



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #661

Assistance to Private Forest Landowners (DNR -- Forests and Parks)

[LFB 2001-03 Budget Summary: Page 479, #4 & #6]

CURRENT LAW

The managed forest land (MFL) program was created under 1985 Act 29 to encourage the productive management of private forest lands. Land enrolled under this program is exempt from local property taxes. Instead, landowners pay the town 74¢ per acre each year through 2002. In addition, a landowner has the option of closing a maximum of 80 contiguous acres to public access if an additional \$1.00 per acre is paid for each acre closed to public access. The rates will be readjusted in 2002 and every fifth year thereafter using a formula that accounts for changes in the average statewide property tax. State aids are distributed by DNR to the towns and counties in which land entered under the managed forest land program is located. The Department receives a portion of the yield tax on merchantable timber harvested and of withdrawal penalties, with the remainder going to the municipality and county.

Application, conversion and transfer fees under the managed forest land program are dedicated to pay the register of deeds any recording fees related to notices of order under MFL. If the revenues from the MFL fees are not sufficient to pay the recording fees, the balance would be paid from the forestry general operations appropriation.

The Wisconsin Forest Landowner grant program was established 1997 Act 27, and provides up to 65% cost-sharing grants (not to exceed \$10,000) to private, non-industrial forest landowners of 500 acres or less to develop and implement management plans. This program is currently funded at \$1 million annually.

GOVERNOR

Provide \$150,000 annually from the forestry account of the conservation fund to contract with private foresters for the development of managed forest land plans. In addition, provide \$346,100 in 2001-02 and \$365,600 in 2002-03 from the forestry account for 3.0 new forester

positions and convert 5.0 forester project positions to permanent status to increase contacts between non-industrial private forest owners and DNR foresters or state-contracted private foresters to provide land management guidance. Provide \$250,000 SEG annually from the forestry account to increase the allotment for the Wisconsin Forest Landowner grant program (to \$1,250,000 annually).

DISCUSSION POINTS

1. A recent assessment of forest land ownership throughout the state indicated that approximately 61% of forest land in Wisconsin (or 9.7 million acres) is owned by non-industrial private forest owners. Currently, DNR estimates that of 401 Division of Forestry staff, approximately 99 DNR foresters provide individual consultation to an estimated 10,000 landowners annually.

2. DNR foresters are involved in a variety of duties related to the administration of the managed forest law (MFL) and forest crop land (FCL) programs. Any landowner may petition the Department to designate an eligible parcel of land as MFL. Upon receipt of such a petition, DNR is required to provide written notice of the petition to the clerk of the municipality in which the land is located. Petitions must generally be approved by November 20 each year. If a petition is approved, DNR must issue an order designating the land as MFL and provide a copy to the petitioner, the Department of Revenue, the supervisor of assessments and the clerk of the municipality and record the order with the register of deeds in the county.

An owner may generally sell or otherwise transfer ownership of all or part of land enrolled in a forest tax law program. If the land transferred meets the eligibility requirements of the program, it continues to be designated as FCL or MFL. If the land does not meet eligibility requirements, DNR must issue an order withdrawing the land from the forest tax program and assess a withdrawal tax. Also, DNR may, at the request of the governing body of the municipality in which forest tax land is located or at its own discretion, investigate to determine whether the forest tax designation on a parcel of land should be withdrawn. The Department may order the withdrawal of all or part of a parcel of MFL for a number of reasons, including failure to comply with the management plan, intentional cutting in violation of statutory criteria and development of the property in violation of statutory criteria. If DNR determines that the land should be withdrawn, an order must be issued and a withdrawal tax must be assessed. The amount of the withdrawal tax varies based on whether the land is FCL or MFL and on the date the land is withdrawn relative to the date of entry into the program, but is generally based on either the property taxes that would have been due on the land, less severance or yield taxes, or the value of the merchantable timber on the land. Withdrawal orders must generally be issued under MFL by December 15 each year.

Any landowner who intends to cut merchantable timber on land enrolled in a forest tax law program must file a cutting invoice and request approval of the proposed cutting from DNR at least 30 days before the timber cutting is to take place. For MFL land, DNR must approve the cutting

request if it conforms to the management plan for the land and must assist the owner in developing an acceptable proposal if it does not conform. All cutting must begin within one year after the date the proposed cutting is approved. The landowner must report to the Department the date on which the cutting is commenced, and, within 30 days after completion of the cutting, must report to DNR on the type and quantity of wood harvested. For FCL land, DNR assesses a severance tax on any landowner who cuts merchantable timber equal to 10% of the value of the cut timber, based on stumpage values established by DNR in administrative rule. For MFL land, DNR assesses a yield tax equal to 5% of the value of the timber.

3. The Department indicates that failure to meet the statutorily-specified deadlines for the processing of application and withdrawal orders under the forest tax law programs could potentially open the state to liability for the property taxes of the landowner. However, the state is generally immune from such liability unless it specifically consents to liability. Although a landowner could choose to file a claim against the Department through the Claims Board on equitable grounds, to date, the state has not been held responsible with respect to any forest tax law applications or withdrawals that were not processed by the statutory deadlines.

4. The 1999-01 biennial budget provided \$150,000 annually from the forestry account on a one-time basis in the current biennium, only, to allow DNR to contract with private foresters to prepare management plans for the entry of land into the MFL. The Department estimates that this will fund the preparation of approximately 220 management plans annually. In response to an emergency request at the May 3, 2000 s.13.10 meeting, the Joint Committee on Finance approved an additional \$150,000 annually for ongoing contracts with private foresters to prepare management plans for the entry of land into managed forest land. Joint Finance also provided \$76,700 SEG in 2000-01 and authorized 1.0 SEG position for permanent and LTE staffing related to forest tax law workload. The number of contractors bidding has increased from 16 in 1998-99 to 23 in 2000-01. The Department indicates that of the 3,194 applications received during the current fiscal year, 2,375 will be able to be completed by foresters within their regions by October, 2001, and an additional 440 plans could be contracted for using available funding. (Any field forestry plans must be completed by the beginning of October in order to meet the statutorily designated November 20th deadline for tax law approvals.), leaving DNR 379 plans short of its goal for the 2001 tax year. The Joint Committee on Finance, in response to an emergency request at the April 24, 2001, s.13.10 meeting, approved an additional \$198,100 for contracts with private foresters to prepare management plans for the entry of land into MFL, program assistance and LTE help, travel expenses, overtime, and for temporary staff assistance for data entry of tax law information.

5. The Department's request under s.13.10 was received after the biennial budget had been submitted to the Legislature. Therefore, the action taken by the Committee provided one-time authority only. For the expenditure authority to be permanent, additional action would be required as part of the budget process.

6. As shown in the following table, forest tax law activities showed larger than average increases in the last two years. The Department anticipates that this trend may continue through the 2001-03 biennium. Approximately 260,000 non-industrial private forest landowners own

approximately 61% of forest land in Wisconsin. DNR estimates that it is able to give professional forestry guidance to 20% of this class of owners over a 15-year time period.

Forest Tax Law Activities by Calendar Year, 1995-2000

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>
<u>Forest Crop Law</u>						
Cutting Invoices	392	322	296	284	794	267
Transfers	22	269	282	237	367	649
Withdrawals	73	40	139	66	69	106
<u>Managed Forest Land</u>						
Applications	1,871	1,928	1,699	1,821	1,637	2,707
Cutting Invoices	858	837	916	1,077	829	1,468
Transfers	389	449	448	363	710	1,204
Withdrawals	<u>91</u>	<u>215</u>	<u>265</u>	<u>280</u>	<u>272</u>	<u>311</u>
TOTAL	3,696	4,060	4,045	4,128	4,678	6,712

7. Currently, DNR has 19 vacant SEG forester, forester-advanced, and forester-senior positions of 185 authorized (a vacancy rate of over 10%). These do not appear to be long-term vacancies, as all occurred within the previous nine months. DNR attributes its forester vacancy rate to its practice of accumulating vacancies and recruiting foresters in "classes." The Department argues that it is more efficient when hiring staff within certain professions (such as conservation wardens, foresters, and park wardens) to hire multiple employees at the same time, and to provide training and mentoring to the incoming group as a whole. When these positions are filled, they will represent a substantial increase in available resources that may be directed, in part, to meet demands associated with managed forest land plans and assistance to private landowners. For example, if DNR could fill 12 of these positions (and maintain a vacancy rate of less than 4%), the Department could significantly increase the number of plans completed on an annual basis.

8. The Department has stated that approximately 99 foresters provide individual consultation to private non-industrial forest landowners. Assuming that DNR maintains a 4% vacancy rate, a base level of 95 foresters would be available to consult with landowners. While preparing MFL plans would not be their sole occupation, DNR estimates that individual foresters could complete between 30 and 60 plans annually, depending on other forestry demands in the region where they worked. Assuming an average of 35 plans per year per forester, DNR staff would have the capability of completing an estimated 3,325 plans annually. In addition, \$150,000 in ongoing funding is available annually to contract with private foresters for the preparation of MFL plans, providing DNR with the capability to contract for at least 220 additional plans annually, for a potential base level of at least 3,545 plans per year under current law.

9. Under the bill, an additional \$150,000 would be provided each year to contract with

private foresters for the preparation of MFL plans, funding the preparation of at least 220 additional plans annually. Further, eight forester positions would be provided to address the needs of non-industrial private forest landowners, which would include performing duties related to forest tax law. Assuming that the workload balance assigned to these new positions reflects DNR's stated priority to reduce the MFL backlog, it may be reasonable to estimate that each of the eight forester positions could complete an average of 45 plans per year, for a total of 360 plans annually. Therefore, under the bill, DNR foresters should have the resources to complete an additional 580 plans per year, for a total of at least 4,125 MFL plans annually. In comparison, DNR is expecting to receive 3,194 MFL applications in 2000-01.

10. The Department indicates that the eight additional forester positions would be available to address other program needs as well. For example, due to the increased demand for new managed forest law plans, DNR has focused attention on first-time contacts with non-industrial private landowners and away from enforcement of existing contracts. Landowners with property enrolled in forest tax law programs receive a significant reduction in property taxes. In return, landowners are required to follow a forest management plan which includes periodic harvest of timber. A severance tax is assessed on this lumber, and the revenue is divided between the town where the property is located and the forestry account. Under FCL, DNR retains from severance and withdrawal taxes an amount generally equal to the amount paid to municipalities under FCL aid programs for the applicable land and remits the remainder to municipalities. Under MFL, DNR retains 50% of the revenue, and remits 50% to the municipalities in which the land is located. A municipality must pay 20% of this amount to the county in which the municipality is located. To date, DNR has accumulated a backlog of timber thinning projects on land entered under forestry tax law programs. The additional resources in the bill would allow DNR to follow up on more timber harvests under the contracts, potentially increasing revenues to local communities and to the forestry account.

11. As demonstrated by the history of application and activity rates in the table, while the rate of requests for applications has generally been increasing, it has also been erratic. In addition, DNR indicates that as the number of available private forestry contractors working with the Department increases, competition for contracts may serve to lower the average cost per plan and potentially allow DNR to contract for more plans than anticipated with available funding. Based on the overall increase in application rates over the last six years, a 12% increase in applications annually over the biennium could potentially be expected. If this rate of growth were realized, DNR could expect to complete 3,575 plans in 2001-02 and 4,000 plans in 2002-03. Funding provided under the bill would be adequate to address this level of demand. Should these resources be insufficient to meet actual program demand, DNR could request additional spending authority through future legislation or under s.13.10.

12. The Wisconsin Forest Land Owner grant program awards approximately 600 grants each year, with an average grant amount of \$1,700 to private, non-industrial forest landowners with 500 acres or less. It is currently funded at \$1 million annually. The program funds grants on a continuous application basis – grant requests received but not funded remain in a pool of eligible requests until funding becomes available. After all available funding was awarded for the grant

program in September of 2000, DNR indicated that requests for grants totaling approximately \$830,000 remained unfunded. The Department also asserts that this number may not represent the actual level of demand for the program. Many of the landowners who apply for grants under the Wisconsin Forest Land Owner grant program do so based on information obtained from DNR foresters. As demand has continued to exceed available funding, DNR indicates that fewer foresters actively promote the program in an attempt to avoid lengthening the waiting list for available funds. Eligible activities under the grant program include the development of a land stewardship plan, tree planting, timber stand improvement, soil and water protection, fencing, fisheries and wildlife enhancement practices, establishment of forest buffers, protection of endangered or threatened species, and historic or aesthetic enhancements. The Department indicates that current demand exceeds funding available under the program. The \$250,000 per year provided under the bill would fund approximately 150 additional grants annually.

ALTERNATIVES TO BASE

A. Managed Forest Law

1. Approve the Governor’s recommendation to provide \$150,000 annually from the forestry account of the conservation fund to contract with private foresters for the development of managed forest land plans. In addition, provide \$346,100 in 2001-02 and \$365,600 in 2002-03 from the forestry account for 3.0 new forester positions and convert 5.0 forester project positions to permanent status to increase contacts between non-industrial private forest owners and DNR foresters or state-contracted private foresters to provide land management guidance. (This funding should allow DNR to prepare at least 4,125 MFL plans in 2002-03, an annual increase of over 12%.)

<u>Alternative A1</u>	<u>SEG</u>	<u>TOTAL</u>
2001-03 FUNDING (Change to Base)	\$1,011,700	\$1,011,700
<i>[Change to Bill]</i>	0	0]
2002-03 POSITIONS (Change to Base)	8.0	8.0
<i>[Change to Bill]</i>	0	0]

2. Maintain current law.

<u>Alternative A2</u>	<u>SEG</u>	<u>TOTAL</u>
2001-03 FUNDING (Change to Base)	\$0	\$0
<i>[Change to Bill]</i>	-\$1,011,700	-\$1,011,700]
2002-03 POSITIONS (Change to Base)	0	0
<i>[Change to Bill]</i>	-8.0	-8.0]

B. Wisconsin Forest Landowner Grant Program

1. Approve the Governor's recommendation to provide \$250,000 SEG annually from the forestry account to increase the allotment for the Wisconsin Forest Landowner grant program (to \$1,250,000 annually).

<u>Alternative B1</u>	<u>SEG</u>
2001-03 FUNDING (Change to Base)	\$500,000
<i>[Change to Bill</i>	<i>\$0]</i>

2. Maintain current law.

<u>Alternative B2</u>	<u>SEG</u>
2001-03 FUNDING (Change to Base)	\$0
<i>[Change to Bill</i>	<i>- \$500,000]</i>

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