



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1689/1
KP&EKL:skw

2021 SENATE BILL 68

February 5, 2021 - Introduced by Senators TESTIN, L. TAYLOR, PFAFF, RINGHAND and SMITH, cosponsored by Representatives OLDENBURG, NOVAK, SPREITZER, ANDERSON, BALDEH, BOWEN, CABRERA, CONSIDINE, DRAKE, EMERSON, HEBL, B. MEYERS, MOSES, MURSAU, ROZAR, SHANKLAND, SKOWRONSKI, SUBECK, TRANEL, VANDERMEER and VRUWINK. Referred to Committee on Agriculture and Tourism.

1 **AN ACT** *to amend* 20.115 (7) (dm), 20.115 (7) (tm), 71.613 (2) (intro.), 71.613 (2)
2 (a), 71.613 (2) (b), 71.613 (2) (c), 91.04 (intro.) and 91.62 (1) (a); and *to create*
3 71.613 (1) (h) 4., 71.613 (2) (am), 71.613 (2) (bm), 71.613 (2) (cm), 71.613 (2) (d),
4 71.613 (2e), 91.04 (2) (bm) and 91.10 (7) of the statutes; **relating to:** farmland
5 preservation implementation grants, agreements, and tax credits and making
6 an appropriation.

Analysis by the Legislative Reference Bureau

This bill makes the following changes involving farmland preservation implementation grants and agreements and farmland preservation tax credits:

1. Decreases the minimum required length of a farmland preservation agreement between the Department of Agriculture, Trade and Consumer Protection and a farmland owner to 10 years from 15 years. Under current law, a farmland owner who enters into a farmland preservation agreement with DATCP may be eligible to receive farmland preservation tax credits for his or her qualifying acres of farmland.

2. Requires DATCP to include in a report submitted to the Board of Agriculture, Trade and Consumer Protection, the Joint Committee on Finance, the standing committees of the legislature with jurisdiction over agriculture, the Department of Revenue, and the Department of Administration a review of the tax credit amounts for qualifying acres for the farmland preservation tax credit and recommendations

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for the tax credit levels for qualifying acres of farmland. Current law requires DATCP to submit a report about farmland and the farmland preservation program once every two years to the board, DOR, and DOA.

3. Under the farmland preservation tax credit, increases from \$7.50 to \$10 the amount that may be claimed, per qualifying acre, for qualifying acres that are located in a farmland preservation zoning district but are not subject to a farmland preservation agreement.

4. Under the farmland preservation tax credit, increases from \$5 to \$10 the amount that may be claimed, per qualifying acre, for qualifying acres that are subject to a farmland preservation agreement but are not located in a farmland preservation zoning district.

5. Under the farmland preservation tax credit, increases from \$10 to \$12.50 the amount that may be claimed, per qualifying acre, for qualifying acres that are located in a farmland preservation zoning district and are subject to a farmland preservation agreement.

6. Adds a new category of farmland that qualifies for the farmland preservation tax credit. A credit of \$10 per acre may be claimed for farmland that is located in a farmland preservation area, but only to the extent that the acres are covered by an agricultural conservation easement.

7. Authorizes DATCP to award grants to cities, villages, towns, counties, regional planning commissions, and tribal governments for various purposes related to implementing a county's certified farmland preservation plan. Under the bill, DATCP must enter into a contract with a grant recipient before distributing grant funds, and the contract must identify costs eligible for reimbursement through the grant for the following activities: 1) certifying a farmland preservation zoning ordinance for the first time; 2) enrolling land in farmland preservation agreements; 3) designating an agricultural enterprise area or facilitating agricultural preservation and development; 4) monitoring compliance with land and water conservation standards; and 5) farmland preservation program outreach.

The bill also indexes the farmland preservation tax credit dollar amounts described above for inflation.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 20.115 (7) (dm) of the statutes is amended to read:
- 2 20.115 (7) (dm) *Farmland preservation planning and implementation grants.*
- 3 The amounts in the schedule for farmland preservation planning grants under s.
- 4 91.10 (6) and for farmland preservation implementation grants under s. 91.10 (7).

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1 **SECTION 2.** 20.115 (7) (tm) of the statutes is amended to read:

2 20.115 (7) (tm) *Farmland preservation planning and implementation grants,*
3 *working lands fund.* From the working lands fund, the amounts in the schedule for
4 farmland preservation planning grants under s. 91.10 (6) and for farmland
5 preservation implementation grants under s. 91.10 (7).

6 **SECTION 3.** 71.613 (1) (h) 4. of the statutes is created to read:

7 71.613 (1) (h) 4. The farm is wholly or partially covered by an agricultural
8 conservation easement purchased under s. 93.73, except that if the farm is only
9 partially covered, the qualifying acres calculation includes only those acres that are
10 covered by the agricultural conservation easement and located in a farmland
11 preservation area, as defined in s. 91.01 (16), at the end of the taxable year to which
12 the claim relates.

13 **SECTION 4.** 71.613 (2) (intro.) of the statutes is amended to read:

14 71.613 (2) FILING CLAIMS. (intro.) Subject to sub. (2e) and to the limitations and
15 conditions provided in sub. (3), a claimant may claim as a credit against the tax
16 imposed under s. 71.02, 71.23, or 71.43, an amount calculated by multiplying the
17 claimant's qualifying acres by one of the following amounts, and if the allowable
18 amount of the claim exceeds the income taxes otherwise due on the claimant's income
19 or if there are no Wisconsin income taxes due on the claimant's income, the amount
20 of the claim not used as an offset against income taxes shall be certified by the
21 department of revenue to the department of administration for payment to the
22 claimant by check, share draft, or other draft from the appropriation under s. 20.835
23 (2) (do):

24 **SECTION 5.** 71.613 (2) (a) of the statutes is amended to read:

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1 71.613 (2) (a) ~~Ten dollars~~ Except as provided in par. (am), \$10, if the qualifying
2 acres are located in a farmland preservation zoning district and are also subject to
3 a farmland preservation agreement that is entered into after July 1, 2009.

4 **SECTION 6.** 71.613 (2) (am) of the statutes is created to read:

5 71.613 (2) (am) For taxable years beginning after December 31, 2020, the
6 amount that may be claimed per qualifying acre under par. (a) shall be \$12.50.

7 **SECTION 7.** 71.613 (2) (b) of the statutes is amended to read:

8 71.613 (2) (b) ~~Seven dollars and 50 cents~~ Except as provided in par. (bm), \$7.50,
9 if the qualifying acres are located in a farmland preservation zoning district but are
10 not subject to a farmland preservation agreement that is entered into after July 1,
11 2009.

12 **SECTION 8.** 71.613 (2) (bm) of the statutes is created to read:

13 71.613 (2) (bm) For taxable years beginning after December 31, 2020, the
14 amount that may be claimed per qualifying acre under par. (b) shall be \$10.

15 **SECTION 9.** 71.613 (2) (c) of the statutes is amended to read:

16 71.613 (2) (c) ~~Five dollars~~ Except as provided in par. (cm), \$5, if the qualifying
17 acres are subject to a farmland preservation agreement that is entered into after July
18 1, 2009, but are not located in a farmland preservation zoning district.

19 **SECTION 10.** 71.613 (2) (cm) of the statutes is created to read:

20 71.613 (2) (cm) For taxable years beginning after December 31, 2020, the
21 amount that may be claimed per qualifying acre under par. (c) shall be \$10.

22 **SECTION 11.** 71.613 (2) (d) of the statutes is created to read:

23 71.613 (2) (d) For taxable years beginning after December 31, 2020, \$10, if the
24 qualifying acres are subject to sub. (1) (h) 4., but only to the extent that such acres
25 are covered by an agricultural conservation easement purchased under s. 93.73.

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1 **SECTION 12.** 71.613 (2e) of the statutes is created to read:

2 71.613 **(2e)** INDEXING FOR INFLATION. (a) Except as provided in par. (b), in
3 August 2022, and every August thereafter, the department, in consultation with the
4 department of agriculture, trade and consumer protection, shall increase the dollar
5 amounts in sub. (2) (am), (bm), (cm), and (d) by a percentage equal to the percentage
6 change over the previous 12 months of an index of prices paid by farmers, as
7 determined by the the national agricultural statistics service of the U.S. department
8 of agriculture. The adjustment may occur only if the resulting dollar amounts are
9 greater than the corresponding amounts that were calculated for the previous year.
10 If an adjustment is not made in a previous year due to a negative change in the index,
11 any subsequent adjustment shall be based on the percentage change in the index
12 since August of the year that an adjustment under this paragraph last occurred,
13 except that following a negative change in the index, no adjustment may occur under
14 this paragraph until the current level of the index exceeds the highest level that the
15 index had previously reached.

16 (b) In August 2022, and every August thereafter, if the department is unable
17 to make the adjustment described in par. (a) for a reason other than the resulting
18 dollar amounts not being greater than the corresponding amounts calculated for the
19 previous year, the department shall increase the dollar amounts in sub. (2) (am),
20 (bm), (cm), and (d) by a percentage equal to the percentage change over the previous
21 12 months of the consumer price index for all urban consumers, U.S. city average,
22 as determined by the U.S. department of labor. The adjustment may occur only if the
23 resulting dollar amounts are greater than the corresponding amounts that were
24 calculated for the previous year.

25 **SECTION 13.** 91.04 (intro.) of the statutes is amended to read:

SENATE BILL 68**SECTION 13**

1 **91.04 Department to report.** (intro.) At least once every 2 years, beginning
2 not later than December 31, 2011, the department shall submit a farmland
3 preservation report to the joint committee on finance, the standing committees of the
4 legislature with jurisdiction over agriculture under s. 13.172 (3), and the board of
5 agriculture, trade and consumer protection and provide copies of the report to the
6 department of revenue and the department of administration. The department shall
7 prepare the report in cooperation with the department of revenue and shall include
8 all of the following in the report:

9 **SECTION 14.** 91.04 (2) (bm) of the statutes is created to read:

10 91.04 (2) (bm) The amount of the tax credits per qualifying acre, and the
11 recommendations of the department for the tax credit amounts.

12 **SECTION 15.** 91.10 (7) of the statutes is created to read:

13 91.10 (7) (a) From the appropriation under s. 20.115 (7) (dm) or (tm), the
14 department may award a grant to a city, village, town, county, regional planning
15 commission, or tribal government for implementing a county's certified farmland
16 preservation plan. In determining priorities for awarding grants under this
17 subsection, the department shall first consider requests for grants under sub. (6) (a).

18 (b) The department may award an implementation grant under par. (a) for the
19 costs of any of the following activities in an area that is planned for farmland
20 preservation in a county's certified farmland preservation plan:

21 1. Certifying a farmland preservation zoning ordinance under s. 91.36 for the
22 first time.

23 2. Entering into farmland preservation agreements under s. 91.60.

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1 3. Designating an agricultural enterprise area under s. 91.84 or developing a
2 project to facilitate agricultural preservation and development consistent with s.
3 91.84 (1) (a) 1.

4 4. Monitoring compliance under s. 91.82.

5 5. Targeted farmland preservation program outreach.

6 (c) The department shall enter into a contract with a city, village, town, county,
7 regional planning commission, or tribal government to which it awards an
8 implementation grant under par. (a) before the department distributes any grant
9 funds to the recipient. In the contract, the department shall identify the costs for the
10 activities under par. (b) that are eligible for reimbursement through the grant and
11 a benchmark for distributing at least 50 percent of the grant funds.

12 (d) The department may distribute grant funds under this subsection only after
13 the city, village, town, county, regional planning commission, or tribal government
14 shows that it has incurred costs that are eligible for reimbursement under par. (c).
15 The department may not distribute more than 50 percent of the amount of a grant
16 under par. (a) for an implementation project before the recipient completes the
17 benchmark identified in the contract under par (c).

18 (e) The department may require a recipient of an implementation grant under
19 par. (a) to contribute matching funds up to 50 percent of the amount of the grant.

20 (f) The department may consider the following factors when awarding grants
21 under par. (a):

22 1. The recipient's demonstrated commitment to implementing the county's
23 certified farmland preservation plan, and the strength of documentation supporting
24 the plan.

SENATE BILL 68**SECTION 15**

1 2. The recipient's demonstrated commitment and capacity to implement and
2 maintain farm conservation practices promulgated by the department under ss.
3 92.05 (3) (c) and (k), 92.14 (8), and 281.16 (3) (b) and (c).

4 3. The likelihood that activities funded by the grant address goals in the
5 county's certified farmland preservation plan or grow participation in a local
6 farmland preservation program.

7 4. The relative cost-effectiveness of activities funded by the grant in locally
8 implementing the farmland preservation program.

9 5. The timeliness and completeness of plans and applications.

10 6. The recipient's demonstrated cooperation and commitment to manage and
11 implement funded projects.

12 7. A county's annual financial contribution for soil and water resource
13 management programs or funding awarded to county land conservation committees
14 as a part of an annual grant under s. 92.14.

15 8. Any other factor relevant to administering this chapter.

16 **SECTION 16.** 91.62 (1) (a) of the statutes is amended to read:

17 91.62 (1) (a) Specifies a term of at least ~~15~~ 10 years.

18

(END)