

2009 DRAFTING REQUEST

Bill

Received: **09/11/2008**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Miner**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact: **DATCP**

Adl. Drafters: **mshovers**

Subject: **Agriculture - other
Tax, Individual - income credit**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Miner, BB0112 -

Topic:

Change farmland preservation program

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe 10/01/2008 mshovers 10/07/2008	csicilia 10/14/2008		_____			
/P1			mduchek 10/15/2008	_____	sbasford 10/15/2008		
/P2	btradewe 11/12/2008	csicilia 11/13/2008	rschluet 11/13/2008	_____	mbarman 11/13/2008		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	btradewe 12/05/2008	csicilia 12/09/2008	rschluet 12/09/2008	_____	mbarman 12/09/2008		
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/P5	btradewe 01/22/2009 mshovers 01/23/2009	csicilia 01/23/2009	rschluet 01/23/2009	_____	cduerst 01/23/2009		
/P6	mshovers 01/27/2009	csicilia 01/28/2009	phenry 01/28/2009	_____	lparisi 01/28/2009		State
/1	mshovers 01/28/2009	csicilia 01/29/2009	phenry 01/29/2009	_____	lparisi 01/29/2009		State
/2	mshovers 01/30/2009	csicilia 01/30/2009	mduchek 01/30/2009	_____	cduerst 01/31/2009		

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12 MES 1/30/09

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Handwritten notes: P3 ejs 12/9/08 and a signature.

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

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/P1			mduchek 10/15/2008		sbasford 10/15/2008		

FE Sent For:

*P2 ejs 11/13
OB*
[Signature]
11/38

<END>

2009 DRAFTING REQUEST

Bill

Received: **09/11/2008**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Agricult. Trade and Cons. Prot. 224-5022**

By/Representing: **Jim Matson**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters: **mshovers**

Subject: **Agriculture - other
Tax, Individual - income credit**

Extra Copies:

Submit via email: **YES**

Requester's email: **James.Matson@Wisconsin.gov**

Carbon copy (CC:) to: **keeley.moll@datcp.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Change farmland preservation program

Instructions:

See attached

Drafting History:

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For: **Agricult. Trade and Cons. Prot. 224-5022**

By/Representing: **Jim Matson**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters: **mshovers**

Subject: **Agriculture - other
Tax, Individual - income credit**

Extra Copies:

Submit via email: **YES**

Requester's email: **James. Matson@Wisconsin.gov**

Carbon copy (CC:) to: **keeley.moll@datcp.state.wi.us**

Pre Topic:

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1/2	btradewe	/PI cjs	10	MD/RS/			
1/2	MES	10/7/08	10	JF			
		10/14		10			

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: **10/03/2006**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Agricult. Trade and Cons. Prot.**

By/Representing: **Barb Knapp**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters: **mshovers**

Subject: **Agriculture - miscellaneous
Tax, Individual - income credit**

Extra Copies:

Submit via email: **YES**

Requester's email: **Barb.Knapp@datcp.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Farmland preservation and farm tax credits

Instructions:

See Attached

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2007 DRAFTING REQUEST

Bill

Received: 10/03/2006

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Agricult. Trade and Cons. Prot.

By/Representing: Barb Knapp

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Drafter: btradewe

May Contact:

Addl. Drafters: mshovers

Subject: Agriculture - miscellaneous
Tax, Individual - income credit

Extra Copies:

Submit via email: YES

Requester's email: Barb.Knapp@datcp.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

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1/2	btradewe	1/16/07 12/14	Jb 12/14	J/P 12/14			

FE Sent For:

<END>

Tradewell, Becky

From: Matson, James K - DATCP [James.Matson@Wisconsin.gov]
Sent: Thursday, September 11, 2008 1:52 PM
To: Tradewell, Becky
Cc: Pielsticker, Kathy F - DATCP; Jelinski, Dave - DATCP; Foye, Keith W - DATCP; Walker, William D - DATCP
Subject: FARMLAND PRESERVATION LEGISLATION
Attachments: COMMENTS ON LRB DRAFT2 (DATCP Draft 9-10-08).doc

Hi Becky. I am finally getting back to you with our latest (and hopefully nearly final) comments on the proposed farmland preservation package. Please see the following document attached:

- Comments on proposed legislation to overhaul the current farmland preservation program (LRB-0447/P2dn).

If you have any questions, feel free to call me. Thanks again for your excellent work.

Jim Matson
DATCP Counsel
224-5022



COMMENTS ON
B DRAFT2 (DATCP

Proposed Farmland Preservation Legislation

**DATCP SUGGESTED REVISIONS
TO LRB DRAFT (LRB-0447/P2)**

Add appropriations (insert at page 2, after line 3):

✓ **SECTION 1c.** 20.115(7)(dm) of the statutes is created to read:

20.115(7)(dm) As a continuing appropriation, the amounts in the schedule for the award of farmland preservation planning grants to counties under s. 91.10(6). No moneys may be encumbered from this appropriation after June 30, 2016.

[DRAFTER'S NOTE: Under s. 91.10(6), a planning grant may reimburse up to 50% of a county's cost to prepare a farmland preservation plan. DATCP proposes a GPR grant appropriation of \$420,000 per year, beginning in the second year of the FY 2009-11 biennium, for planning grants to counties. That appropriation would fund grants to approximately 14 counties each year, assuming an average grant of \$30,000 per county.]

✓ **SECTION 1g.** 20.115(7)(dr) of the statutes is created to read:

20.115(7)(dr) As a continuing appropriation, the amounts in the schedule for the award of grants under s. 91.88 for the preparation of petitions to create agricultural enterprise areas. No moneys may be encumbered from this appropriation after June 30, 2012.

[DRAFTER'S NOTE: Under s. 91.88, a grant may reimburse up to 50% of a local government's cost to prepare a petition to create an agricultural enterprise area. DATCP proposes a GPR appropriation of \$200,000 in the second year of the FY 2009-11 biennium. That appropriation would fund approximately 10 "pilot" grants of up to \$20,000 each.]

SECTION 1m. 20.835(2)(dm) of the statutes is amended to read:

20.835(2)(dm) *Farmland preservation credit.* A sum sufficient to pay aggregate farmland preservation tax credit claims approved under subch. IX of ch. 71 ss. 71.57 to 71.61 and s. 71.613, to the extent that those claims are not paid under par. (kc).

[DRAFTER'S NOTE: This bill eliminates the farmland tax relief credit (an income tax credit based on property tax payments) under ss. 71.07(3m)(c), 71.28(2m)(c), and 71.47(2m)(c), Stats., beginning with the 2010 tax year. Indian gaming receipts currently used to fund that farmland tax relief credit would instead be used to fund an expanded farmland preservation tax credit

under s. 71.613, Stats., beginning in 2010. The farmland preservation tax credit, like farmland tax relief credit, is an income tax credit that is available only to property tax payers (although the amount of the credit will no longer depend on the amount of property tax payments). The amended sum sufficient GPR appropriation under s. 20.835(2)(dm) will continue to fund the farmland preservation tax credit, to the extent that claims are not paid by Indian gaming receipts previously used to fund the farmland tax relief credit. DATCP estimates that the cost of the expanded farmland preservation tax credit (created by this bill) will be \$28 million per year – approximately equal to the combined cost of the current farmland tax relief credit (repealed by this bill) and the current farmland preservation tax credit.]

SECTION 1n. 20.835(2)(dn) of the statutes is repealed.

[DRAFTER'S NOTE: This sum sufficient GPR appropriation previously supplemented Indian gaming revenue funding for the farmland tax relief credit (repealed by this bill). However, no further encumbrances or expenditures have been permitted under this appropriation since the 2000 budget. This section merely repeals the already-defunct appropriation.]

SECTION 1p. 20.835(2)(ka) of the statutes is amended to read:

20.835(2)(ka) *Farmland tax relief credit; Indian gaming receipts.* ~~All moneys transferred from the appropriation account under s. 20.505(8)(hm)19.~~ From the appropriation account under par. (kc), an amount sufficient to pay the aggregate claims approved under ss. 71.07(3m)(c), 71.28(2m)(c), and 71.47(2m)(c).

[DRAFTER'S NOTE: This bill eliminates the farmland tax relief credit, beginning with the 2010 tax year. Most of the Indian gaming receipts previously used to fund the repealed tax credit will instead be used to fund a newly expanded farmland preservation tax credit. However, some small amount of Indian gaming receipts may still be needed to fund delayed residual claims under the repealed tax credit provisions. The amended appropriation allows for that residual funding.]

SECTION 1r. 20.835(2)(kc) of the statutes is created to read:

20.835(2)(kc) *Farmland preservation credit; Indian gaming receipts.* All moneys transferred from the appropriation account under s. 20.505(8)(hm)19., less the amount transferred to the appropriation account under par. (ka), to pay the aggregate farmland preservation tax credit claims approved under ss. 71.57 to 71.61 and s. 71.613, Stats.

[DRAFTER'S NOTE: This new appropriation redirects Indian gaming revenues, currently used to fund the farmland tax relief credit (repealed by this bill), to fund the newly expanded farmland preservation tax credit (created

under s. 71.613). This new appropriation, like the amended appropriation under s. 20.835(2)(dm), Stats., will also be used to pay a limited number of claims under the "old" farmland preservation tax credit (ss. 71.57 to 71.61) – for example, by persons covered by existing farmland preservation agreements.]

71.61(6): Modify as follows:

71.61(6) PROHIBITION OF NEW CLAIMS. For taxable years beginning after December 31, ~~2008~~ 2009, no new claims for a credit may be filed under ss. 71.57 to 71.61, but if an otherwise eligible claimant is subject to a farmland preservation agreement, as defined in s. 91.01(7) 2005 stats., that is in effect on January 1, ~~2009~~ 2010, the claimant may continue to file a claim for the credit under ss. 71.57 to 71.61 until the farmland preservation agreement expires, except that no claimant who files a claim under ss. 71.57 to 71.61 may file a claim under s. 71.613.

71.613(title): Modify as follows:

71.613(title) Farmland preservation credit, ~~2009~~ 2010 and beyond.

71.613(3)(d): Substitute the following:

71.613(3)(d) A claimant shall claim the credit under this section on a form prepared by the department, and shall include relevant documentation required by the department. A claimant shall certify all of the following in the claim form:

1. The number of qualifying acres for which the credit is claimed.
2. The location, including tax parcel number, of each tax parcel on which the qualifying acres are located.
3. That the claimant has paid, or is legally responsible for paying, property taxes levied against the qualifying acres. The department may require a claimant to include a copy of the claimant's property tax bill related to the qualifying acres.
4. That the qualifying acres are covered by a farmland preservation agreement or located in a farmland preservation zoning district, or both. The department may require a copy of the farmland preservation agreement, or a certificate of zoning coverage issued by the responsible zoning authority, unless the claimant has already submitted that documentation in connection with a prior year's claim under this section or s. 71.59.
5. That the qualifying acres are part of a farm that complies with applicable state soil and water conservation standards, as required by s. 91.80. The claimant shall include a certification of compliance issued by the county land conservation committee unless, in the last preceding year, the claimant received a tax credit under ss. 71.57 to 71.61 or this section for the same farm.

[DRAFTER'S NOTE: Under the current farmland preservation law and this bill, a landowner must comply with soil and water conservation standards in order to receive farmland preservation tax credits. Under the current law and this bill, county land conservation committees monitor compliance. If a landowner fails to comply, the county land conservation committee may issue a notice of noncompliance that disqualifies the landowner from receiving tax credits.

This bill assumes that landowners receiving tax credits under the current law are already in compliance with applicable soil and water conservation standards. If a landowner is not receiving tax credits under current law, but wishes to claim the more attractive tax credits under this bill, the county land conservation committee must first certify that the landowner is complying with applicable soil and water conservation standards (one-time certification). That provides greater assurance of conservation compliance and, in effect, also controls the rate of growth of new tax credit claims. The fiscal impact of the bill can therefore be predicted with reasonable certainty.

✓ **91.01(29): Modify as follows, and re-order alphabetically:**

91.01(29) "~~Working lands~~ Agricultural enterprise area" means an area designated in accordance with ~~the rules under s. 91.60(2)(e)~~ subch. VI.

✓ **91.02(2)(o): Modify as follows:**

91.02(2)(o) Specify criteria for designating ~~working lands~~ agricultural enterprise areas under s. ~~91.60(2)(e)~~ subch. VI.

✓ **91.04(2)(g): Modify as follows:**

91.04(2)(g) The number, nature, and location of ~~working lands~~ agricultural enterprise areas.

✓ **91.10: Add a new subsection (6) as follows:**

91.10(6)(a) From the appropriation under s. 20.115(7)(dm), the department may award planning grants to counties to reimburse up to 50% of a county's cost to prepare a farmland preservation plan under this section. In determining grant priorities under this subsection, the department shall consider the plan certification expiration dates under s. 91.14.

(b) The department shall enter into a grant contract with each county that receives a grant under par. (a) before the department distributes any grant funds to that county. The contract shall identify the costs that are eligible for reimbursement under the contract.

(c) The department shall distribute grant funds on a reimbursement basis, after the county documents that it has incurred costs that are eligible for reimbursement under

the grant contract. The department may not distribute more than 50 percent of a grant award for a farmland preservation plan prior to the date on which the county submits that plan for certification under s. 91.16.

✓ **91.14: Substitute the following:**

91.14 Expiration of plan certification. (1) The certification of a county farmland preservation plan that was certified under s. 91.06, 2005 stats., expires on the date provided in the certification or, if the certification does not provide an expiration date, on the following date:

(a) December 31, 2011, for a county with an average population increase per square mile of more than 9%.

(b) December 31, 2012, for a county with an average population increase per square mile of more than 3.75% but not more than 9%.

(c) December 31, 2013, for a county with an average population increase per square mile of more than 1.75% but not more than 3.75%.

(d) December 31, 2014, for a county with an average population increase per square mile of more than 0.8% but not more than 1.75%.

(e) December 31, 2015, for a county with an average population increase per square mile of not more than 0.8%.

(2) The certification of a county farmland preservation plan that the department certifies under s. 91.16 expires on the date specified under s. 91.16(2).

(3) For purposes of sub. (1), a county's average population increase per square mile is the difference between the county's average population per square mile as determined by the 2000 federal census and its average population per square mile as determined by the 2007 population estimate published by the Wisconsin department of administration.

✓ **91.46(2)(intro.), (b) and (c)1.: Substitute the following:**

91.46(2)(intro.) A nonfarm residence qualifies for the purposes of sub. (1)(d) if the political subdivision determines that all of the following apply:

(b) There will be not more than 4 nonfarm residences, nor more than 5 residences of any kind, on the base farm tract after the nonfarm residence is constructed. Each separate dwelling unit in a duplex or multi-unit residential building counts as a separate residence for purposes of this paragraph.

[DRAFTER'S NOTE: Under the current draft (LRB-0447/P2), a local government may not approve a non-farm residence in a farmland preservation zoning district unless the residence is a single-family residence. Upon further reflection, we propose to allow multi-family residences (which may actually be better from the standpoint of encouraging compact development), provided that each dwelling unit in the multi-family residence counts as a separate residence for purposes of the residential density limit under sub. (2)(b).]

(c)1. Convert prime farmland from agricultural use, or convert land previously used as cropland other than woodlots from agricultural use, if on the farm there are reasonable alternative locations for a nonfarm residential parcel or nonfarm residence.

✓ **91.46(4) to (6): Substitute the following:**

91.46(4) TRANSPORTATION, COMMUNICATIONS, PIPELINE, ELECTRIC TRANSMISSION, UTILITY OR DRAINAGE USE. A transportation, communications, pipeline, electric transmission, utility or drainage use qualifies for the purposes of sub. (1)(f) if the political subdivision determines that all of the following apply:

(a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.

(c) The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural or open space use.

(d) The use does not substantially impair or limit current or future agricultural use of surrounding land parcels that are zoned for or legally restricted to agricultural use.

(e) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(5) GOVERNMENTAL, INSTITUTIONAL, RELIGIOUS, OR NONPROFIT COMMUNITY USE. A governmental, institutional, religious, or nonprofit community use qualifies for the purposes of sub. (1)(g) if the political subdivision determines that all of the following apply:

(a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.

(c) The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural or open space use.

(d) The use does not substantially impair or limit current or future agricultural use of surrounding land parcels that are zoned for or legally restricted to agricultural use.

(e) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(6) NONMETALLIC MINERAL EXTRACTION. Nonmetallic mineral extraction qualifies for the purposes of sub. (1)(h) if the political subdivision determines that all of the following apply:

(a) The operation complies with subch. I of ch. 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under s. 295.13 or 295.14, and with any applicable requirements of the department of transportation concerning the restoration of nonmetallic mining sites.

(b) The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(c) The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.

(d) The operation is reasonably designed to minimize conversion of land, around the extraction site, from agricultural or open space use.

(e) The operation does not substantially impair or limit current or future agricultural use of surrounding land parcels that are zoned for or legally restricted to agricultural use.

(f) The farmland preservation zoning ordinance requires the landowner to restore the land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.

✓ **91.48(1)(a)4. and (1)(b): Substitute the following:**

91.48(1)(a)4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding land parcels that are zoned for or legally restricted to agricultural use.

91.48(1)(b) The owner of the land pays to the political subdivision, for each rezoned acre or portion thereof, a conversion fee equal to the greater of the following:

1. Three times the per acre assessment value of grade 1 cropland in the town where the rezoned land is located, as last published by the Wisconsin department of revenue.
2. An amount specified in the certified farmland preservation ordinance.

✓ **91.60(2)(c) and (d): Substitute the following:**

91.60(2)(c) The land is in an agricultural enterprise area designated according to subch. VI.

✓ **91.60(3)(a): Modify as follows:**

91.60(3)(a) Except as provided in par. (c) or s. 91.66, a farmland preservation agreement entered into before the effective date of this paragraph [~~reviser~~ *LRB inserts date*], remains in effect for the term specified in the agreement and under the terms that were agreed upon when the agreement was last created, extended or renewed.

✓ **91.60(3)(c): Create as follows:**

91.60(3)(c) The parties to a farmland preservation agreement may, by mutual consent, amend the agreement so that all of the following apply:

1. A person eligible for farmland preservation tax credits under the agreement may claim the tax credit provided under s. 61.613, Stats., rather than the tax credit that applied when the agreement was last created, extended or renewed.
2. The agreement may be terminated or released according to s.

91.66.

✓ **91.66(1)(c): Substitute the following:**

91.66(1)(c) The owner of the land pays to the political subdivision, for each rezoned acre or portion thereof, a conversion fee equal to the greater of the following:

1. Three times the per acre assessment value of grade 1 cropland in the town where the rezoned land is located, as last published by the Wisconsin department of revenue.
2. An amount specified in the certified farmland preservation ordinance.

✓ **Insert after s. 91.82 (p. 49, after line 25):**

SUBCHAPTER VI
AGRICULTURAL ENTERPRISE AREAS

91.84 Agricultural enterprise areas; general. (1) DESIGNATION. (a) The department may by rule designate agricultural enterprise areas targeted for agricultural preservation and development.

(b) Except as provided in par. (c), the department may designate agricultural enterprise areas encompassing a combined total of up to one million acres of land.

(c) The department may designate up to 10 agricultural enterprise areas, encompassing a combined total of not more than 200,000 acres of land, on or before January 1, 2012.

(d) The department may designate agricultural enterprise areas under par. (c) by emergency rule under s. 227.24, Stats., without a finding of emergency under s. 227.24(1), Stats.

(2) EFFECT OF DESIGNATION. (a) The designation of an agricultural enterprise area under sub. (1) allows owners of eligible land within the designated area to enter into voluntary farmland preservation agreements with the department under s. 91.60.

(b) The designation of an agricultural preservation area does not, by itself, control or limit land use within the agricultural preservation area.

(c) The department may by rule repeal or modify the designation of an agricultural preservation area. If land covered by a farmland preservation agreement is no longer included in an agricultural preservation area, the agreement continues in effect for the remainder of its term but may not be extended or renewed.

[DRAFTER'S NOTE: For example, the department could repeal the designation of an agricultural preservation area if the petitioners who asked for the designation fail to implement their plan for the area.]

(3) INCLUDED LAND. (a) An agricultural enterprise area designated under sub. (1) shall comply with all of the following requirements at the time of designation:

1. It shall include at least 1,000 acres of land, all of which shall be contiguous. Land is contiguous, for purposes of this subdivision, if it is separated only by a lake or stream, or by a transportation or utility right-of-way.

2. It shall be entirely located within a farmland preservation area designated under a county's certified farmland preservation plan.

3. It shall be primarily in agricultural use.

(b) The rule designating an agricultural enterprise area under sub. (1) shall include a map that clearly identifies the boundaries of the designated area, so that a reader can easily determine whether a land parcel is located within the designated area.

(4) LOCAL PETITION. A rule designating an agricultural enterprise area under sub. (1) shall be based on an approved local petition under s. 91.86.

(5) EFFECTIVE DATE. The designation of an agricultural enterprise area takes effect on January 1 of the first calendar year following the year in which the rule designating that area is published, unless the rule specifies a later effective date.

ATCP 91.86 Agricultural enterprise area; local petition. (1) JOINT PETITIONERS. (a) A local petition under s. 91.84(4) shall be a joint petition by all of the following:

1. Each political subdivision in which any part of the proposed agricultural enterprise area is located.

2. Owners of land comprising at least 5 eligible farms under par. (b).

(b) A farm is eligible, for purposes of par. (a)2., if it meets all of the following requirements:

1. It includes at least 35 contiguous acres of land located within the proposed agricultural enterprise area.

2. It has produced at least \$6,000 in gross profits during the last taxable year preceding the year of the local petition, or a total of at least \$18,000 in gross farm profits during the 3 taxable years preceding that year.

(c) A local petition shall be signed by each petitioner under par. (a), or by an authorized officer or representative of the petitioner if the petitioner is not an individual.

(2) PETITION CONTENTS. A local petition under s. 91.84(4) shall include all of the following:

(a) The correct legal name and principal address of each petitioner under sub.

(1)(a). The petition may include the names and addresses of other persons or entities that may join in the proposal as cooperators.

(b) A summary of the petition, including the purpose and rationale for the petition.

(c) A map that clearly identifies the boundaries of the proposed agricultural enterprise area, so that a reader can easily determine whether a land parcel is located within the designated area.

(d) Documentation showing that the proposed agricultural enterprise area meets applicable requirements under s. 91.84(3).

(e) A clear description of current land uses in the proposed agricultural enterprise area.

(f) A clear description of the agricultural land use and development planned for the agricultural enterprise area. This shall include a description of current and proposed agricultural uses, agriculture-related uses, undeveloped natural resource and open space uses, and other relevant uses including relevant transportation, utility, energy and communication uses.

(g) A plan for achieving the agricultural land use and development goals identified under par. (f), including any planned investments, grants, development incentives, cooperative agreements, land use controls, land purchases or easements, land donations, promotion and public outreach.

(h) A clear description of current or proposed land use controls in the agricultural enterprise area, if any, including relevant zoning ordinances, farmland preservation agreements, easements or other land use controls.

ATCP 91.88 Grants to prepare local petitions. (a) From the appropriation under s. 20.115(7)(dr), the department may award grants to political subdivisions, to reimburse up to 50% of a political subdivision's cost to organize and prepare a local petition under s. 91.86. The department may solicit grant requests, make grant awards, and enter into grant contracts with the political subdivisions that receive grant awards. A grant award to a political subdivision under this paragraph may not exceed \$20,000.

(b) The department shall enter into a grant contract with each political subdivision that receives a grant award under par. (a), before the department distributes any grant funds to that political subdivision. The contract shall identify the purposes for which the grant is awarded, and the costs that are eligible for reimbursement under the contract.

(c) The department shall distribute grant funds to a political subdivision on a reimbursement basis, after the political subdivision documents that it has incurred costs that are eligible for reimbursement under the grant contract. The department may not distribute more than 50 percent of a grant award for a proposed local petition under s. 91.86 prior to the date on which the department receives the completed local petition.

Tradewell, Becky

From: Matson, James K - DATCP [James.Matson@Wisconsin.gov]
Sent: Monday, September 29, 2008 10:12 AM
To: Tradewell, Becky
Cc: Jelinski, Dave - DATCP; Foye, Keith W - DATCP; Walker, William D - DATCP
Subject: RE: Agricultural Conservation Easements - Bill Draft

Becky - Yes, good catch. The dates should stay the same (zoning expiration dates are one year later than plan expiration dates), but the other language related to county population increase should be the same as for the expiration of plan certifications. -- Jim

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Thursday, September 25, 2008 11:15 AM
To: Matson, James K - DATCP
Subject: RE: Agricultural Conservation Easements - Bill Draft

Jim,

Should s. 91.34, relating to the expiration of zoning certification, be changed in the same way that s. 91.14, relating to expiration of plan certification, is changed?

Becky

From: Matson, James K - DATCP [mailto:James.Matson@Wisconsin.gov]
Sent: Monday, September 15, 2008 10:21 AM
To: Tradewell, Becky
Cc: Pielsticker, Kathy F - DATCP; Jelinski, Dave - DATCP; Foye, Keith W - DATCP
Subject: Agricultural Conservation Easements - Bill Draft

Hi Becky -- Here is a slightly revised version of the Agricultural Conservation Easements that I sent you last week. The latest revisions are highlighted in this draft. Sorry that this continues to be a moving target, but I think we are getting pretty close. Thanks again for your help. -- Jim Matson

<< File: PACE - Draft 9-15-08.doc >>

Tax 18.06(2)



(2) For each legal description of property that includes a parcel of **agricultural land**, the assessor shall indicate on the property record card, by acreage, the **category** of **agricultural land**. Categories of **agricultural land** are the following:

Tax 18.06(2)(a)



(a) First grade tillable cropland.

Tax 18.06(2)(b)



(b) Second grade tillable cropland.

Tax 18.06(2)(c)



(c) Third grade tillable cropland.

Tax 18.06(2)(d)



(d) Pasture.

Tax 18.06(2)(e)



(e) Specialty land.

Manual - 7303(2a) -
guidelines for class land
as ag land
various categories of ag land
based on income

assist assessors in determining whether a particular use is an “agricultural use” and whether the property has “land devoted primarily to agricultural use.”

Under the NAICS an “establishment” is described as “a single physical location, where business is conducted or where services or industrial operations are performed . . .” Agricultural establishments within NAICS Sector 11-- Agriculture, Forestry, Fishing, and Hunting, include those primarily engaged in agricultural production. Farms are the establishment units used for the industrial classification of agricultural production. A farm may consist of a single tract of land or several separate tracts that may be owned or leased by one or more persons, or a partnership, corporation or other type of organization. Each operating establishment is assigned an industry code based on the primary product or group of products produced.

The NAICS Manual classifies establishments primarily engaged in crop (Subsector 111) or livestock and livestock product (Subsector 112) production when production accounts for 50 percent or more of the total value of sales for its agricultural products. Within a subsector, establishments are classified to a specific industry when a product or industry family of products account for 50% or more of the establishment’s agricultural production. Several uses of land may seem agricultural on the surface, but fail to meet the definitions in Chapter Tax 18.05 and, thus, are not eligible for classification as “agricultural” land. Some examples of uses that are *not* “agricultural uses” include those listed in the following NAICS Sector and Subsector groups:

Sector 11. - Agriculture, Forestry, Fishing, and Hunting

- Growing rotation woody trees with growth & harvest cycle of 10 years or less for pulp or tree stock (111421)
- Timber Tract Operations (for sale of timber), (113110)
- Forest Nurseries (for reforestation) and Gathering of Forest Products (barks, needles, moss, etc.), (113210)
- Fishing preserves (114210)
- Game preserves (114210)
- Hunting preserves (114210)
- Game propagation (114210)
- Support Activities for Animal Production (115210)
 - boarding horses
 - training horses, except racing
- Support Activities for Forestry (115310)

Sector 54. - Professional, Scientific, & Technical Services

- Animal hospitals & shelters (541940)

Sector 61. - Educational Services

- Riding instruction academies & schools (611620)

Sector 71. - Arts, Entertainment, and Recreation

- Racetrack operation: e.g., horse, dog (711212)
- Horses, race: training (711219)
- Racing stables, operation of (711219)
- Fishing piers & lakes, operation of (713990)
- Rental of saddle horses (713990)

- Riding stables (713990)

Sector 81. – Other Services

- Boarding kennels (812910)
- Training animals (812910)

These activities are commercial, rather than agricultural. The important distinction is that land used for any of these activities is not used for the *production* of crops, livestock or livestock products.

What are the categories of Agricultural land?

Chapter Tax 18.06 (2) specifies five categories of agricultural land that assessors will use to describe the makeup of all parcels of agricultural land:

“For each legal description of property that includes a parcel of agricultural land, the assessor shall indicate on the property record card, by acreage, the category of agricultural land. Categories of agricultural land are the following:

- (a) First grade tillable cropland.
- (b) Second grade tillable cropland.
- (c) Third grade tillable cropland.
- (d) Pasture.
- (e) Specialty land.”

Within the agricultural class, nonspecialty lands are typically divided into two broad categories, *cropland* and *pasture*. Typically, the physical qualities and characteristics of the underlying soil will affect its use. Except for tillable lands used for rotational grazing the actual use of the land will support a general categorization as cropland or pasture. For croplands, the soil’s characteristics and agricultural capabilities will guide the assessor to an accurate grade categorization. Assessors should categorize agricultural land uniformly throughout the municipality.

When discovering land in an agricultural use during the production season for the prior year and not in a use contrary to agricultural on the following January 1, the assessor determines the number of acres in each category(s) of agricultural land on the parcel. Categories of agricultural land – tillable grade 1, tillable grade 2, tillable grade 3 or pasture – are based on soil productivity (yield in terms of corn). The soil productivity rating considers slope and erosion. Yield in terms of corn is a major determinant of land rent for agricultural purposes. Regardless of the crop grown, the method of valuation remains the same. It should be noted that the classification of land capable of being tilled but used as pasture is a function of capability and not use. For example, grade 2 tillable land may be used for growing corn, beans, potatoes, or grasses. Nevertheless, it remains grade 2 tillable based upon its capability to grow corn.

Land held for future development

A real estate developer purchases a 40 acre parcel of agricultural land for future development. The developer leases the 40 acres (one legal description) back to the farmer and the entire forty acres remains in agricultural production. The 40 acres continue to be a "parcel of agricultural land" as long as it remains in agricultural production.

How is land productivity and grading determined?

Land productivity varies depending on soil texture, soil structure, complement of plant nutrients, contour, water resources, moisture retention qualities and climate. Due to variability in productivity, the assessor should grade agricultural croplands using information available from the USDA Natural Resource Conservation Service (formerly the Soil Conservation Service). The grading of soils should suggest the differential and measurable qualities that exist between soils.

What is cropland?

Generally, cropland is tilled land used for cultivating plants or agricultural produce, such as grain, vegetables, or fruit. It not only includes plowed land, but all land in tame hay, marsh hay or in federal programs. Tillable land which is used for rotational grazing should be classified as the appropriate grade of tillable land.

An agricultural property's greatest asset is its soil. The soil makeup in an area usually determines the type of farming. The soil conditions of a farm often dictate the amount and kind of soil management necessary to produce a crop. Soils play such an important part in rural agricultural valuation that it is essential to have a sound knowledge of soil makeup and productivity. Tillable cropland can be differentiated into three categories or grades based on soil survey production capabilities, slope, and erosion ratings.

What is 1st Grade tillable?

This category includes lands that are *tilled or otherwise planted* and used for farm purposes. Grade 1 soils consist of those soil series and types shown on the county soil survey as possessing the best production capabilities with suitable slope and erosion ratings. *It can include land planted in tame hay which is harvested for use on the farm or for sale and land enrolled in federal programs.*

What is 2nd Grade tillable?

This category includes those lands used for farm purposes that are *tilled or otherwise planted* and made up of the soil series and types shown on the county soil survey as having a lesser production capability than 1st grade soils. It also includes lands consisting of those soil types with the best production capability but whose poorer slopes and erosion ratings exclude them from being classed as 1st grade.

What is 3rd Grade tillable?

This category includes those lands used for farm purposes that are *tilled or otherwise planted* and made up of the soil series and types with the poorest productivity rating or those soils of higher productivity with the poorest slope and erosion ratings that prevent them from being classed in a higher grade. Marsh or other wild land that has never been cultivated, but from which grass is cut each production season for use on the farm or for sale, is included in this category. Land entered into federal conservation programs is typically marginal (third grade tillable) cropland.

What is Pasture?

Pasture includes open pasture, cut-over land, wooded pasture, and wetland pasture (this does not include tillable land used for rotational grazing). This category includes land devoted to agricultural use, specifically the keeping, grazing or feeding of livestock for the sale of livestock or livestock products. Most pastureland has poor soil characteristics in terms of such characteristics such as productivity, slope, drainage, erosion, or rockiness that prevent its use as tillable cropland. Distinct areas where livestock do not enter because of such things as slope, rocks, water, or natural boundaries should be classified as undeveloped or forest land. Open pasture land with 1st, 2nd, or 3rd grade soil productivity ratings should be categorized as such.

Open Pasture and Cut-over Land

Open pasture should only be classified as pasture if the soil is such that it could never be tilled due to poor soil conditions.

Cut-over land includes land which timber has been removed and its current predominant use is pasture.

Wooded and Wetland Pasture

Active grazing keeps the undergrowth in check. This condition is apparent when one compares wooded or wetland pasture with ungrazed woodland or wetland. This comparison is best made during the growing season. The undergrowth in wooded pasture will be grazed down allowing the livestock to roam freely under the tree canopy. Woodland that is not grazed upon will have much thicker undergrowth.

A few paths through a wooded area is not convincing evidence that the wooded area is being pastured. Also, periodic use of wooded areas is not convincing evidence that wooded areas are being pastured. Land with non-existent or severely limited foliage or plant growth would not be considered pasture. The assessor should consider if the predominant use of woodland or wetland is pasture. The land should be pastured daily or on a reasonably periodic basis.

Marshland used for pasture should not be classified as undeveloped (Class 5). If pastured marshland is cultivated, it

2008 Use Value Guidelines for Agricultural Assessment

Since 1974, the State of Wisconsin Constitution has allowed for the preferential assessment of agricultural land for property tax purposes. In 1995, the Budget Act changed the standard for assessing agricultural land from *market value* to *use value*. The goal of this legislation is to protect Wisconsin's farm economy and curb urban sprawl by taxing farmland based on its agricultural productivity, rather than its potential for development.

The following table lists the counties that have taxable agricultural lands subject to use value assessment. Each county name links to a separate page that lists the approved agricultural use value guidelines for each municipality in that county. Use values are differentiated into three tillable soil grades and pasture land. Although values were estimated for all municipalities, not all municipalities contain land classified as agricultural.

Municipal Coding System

The coding system is a five digit system. As a rule, all counties are coded in alphabetical order. Towns, villages and cities are coded in alphabetical order within the county in which they lie. The first two digits identify the county. Seventy-one of seventy-two Wisconsin counties are listed. There is no taxable agricultural land in Menominee county. The counties are listed in alphabetical order beginning with Adams (01) and ending with Wood (71). The next digit is significant of the level of local government - "0" designates a township, "1" indicates a village, and "2" means a city. An asterisk (*) following the municipal name indicates a village or city that is located in more than one county.

**2008 Use Value Guidelines For Agricultural Land Assessment
(dollars per acre)**

County	Code	TVC	Name	Grade 1	Grade 2	Grade 3	Pasture
Crawford (cont.)	12106	Village	Bell Center	\$293	\$247	\$179	\$72
	12116	Village	De Soto	\$286	\$241	\$175	\$70
	12121	Village	Eastman	\$281	\$237	\$172	\$69
	12126	Village	Ferryville	\$290	\$245	\$178	\$71
	12131	Village	Gays Mills	\$280	\$235	\$171	\$69
	12146	Village	Lynxville	\$291	\$245	\$178	\$71
	12151	Village	Mount Sterling	\$291	\$245	\$178	\$71
	12181	Village	Soldiers Grove	\$292	\$246	\$179	\$72
	12182	Village	Steuben	\$280	\$235	\$171	\$69
	12191	Village	Wauzeka	\$281	\$236	\$172	\$69
	12271	City	Prairie du Chien	\$280	\$236	\$171	\$69
Dane	13002	Town	Albion	\$320	\$270	\$196	\$79
	13004	Town	Berry	\$317	\$268	\$195	\$78
	13006	Town	Black Earth	\$321	\$271	\$197	\$79
	13008	Town	Blooming Grove	\$311	\$263	\$191	\$76
	13010	Town	Blue Mounds	\$322	\$272	\$198	\$79
	13012	Town	Bristol	\$322	\$272	\$198	\$79
	13014	Town	Burke	\$317	\$268	\$195	\$78
	13016	Town	Christiana	\$314	\$265	\$193	\$77
	13018	Town	Cottage Grove	\$306	\$258	\$188	\$75
	13020	Town	Cross Plains	\$321	\$271	\$197	\$79
	13022	Town	Dane	\$321	\$271	\$197	\$79
	13024	Town	Deerfield	\$315	\$266	\$194	\$77
	13026	Town	Dunkirk	\$326	\$275	\$200	\$80
	13028	Town	Dunn	\$319	\$269	\$196	\$78
	13032	Town	Madison	\$300	\$253	\$184	\$74
	13034	Town	Mazomanie	\$323	\$273	\$199	\$79
	13036	Town	Medina	\$317	\$268	\$195	\$78
	13038	Town	Middleton	\$322	\$272	\$198	\$79
	13040	Town	Montrose	\$313	\$264	\$192	\$77
	13042	Town	Oregon	\$313	\$264	\$192	\$77
	13044	Town	Perry	\$316	\$267	\$194	\$78
	13046	Town	Pleasant Springs	\$327	\$277	\$201	\$81
	13048	Town	Primrose	\$318	\$268	\$195	\$78
	13050	Town	Roxbury	\$321	\$271	\$197	\$79
	13052	Town	Rutland	\$320	\$270	\$197	\$79
	13054	Town	Springdale	\$322	\$272	\$198	\$79
	13056	Town	Springfield	\$323	\$273	\$198	\$79
	13058	Town	Sun Prairie	\$317	\$268	\$195	\$78
	13060	Town	Vermont	\$322	\$272	\$198	\$79
	13062	Town	Verona	\$309	\$261	\$190	\$76
	13064	Town	Vienna	\$315	\$266	\$193	\$77
13066	Town	Westport	\$325	\$275	\$200	\$80	
13068	Town	Windsor	\$310	\$262	\$190	\$76	
13070	Town	York	\$316	\$267	\$194	\$78	

**2008 Use Value Guidelines For Agricultural Land Assessment
(dollars per acre)**

County	Code	TVC	Name	Grade 1	Grade 2	Grade 3	Pasture
Dane (cont.)	13106	Village	Belleville	\$298	\$251	\$183	\$73
	13107	Village	Black Earth	\$308	\$260	\$189	\$76
	13108	Village	Blue Mounds	\$309	\$261	\$190	\$76
	13109	Village	Brooklyn	\$302	\$255	\$185	\$74
	13111	Village	Cambridge	\$302	\$255	\$185	\$74
	13112	Village	Cottage Grove	\$295	\$249	\$181	\$73
	13113	Village	Cross Plains	\$307	\$259	\$188	\$75
	13116	Village	Dane	\$309	\$261	\$190	\$76
	13117	Village	Deerfield	\$311	\$262	\$191	\$76
	13118	Village	DeForest	\$299	\$252	\$183	\$73
	13151	Village	Maple Bluff	\$302	\$255	\$186	\$74
	13152	Village	Marshall	\$308	\$260	\$189	\$76
	13153	Village	Mazomanie	\$303	\$256	\$186	\$75
	13154	Village	McFarland	\$304	\$257	\$187	\$75
	13157	Village	Mount Horeb	\$305	\$258	\$188	\$75
	13165	Village	Oregon	\$302	\$255	\$186	\$74
	13176	Village	Rockdale	\$314	\$265	\$193	\$77
	13181	Village	Shorewood Hills	\$309	\$261	\$190	\$76
	13191	Village	Waunakee	\$314	\$265	\$193	\$77
	13221	City	Edgerton	\$300	\$253	\$184	\$74
	13225	City	Fitchburg	\$303	\$256	\$186	\$74
	13251	City	Madison	\$299	\$253	\$184	\$74
	13255	City	Middleton	\$313	\$264	\$192	\$77
	13258	City	Monona	\$300	\$253	\$184	\$74
	13281	City	Stoughton	\$309	\$261	\$190	\$76
	13282	City	Sun Prairie	\$303	\$256	\$186	\$74
	13286	City	Verona	\$300	\$253	\$184	\$74
	Dodge	14002	Town	Ashippun	\$313	\$264	\$193
14004		Town	Beaver Dam	\$318	\$269	\$196	\$78
14006		Town	Burnett	\$313	\$264	\$193	\$77
14008		Town	Calamus	\$310	\$262	\$191	\$76
14010		Town	Chester	\$319	\$269	\$196	\$78
14012		Town	Clyman	\$308	\$260	\$190	\$76
14014		Town	Elba	\$314	\$265	\$193	\$77
14016		Town	Emmet	\$318	\$269	\$196	\$78
14018		Town	Fox Lake	\$310	\$262	\$191	\$76
14020		Town	Herman	\$298	\$252	\$184	\$73
14022		Town	Hubbard	\$311	\$263	\$192	\$77
14024		Town	Hustisford	\$308	\$260	\$190	\$76
14026		Town	Lebanon	\$310	\$262	\$191	\$76
14028		Town	Leroy	\$311	\$263	\$192	\$77
14030		Town	Lomira	\$312	\$264	\$193	\$77
14032		Town	Lowell	\$305	\$258	\$188	\$75
14034		Town	Oak Grove	\$307	\$259	\$189	\$75
14036		Town	Portland	\$309	\$261	\$191	\$76

Sections Affected Post-Drafting-Check For 07-0447/P2

Wednesday, October 1, 2008 12:20 pm

Current Wisconsin Statutes updated through 2007 Act 242

CITATION	TREATMENT	AFFECTED BY
71.08 (1) (intro.)	am.	Act 20, s. 1991
71.08 (1) (intro.) (aff. 2005 WisAct 479)		am.
Act 97, s. 85		
71.10 (4) (i)	am.	Act 20, s. 1994h
71.10 (4) (i)	[see s. 76 of]	Act 96, s. 76
71.30 (3) (f)	am.	Act 20, s. 2065
71.49 (1) (f)	am.	Act 20, s. 2121
165.25 (4) (ar)	am. effec. 4-1-2007	2005 WisAct 458, s. 4
165.25 (4) (ar) (aff. 2005 WisAct 458)		am.
Act 76, s. 2m		
165.25 (4) (ar) (aff. 2005 WisAct 458)		am.
Act 96, s. 109		