher rate than the MFL taxes.

Long-Range Fiscal Implications

Counties and municipalities may receive fewer revenues as a result of the Managed Forest Law (MFL) program, but this may be offset by more developed acres being on the regular property tax rolls. For landowners, long term enrollees who decide to withdraw lands from the MFL program will receive a reduced withdrawal tax. Landowners may seek to lease closed MFL lands for recreational activities resulting in increased revenues from these leases.