



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #545

Managed Forest Law (DNR -- Forestry and Parks)

[LFB 2003-05 Budget Summary: Page 320-1, #2 and #6]

CURRENT LAW

The forest crop land (FCL) and managed forest land (MFL) programs are designed to encourage landowners to manage private forest land for the production of future forest crops for commercial use through sound forestry practices. Land enrolled under these programs is exempt from local property taxes. Instead, landowners make payments to towns or villages in amounts determined by the date the land was entered into the programs. DNR distributes state aids to the towns and counties in which land entered under the forest crop land and managed forest land programs is located, generally based on the acreage of the forest tax land located in the jurisdiction. In addition, 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. Revenues from this severance tax are divided between municipalities and the forestry account.

GOVERNOR

Provide an additional \$500,000 annually from the forestry account for contracts with consultant foresters to prepare MFL plans for new program enrollees. Base funding of \$300,000 annually is available for contracts. Further, delete 20.0 SEG positions in 2004-05 supported by the forestry account. Transfer \$1,064,200 in 2004-05 from salary and fringe benefit allocations for these positions to supplies and services. Funds associated with these positions would instead be available for other expenditures, primarily for hiring consulting foresters to assist DNR staff in completing management plans for non-industrial forest landowners under the Managed Forest Law (MFL) program.

DISCUSSION POINTS

1. 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.

2. 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.

3. 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 timber value.

4. As shown in the following table, forest tax law activities have significantly increased over the last six years. The Department anticipates that this trend will continue through the 2003-05 biennium. Approximately 260,000 non-industrial private forest landowners are believed to own about 61% of the 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, 1997-2002

	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
<u>Forest Crop Law</u>						
Cutting Invoices	296	284	794	267	246	231
Transfers	282	237	367	649	298	231
Withdrawals	139	66	69	106	43	29
<u>Managed Forest Land</u>						
Applications	1,699	1,821	1,637	2,707	3,251	3,989
Cutting Invoices	916	1,077	829	1,468	1,573	1,537
Transfers	448	363	710	1,204	1,338	1,318
Withdrawals	<u>265</u>	<u>280</u>	<u>272</u>	<u>311</u>	<u>251</u>	<u>278</u>
TOTAL	4,045	4,128	4,678	6,712	7,000	7,613

5. Currently, DNR has 36.5 vacant SEG forester, forester-advanced, and forester-senior positions of 203.5 authorized (a vacancy rate of 18%). These do not appear to be long-term vacancies, as 29 occurred within the previous six 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 rangers) to hire multiple employees at the same time, and to provide training and mentoring to the incoming group as a whole. In addition, it should be noted that there are currently 19 forester recruits completing training, who will occupy a portion of the vacant positions. When these forester trainees are counted, the vacancy rate drops to 9.1%. When these additional 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 10.5 of the remaining vacant positions (maintaining a vacancy rate of about 4%), the Department could significantly increase the number of plans completed on an annual basis.

6. However, DNR has been hesitant to aggressively hire new foresters (despite workload demand) due to state hiring freezes and other uncertainties related to the state's overall budget condition. Further, the bill would eliminate 20.0 forestry FTE in 2004-05. While the provision eliminates forester positions, all funding associated with those positions is reallocated to supplies and services with the general intent that the Department could use these funds to contract with private forestry consultants for services formerly provided by DNR foresters. No savings are realized from this action under the bill.

7. It could be argued that reallocating funding away from DNR forester-provided services to those contracted for in the private sector may generate efficiencies by allowing additional MFL plans to be completed for private landowners. However, this view relies on the assumption that hiring private forestry consultants is more cost effective than utilizing existing state

foresters. For contracts under which MFL applications were completed by private forestry consultants in 2002, the average cost per MFL plan completed was \$695. In addition, a state forester must review these plans to ensure compliance with program requirements. Department foresters require an average of 20 hours to complete a similar plan. When salary and fringe benefit rates are considered, this results in a cost of between \$394 and \$502 per plan, depending on the pay level of the forester completing the assignment. However, this calculation does not consider supplies or overhead costs associated with maintaining state staff. Further, it is difficult to generalize across all plans, as landowner needs vary by location and the size of property. However, some would argue that it may be more cost-effective to retain the 20 foresters in 2004-05, rather than contracting for the services through private forestry consultants.

8. Under the bill, a total of \$800,000 in 2003-04 and up to \$1,864,200 in 2004-05 would be available for contracting for the development of MFL plans with private forestry consultants. Based on an average cost of \$695 per plan, this would support contracting for 1,151 plans in 2003-04 and 2,682 plans in 2004-05. However, DNR indicates that the maximum available capacity of the existing private forestry consulting industry in Wisconsin is anticipated to be about 765 plans annually during the 2003-05 biennium. Although private capacity may be able to increase more quickly than DNR anticipates, it may be advisable to reduce expenditure authority related to these contracts to \$556,000 in 2003-04 (to support contracting for 800 plans) and \$625,500 in 2004-05 (for 900 plans). This should enable DNR to fully utilize anticipated private forestry consultant capacity, with some allowance for additional expansion in capacity, should this occur beyond current expectations.

9. The Department has stated that approximately 120 foresters (including 21 new field foresters provided under 2001 Act 16) would be available to provide individual consultation to private non-industrial forest landowners. It should be noted that 23 field foresters were provided under 2001 Act 16, however one position has been devoted to updating and managing MFL lands activities records in connection with the Natural Heritage Inventory, and a second has been devoted entirely to enforcement and monitoring issues in connection to existing MFL contracts. Under the bill, this number could be decreased to, potentially, as few as 100 in 2004-05 (assuming the entire reduction in staff was applied to foresters engaged in providing support to private non-industrial forest landowners). While preparing MFL plans is not their sole occupation, DNR estimates that individual foresters complete between 30 and 60 plans annually, depending on other forestry demands in the region where they work. Assuming an average of 35 plans per year per forester, DNR staff would have the capability of completing an estimated 4,200 plans in 2003-04 and at least 3,500 in 2004-05. In addition, funding is available under the bill to contract with private foresters for the preparation of MFL plans, providing DNR with the capability to contract for approximately 765 additional plans annually (the estimated capacity of private consultant foresters), for a potential base level of at least 4,965 plans in 2003-04 and 4,265 in 2004-05 under the bill. This level of support is anticipated to be sufficient to meet the demands of new enrollees in the managed forest law program.

10. However, the provision of this level of support does not address the outstanding backlog of incomplete practices. 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 the periodic harvest of timber. A severance tax is assessed on this lumber, and the revenue is divided between the municipality 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. In 2001-02, DNR timber severance revenues totaled \$617,400. 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. In its February, 2002 audit of the forestry account, the Legislative Audit Bureau noted that as a result of the increased amount of time required to process MFL applications, substantial backlogs in completing mandatory forest practices had developed. Through 2000, 12,404 practices required on 187,165 acres had not yet been completed. In addition, 655 of these (or 5.3%) have been overdue for ten or more years. The oldest of the overdue practices dated back to 1987. Further, DNR argues that addressing the rising workload in forest tax law programs has required the agency to reduce its management efforts on state owned forest land as well as consultation and educational efforts targeted towards non-industrial private forest land owners who may not be enrolled in a forest tax law program.

12. As the intent of the managed forest law program is to promote sustainable forestry and maintain the production of forest products, the existence of a backlog of mandatory practices may mean that some forestland is not being adequately managed, and that the objectives of the program are not being met. In addition, as previously mentioned, the backlog has financial implications for both local units of government and for the forestry account. According to the LAB analysis, 38% of the existing backlog consisted of uncompleted timber harvests (from which the forestry account and local governments would receive a portion of the revenues generated). Based on the average acreage of backlogged harvest practices, as well as the average volume and price per acre, LAB estimated that the current value from deferred tree harvests and thinnings totaled approximately \$2.4 million: \$1.2 million for municipalities and counties in which the practices took place, and \$1.2 million for the forestry account of the conservation fund.

13. It should be noted that the analysis of available resources for the development of MFL plans assumes that each of the available foresters completes 35 plans for new enrollees per year. After the amount of time required to complete these MFL plans is taken into account, a total of 153,600 hours in 2003-04 and 128,000 hours in 2004-05 of forester assistance to private non-industrial forest landowners would remain under the bill. These resources could be devoted to enforcement actions, and assistance with overdue required practices. While the majority of the work required in association with the completion of mandatory practices is undertaken by private

providers (such as harvests or thinning of timber stands), DNR foresters frequently receive requests for assistance in the planning, arrangement, and oversight of these practices. In their budget request, DNR indicated that approximately 15,000 hours would be required each year for extensive enforcement action, 12,200 hours for minimal enforcement action, 44,700 hours for review of mandatory practices completed by consultant foresters, and 178,800 hours to assist in the completion of mandatory backlogged practices using DNR foresters (rather than private consulting foresters). With the resources available under the bill, DNR should be able to meet the demands of completing MFL applications for new enrollees, engage in both minimal and extensive enforcement action related to overdue practices, review all mandatory practices completed by consultant foresters, and allocate approximately 81,400 hours to completing mandatory backlogged practices using DNR foresters (rather than private consulting foresters) in 2003-04, and 56,400 hours in 2004-05. This would represent approximately 3,400 overdue mandatory practices to be addressed in 2003-04 and 2,350 in 2004-05.

14. While this potential reduction in the backlog of existing practices seems significant, it should be noted that the total backlog of mandatory practices continues to increase on an annual basis. In a follow up report to the Joint Audit Committee dated February 18, 2003, DNR indicated that through focused effort and reallocated resources, the backlog of overdue mandatory practices had been reduced by 38%, from the 12,404 practices associated with 187,165 acres reported by LAB the previous year to 7,736 practices associated with 118,888 acres (as of January 31, 2003). The report noted, however, that an additional 2,053 practices associated with 31,518 acres of land came due in 2002, mitigating some of the progress.

15. Further, as the completion of mandatory practices generate severance taxes (which provide additional revenue to both the town where the harvest takes place and the forestry account of the conservation fund), it may be argued that maintaining the current number of foresters in order to address this backlog would be beneficial, particularly since no savings are generated by their elimination under the bill. Maintaining the 20 forester positions in 2004-05 may permit as many as 1,100 additional practices to be eliminated from the existing backlog (if the foresters devoted two-thirds of their available hours to these efforts).

16. Alternatively, if the Committee does not adopt any changes to the bill, DNR is unlikely to be able to spend all funding appropriated for contracting with private forestry consultants. It is anticipated that perhaps \$244,000 in 2003-04 and up to \$1,308,200 in 2004-05 may not be used during the biennium due to DNR demand exceeding the available capacity of the private sector. Any unspent funding would lapse to the balance of the forestry account, to be available in subsequent biennia.

ALTERNATIVES

A. Funding for MFL Contracts

1. Approve the Governor's recommendation to provide \$500,000 annually from the forestry account for contracts with consultant foresters to prepare MFL plans for new program enrollees. (This would increase available funding for MFL contracts to \$800,000 annually.)

2. Provide \$256,000 in 2003-04 and \$325,500 from the forestry account for contracts with consultant foresters to prepare MFL plans for new program enrollees. (This would increase available funding for MFL contracts to \$556,000 in 2003-04 and to \$625,500, based on the expected capacity of the private sector.)

<u>Alternative A2</u>	<u>SEG</u>
2003-05 REVENUE (Change to Bill)	- \$418,500

3. Delete the provision. (Funding available for contracts with consultant foresters to prepare MFL plans would remain at \$300,000 annually.)

<u>Alternative A3</u>	<u>SEG</u>
2003-05 REVENUE (Change to Bill)	- \$1,000,000

B. Forestry FTE

1. Approve the Governor's recommendation to delete 20.0 SEG positions in 2004-05 supported by the forestry account. Transfer \$1,064,200 in 2004-05 from salary and fringe benefit allocations for these positions to supplies and services. Funds associated with these positions would instead be available for other expenditures, primarily for hiring consulting foresters to assist DNR staff in completing management plans for non-industrial forest landowners under the Managed Forest Law (MFL) program.

2. Delete the provision. (Forestry would retain 20 FTE in 2004-05. Funding associated with these positions would remain in the salary and fringe benefit allocations.)

<u>Alternative B2</u>	<u>SEG</u>
2004-05 POSITIONS (Change to Bill)	20.00

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