

FISCAL ESTIMATE FORM

2001 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # - 1342/1**INTRODUCTION # AB-47**

Admin. Rule #

Subject

Failure to Pay Owners of Raw Forest Products

Fiscal EffectState: No State Fiscal EffectCheck columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation. Increase Costs - May be possible to Absorb
Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

 Decrease CostsLocal: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.370 (1) (mu), (3) (mu)

Prepared By: / Phone # / Agency NameRebecca Hotynski/(608) 266-3847
Legislative Fiscal Bureau**Authorized Signature / Telephone No.***Robert Wm. Lang*
Robert Wm. Lang, Director (608) 266-3847**Date**

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Assumptions Used in Arriving at Fiscal Estimate:

Bill Summary: Currently under Wisconsin statutes s. 26.05, no person may cut, remove or transport raw forest products without the consent of the owner of those products. A person who violates this provision is subject to a forfeiture of not less than \$100 nor more than \$10,000. Further, a person who intentionally violates this section may be punished for theft in lieu of the forfeiture. In addition to any other penalty, a person who violates this provision is liable for the reasonable costs incurred to establish the volume and value of the raw forest products cut, removed or transported.

AB 47 would prohibit a person who enters into a contract with the owner of raw forest products under which the person received the owner's consent to cut, remove or transport the raw forest products from failing to pay to the owner the total amount of any compensation for the raw forest products as agreed upon under the contract. Further, in addition to any other penalty the person is liable for the reasonable costs incurred to establish the volume and value of the forest products.

A person who violates these provisions would be subject to the same forfeiture as under the current law provisions dealing with cutting raw forest products without consent. However, a person who fails to pay for raw forest products under a contract with intent to defraud the owner of the raw forest products would be subject to the following criminal penalties in lieu of the civil forfeiture: (a) if the value of the products does not exceed \$1,000, a fine not to exceed \$10,000, or imprisonment not to exceed nine months, or both (a Class A misdemeanor); (b) if the value of the products exceeds \$1,000 but not \$2,500, a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both (a Class E felony); and (c) if the value of the products exceeds \$2,500, a fine not to exceed \$10,000 or imprisonment not to exceed ten years, or both (a Class C felony).

The bill would also specify that if a court enters a judgment in a civil action to recover the amount of any compensation due under a contract to cut, remove or transport raw forest products, the court must also award the successful party court costs and reasonable attorney fees if the unsuccessful party, before the commencement of the action, unreasonably refused to pay a demand for damages or to accept an offer of payment for damages.

Fiscal Estimate: In the fiscal estimate for AB 47, the Department of Natural Resources (DNR) estimates that the provisions of the bill would increase the Department's workload by 3,600 hours and require \$95,200 and 2.0 positions annually. DNR assumes that foresters and conservation wardens would become involved in investigations related to disputed contracts and compensation of raw forest products under the general law enforcement powers of the Department related to forestry matters. The Department estimates that approximately 270,000 acres of non-industrial private forest land is harvested annually, with an average size of harvest being 30 acres of land. Of the resulting 9,000 harvests estimated, DNR assumes that 2%, or 180 harvests, are not executed properly. DNR estimates an average of 20 hours of some combination of investigation activities, determinations whether to issue a citation or pursue a criminal action and potential court testimony would be involved in improperly executed contracts, resulting in the projected workload of 3,600 hours. An entry-level forester would require \$42,200 annually for salary, fringe benefits and supplies (in addition up to \$1,300 in one-time costs may be provided). An entry level conservation warden would require \$51,500 annually and up to \$17,000 in one-time costs. Currently, the balance of the forestry account of the conservation fund is capable of supporting additional foresters or conservation wardens.

The effect of AB 47 on the Department's workload is unclear at this time. AB 47 does not directly require the involvement of DNR in disputed cases. Current law allows landowners to sue forest product harvesters for breach of contract if the terms of the agreement are not fulfilled. While the Department estimates 180 harvests annually are not properly compensated, the actual number is not known and may vary. Further, the number of these cases that could result in the issuance of a citation, or a criminal prosecution, is unknown. However, given the agency's role in forestry law enforcement, some cases brought as a result of the bill could reasonably be expected to involve DNR staff. The number of cases that would require DNR involvement and the extent of that involvement, however, is not clear. Some of the workload anticipated by the Department related to investigation and testimony could also be performed by local law enforcement, district attorneys or private foresters.

The bill appropriates no funding and provides no position authority. Under the bill, any additional workload would have to be absorbed in DNR's base funding. It should be noted that recent legislation has provided increases in staffing for the position classifications the Department indicates would be affected by the provisions of AB 47. The 1997-99 budget adjustment act (1997 Act 237) provided an increase of 17.0 GPR-funded conservation wardens. Four of these wardens were transferred to snowmobile and ATV segregated funding in the 2001-03 biennial budget act (2001 Act 16). In addition, the 1999-01 biennial budget act (1999 Act 9) provided an increase of 5.0 foresters. Finally, 2001 Act 16 provided an increase of 24.0 foresters funded from the forestry account.

Long-Range Fiscal Implications:

