



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 03/19/2009 (Per: RCT)



Appendix A ... Part 01 of 06

 The 2007 drafting file for LRB-0447

has been transferred to the drafting file for

2009 LRB-0203

☛ This cover sheet, the final request sheet, and the final version of the 2007 draft were copied on yellow paper, and returned to the original 2005 drafting file.

☛ The attached 2007 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

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

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>
/?							
/P1	btradewe 12/07/2007	kfollett 12/14/2007	jfrantze 12/14/2007	_____	sbasford 12/14/2007		
/P2	btradewe 05/13/2008	kfollett 05/28/2008	rschluet 05/30/2008	_____	cduerst 05/30/2008		

FE Sent For:

Material moved to file for 09-0203

<END>

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/?							
/P1	btradewe 12/07/2007	kfollett 12/14/2007	jfrantze 12/14/2007		sbasford 12/14/2007		

FE Sent For:

1 Pak if
5/28

5245

NN

<END>

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/?	btradewe	1/16/07 12/14	Jo 12/14	Jo/PJ 12/14			

FE Sent For:

<END>

Tradewell, Becky

From: Knapp, Barb H DATCP
Sent: Tuesday, October 03, 2006 3:14 PM
To: Tradewell, Becky
Cc: Miller, Steve; Nilsestuen, Rod J DATCP; Matson, James K DATCP; Arts, James L DATCP; Radloff, Gary L DATCP; Pielsticker, Kathy F DATCP; Jelinski, Dave DATCP; Walker, William D DATCP; 'Grinde, Kirsten - DOA'
Subject: LEGISLATIVE DRAFT - Farmland Preservation Program
Attachments: LEGISLATIVEDRAFT(8-22-06) CLEAN COPY.doc

Good Afternoon, Becky.

Attached is the draft that I just called about. Please feel free to contact Jim Matson (224-5022) or myself (224-4746) with any questions you may have. We appreciate your assistance.

Barb

Barb Knapp
Budget Director
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(608) 224-4746
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LEGISLATIVEDRA
FT(8-22-06) CLEA...

Farmland Preservation and Farm Tax Credits

1 AN ACT *to repeal* 20.505(8)(hm)19., 20.835(2)(dn), (ka) and (q), 71.07(3m), 71.28(2m),
2 71.47(2m), 92.04(2)(c), 92.104, 92.105, 92.106 and 569.02(5); *to amend* 92.05(3)(L),
3 92.14(2)(e), (3)(a)1. and (3)(d), and 165.25(4)(ar); and *to repeal and recreate* subch. IX
4 of ch. 71, and ch. 91 of the statutes; **relating to** farmland preservation and tax credits.

Analysis

This bill does all of the following:

- This bill repeals and recreates the current *farmland preservation program* under ch. 91, Stats. (see below).
- This bill repeals and recreates the current *farmland preservation tax credit* (income tax credit) under subch. IX of ch. 71, Stats.
 - Under current law and this bill, farmers may claim an income tax credit if their land is preserved for agricultural use under the farmland preservation program. Under current law and this bill, farmers claiming tax credits must also comply with land and water conservation practices.
 - Under current law, the income tax credit is based on a complex formula. The formula includes factors related to farm income, property tax payments, and type of farmland preservation (agreement or zoning).
 - Farmers claimed approximately \$14.4 million in tax credits for calendar year 2004 (an average of \$3.45 per acre). That was down from a maximum of approximately \$35 million in 1987.
 - This bill changes and simplifies the tax credit formula, so that more farmers will have an opportunity and incentive to participate. Under this bill, the income tax credit is calculated as a flat amount of \$7.50 per acre.
 - Under this bill, it is estimated that farmers will claim approximately \$28 million in tax credits per calendar year (assuming current level of county and local participation in the farmland preservation program).

- Under current law and this bill, the tax credit is funded by a sum sufficient GPR appropriation (estimated at \$13.7 million in FY 2005-06 and \$13.1 million in FY 2006-07).
 - This bill increases the estimated GPR sum sufficient appropriation to \$28 million in FY 2007-08 and \$28 million in FY 2008-09.
- This bill repeals the current *farmland tax relief credit* (income tax credit) under ss. 71.07(3m)(c), 71.28(2m)(c) and 71.47(2m)(c), Stats.
 - Under current law, farmers may claim this income tax credit *regardless* of whether their land is preserved for agricultural use and *regardless* of conservation practices on the farm.
 - The current income tax credit is based on a farmer's property tax payments.
 - Farmers claimed approximately \$13 million in tax credits for calendar year 2004.
 - The tax credit is currently funded by a sum sufficient lottery revenue appropriation (estimated at \$15 million in FY 2005-06, and \$15 million in FY 2006-07).
 - This bill eliminates the current lottery revenue appropriation. It also eliminates a related, but currently unfunded, Indian gaming revenue appropriation.

Farmland Preservation Program; General

Under the current farmland preservation law, farmers in participating counties may claim farmland preservation tax credits. A participating county must adopt a *farmland preservation plan*. The Wisconsin Land and Water Conservation Board ("LWCB") must certify the county plan for compliance with the farmland preservation law, based on analysis by the Department of Agriculture, Trade and Consumer Protection ("DATCP"). Nearly all counties have adopted certified plans, but many counties have not updated their certified plans for more than 20 years.

Farmers in participating counties may claim income tax credits if their land is restricted to agricultural use under any of the following:

- *A county, town or municipal zoning ordinance.* The LWCB must certify ordinances for compliance with the farmland preservation law. Certified ordinances must be consistent with (often outdated) county farmland preservation plans. In 2004, farmers claimed approximately \$9 million in tax credits under certified ordinances.
- *An individual farmland preservation agreement* (with DATCP), covering land planned for preservation under the certified county plan. An agreement is for 10-25 years, and is binding on subsequent landowners during that term. A farmer may claim tax credits under an agreement, regardless of whether the land is covered by a certified zoning ordinance (but credits are slightly higher if the land is also covered by an ordinance). In 2004, farmers claimed approximately \$5 million in tax credits under individual agreements.

This bill makes the following general changes to the current farmland preservation program:

Farmland Preservation Plans

- This bill requires every county to have a farmland preservation plan, regardless of whether it participates in the farmland preservation program. Under current law and this bill, a county participating in the farmland preservation program must have its plan certified for compliance with program standards. Farmers in participating counties may be eligible for farmland preservation tax credits.
- Under this bill, participating counties must update their plans and have them re-certified within the next 5-10 years (deadlines vary, depending on county population density and whether the county has recently updated its plan). Counties that fail to update their certified plans are excluded from the program (farmers may no longer claim tax credits).
- This bill gives participating counties more flexibility to design their own farmland preservation plans, and streamlines plan certification. DATCP may certify plans based on county self-certification. LWCB certification is no longer required.

Farmland Preservation Zoning Ordinances

- This bill requires participating counties, towns and municipalities to update their certified farmland preservation zoning ordinances (if any) within the next 6-11 years (deadlines vary, depending on county population density and whether the local government recently updated its certified ordinance). Local governments that fail to update their certified ordinances are excluded from the program (farmers may no longer claim tax credits).
- This bill gives county and local governments more flexibility to design their own ordinances, and allows a greater range of land uses that are compatible with farmland preservation.
- This bill streamlines ordinance certification. DATCP may certify ordinances based on county and local certification. LWCB certification is no longer required.
- This bill changes current standards related to residential development in farmland preservation zoning districts. This bill allows residential development that is compatible with farmland preservation. Under this bill, local approval (a conditional use permit) is required for every new non-farm residence, except residences built in specially approved residential "clusters." There is no minimum lot size required, but this bill sets overall standards for lot location, acreage density and building density. Multi-unit non-farm residences are not allowed in farmland preservation districts. Existing residences may continue as "prior nonconforming uses," and may be

remodeled or expanded as long as the number of household dwelling units does not increase.

- This bill changes current standards and tax credit “payback” requirements for rezoning land out of a farmland preservation zoning district. Under this bill, owners of rezoned land pay a flat “conversion fee” to the local government, rather than a complex tax credit “payback” to the state (as required under current law). Local governments are no longer required to report every rezoning action to DATCP, but are required to provide a summary report and map of rezoned land each year.

Farmland Preservation Agreements

- This bill prohibits the extension or renewal of individual farmland preservation agreements. Existing agreements remain in effect for the term of the agreement (unless released at the landowner’s request). DATCP may enter into new farmland preservation agreements only in “working lands enterprise areas” that may be established according to DATCP rules (DATCP has not yet proposed any rules, and there are no “working lands enterprise areas” at this time).
- This bill simplifies the process for entering into farmland preservation agreements, where they are still used. This bill also makes it easier to release land from a farmland preservation agreement. New farmland preservation agreements, if any, must be for a term of 15 years (not 10-25 years, as under current law).

Land and Water Conservation

- This bill standardizes, but does not substantially alter, land and water conservation requirements for farmers claiming farmland preservation tax credits. Under this bill, as under current law, farmers claiming tax credits must comply with existing state land and water conservation standards. Under this bill, counties are no longer required to set their own standards or obtain LWCB approval of those standards.

Other Changes

- This bill reorganizes and clarifies the current farmland preservation law, and eliminates a large amount of obsolete material.
- This bill authorizes DATCP to modify some standards and procedures by rule, in order to address changing and unforeseen circumstances.
- This bill changes some current terminology. For example, this bill refers to “farmland preservation” zoning districts rather than “exclusive agricultural use” zoning districts.

County Farmland Preservation Plans

Under current law, counties are not required to have farmland preservation plans unless they participate in the farmland preservation program (nearly all counties participate). This bill requires every county to adopt a farmland preservation plan, regardless of whether the county participates in the farmland preservation program. The plan must meet minimum standards specified in this bill. DATCP may provide information, and may assist counties in developing farmland preservation plans.

Under current law, counties participating in the farmland preservation program must have their plans certified for compliance with program standards. Farmers in participating counties may be eligible for farmland preservation tax credits.

Under current law, the LWCB certifies county plans based on analysis by DATCP. Most certified county plans are more than 20 years old, and no longer reflect current land use realities. Some plans are inconsistent with more recent county comprehensive plans ("smart growth" plans). Plan development and certification is encumbered by complex standards and procedural requirements.

This bill makes the following key changes related to certified plans:

- *This bill requires participating counties to update their certified plans.*
 - Participating counties must renew their plan certification within the next 5-10 years (deadlines vary, depending on county population density and whether the county has recently renewed its certification).
 - If a county fails to renew its plan certification by the applicable deadline, farmers in that county will no longer be able to claim farmland preservation tax credits (farmers covered by individual agreements may continue to claim tax credits until those agreements expire).
- *This bill simplifies standards for county farmland preservation plans, and makes it easier for counties to get their plans certified:*
 - This bill simplifies plan standards and procedural requirements.
 - This bill makes it easier for a county to include its farmland preservation plan as part of a county comprehensive plan under ss. 66.1001 and 59.39, Stats. (this bill does not require a county to have a county comprehensive plan). If a county has a comprehensive plan, the farmland preservation plan must be consistent with and included in the comprehensive plan.

- This bill eliminates the requirement of LWCB certification. Under this bill, DATCP may certify a plan for up to 10 years based on self-certification by the county. The county must certify, to DATCP, that its plan meets the standards under this bill. DATCP is not required to do an independent review, but may review or audit a county's self-certification as necessary.
- This bill requires DATCP to grant or deny certification of a plan or plan amendment within 90 days after DATCP receives a complete application for certification.
- This bill gives counties more flexibility in designing farmland preservation plan areas under the county plan. Farmland preservation plan areas may include areas planned for production agriculture (as under current law), but may also include "agriculture-related uses" such as farm equipment dealers, farm supply outlets, agricultural storage and processing facilities, and agricultural waste processing facilities. Farmland preservation plan areas may include undeveloped natural resource and open space areas, but may not include areas planned for non-agricultural development within 15 years.

Farmland Preservation Zoning Ordinances

Under current law, farmers in participating counties may claim farmland preservation tax credits if their land is restricted to agricultural use under a county, town or municipal ordinance. The ordinance must be consistent with the certified county plan (see above). The LWCB must certify the ordinance for compliance with statutory standards (including consistency with the county plan).

Current statutory standards limit local flexibility in designing ordinances. New ordinances are often inconsistent with outdated county plans (see above). Ordinance development and certification is encumbered by complex standards and procedural requirements. Current land use standards are outdated in relation to current agricultural practice and land use realities.

Under current law, whenever a local government rezones land out of a farmland preservation zoning district, the local government must report the rezoning to DATCP. DATCP must then put a lien on the rezoned land until the owners repay (with interest) the farmland preservation tax credits they received on the rezoned land. But in reality, local governments do not report rezones to DATCP, and DATCP does not impose liens or collect repayments (collection is not feasible, for various reasons).

This bill makes the following key changes related to zoning ordinances:

- *This bill requires participating local governments to update their certified ordinances.*

- Local governments must renew their ordinance certification within the next 6-11 years (deadlines vary, depending on county population density and whether the local government has recently renewed its ordinance certification).
- If a local government fails to renew its ordinance certification by the applicable deadline, farmers will no longer be able to claim tax credits under the ordinance.
- *This bill simplifies standards for farmland preservation zoning ordinances, and makes it easier for local governments to get their ordinances certified.*
 - This bill clarifies and simplifies ordinance standards and procedural requirements, eliminates many outdated requirements, and gives local governments more flexibility to design local ordinances to fit local land use realities.
 - This bill eliminates the requirement of LWCB certification. Under this bill, DATCP may certify an ordinance for up to 10 years based on certifications by the local government and the county. The local government must certify that its ordinance meets the standards under this bill, and the county must certify that the ordinance is consistent with the county farmland preservation plan. DATCP is not required to do any independent review, but may review or audit the county and local certifications as necessary. If the county declines to certify that the local ordinance is consistent with the county farmland preservation plan, DATCP may do its own review.
 - This bill requires DATCP to grant or deny certification within 90 days after DATCP receives a complete application for certification.
 - This bill clarifies that no certification is required for rezones or minor ordinance amendments. But an amendment must be certified if it comprehensively revises a previously certified ordinance, extends a certified county ordinance to a new town, or makes major changes that materially affect compliance with the farmland preservation law. DATCP may also decertify an ordinance that materially violates the farmland preservation law.
- *This bill gives local governments more flexibility to design farmland preservation zoning districts.*
 - This bill gives local governments more flexibility to include other compatible uses in farmland preservation zoning districts. These may include, for example, undeveloped natural areas, compatible residential uses (as described in this bill), transportation and communications uses, and agricultural equipment, supply, storage and processing facilities. Although these non-farm uses may be included in a farmland preservation zoning district, they do not qualify for farmland preservation tax credits.

- Within certain limits, local governments may decide which uses are “permitted uses” (without a permit) and which are “conditional uses” (with a permit) in a farmland preservation zoning district.
- “Prior nonconforming uses” may continue, but may not expand without local approval. A prior nonconforming *residence* may be remodeled or expanded, as long as there is no increase in the number of household dwelling units.
- Local governments may design more narrowly focused or specialized farmland preservation zoning districts, if they wish to do so.
- *This bill clarifies “permitted uses” in farmland preservation zoning districts.* Under this bill, a local government may authorize any of the following as “permitted uses” (without a permit) in a farmland preservation zoning district:
 - Agricultural and accessory uses, including “farm residences” and compatible non-farm businesses conducted on farms. A “farm residence” means one single-family or duplex residence located on a farm. Additional residences located on the same farm may be treated as “farm residences” if they are occupied by the farm owner, the owner’s parent or child, or a farm worker who earns a majority of his or her income on the farm. A state-licensed migrant labor camp also qualifies as a “farm residence.”
 - Agriculture-related uses such as farm equipment dealers, farm supply outlets, agricultural storage and processing facilities, and agricultural waste processing facilities.
 - Undeveloped natural resource or open space uses, whether or not they are being “managed” for agricultural production.
 - Uses specifically mandated or approved under pre-emptive state or federal laws (e.g., transportation, utility and communications uses).
 - Other uses authorized by DATCP rule.
- *This bill clarifies “conditional uses” in farmland preservation zoning districts.* Under this bill, a local government may allow any of the following as “conditional uses” (with a permit) in a farmland preservation zoning district:
 - Agricultural and accessory uses. These are normally allowed as “permitted uses,” (without a permit), but a local ordinance may require a “conditional use” permit for specified uses (e.g., exceptional or large-scale uses). Permit requirements for livestock facilities are subject to the current state livestock facility siting law (s. 93.90, Stats.).
 - Non-farm residences that meet standards in this bill (see below).

- Transportation, communications, pipeline, electrical transmission, utility or drainage uses that meet standards in this bill.
- Governmental, institutional, religious or nonprofit community uses that meet standards in this bill.
- Nonmetallic mineral extraction, including clay or gravel extraction, that meets standards in this bill.
- Oil and gas exploration licensed by the department of natural resources.
- *This bill creates new zoning standards for non-farm residential construction in farmland preservation zoning districts.* A conditional use permit is required for every new non-farm residence, except those built in specially approved residential “clusters” (which are legally restricted to meet the standards in this bill). There is no required minimum lot size, but the following standards apply:
 - The ratio of non-farm residential acreage to farm acreage may not exceed 1:20 in any “base farm tract.” A “base farm tract” means all contiguous land in the zoning jurisdiction that is part of the same farm when DATCP first certifies the zoning ordinance after *[revisor inserts effective date of this act]*, regardless of any subsequent ownership changes or land divisions. “Non-farm residential acreage” includes the entire lot on which a non-farm residence is built.
 - There may be no more than 4 non-farm residences, nor more than 5 total residences (farm and non-farm), in any “base farm tract.”
 - There may be no multi-family non-farm residences.
 - The location of the non-farm residential parcel, and the location of the non-farm residence on that parcel, will not unnecessarily convert “prime farmland” from agricultural use and will not significantly impair the current or future agricultural use of other protected farmland. “Prime farmland” includes class I and class II soil areas, and any other land classified as “prime farmland” under the county plan
- *This bill changes current standards and “payback” requirements for rezoning land out of a farmland preservation zoning district.*
 - This bill changes the findings that a local government must make in order to rezone land out of a farmland preservation zoning district. Under this bill, a local government may rezone land out of a farmland preservation zoning district if it finds all of the following:

- * The rezoned land is better suited for another use.
 - * The rezoning is consistent with the local government's comprehensive plan, if any.
 - * The rezoning is consistent with the certified county farmland preservation plan.
 - * The rezoning will not impair or limit agricultural use of other protected farmland.
- Under current law, a local government must report every rezoning to DATCP. Under this bill, a local government is no longer required to report every rezoning to DATCP. However, the local government must annually report the amount of land rezoned, and the amount of conversion fees collected (see below). The annual report must include a map showing the rezoned land.
 - Under current law, DATCP must place a lien on rezoned land until the land owner repays to the state of Wisconsin (with interest) farmland preservation tax credits previously received on the rezoned land. Under this bill, the owner of rezoned land must pay to the local government (not the state of Wisconsin) a flat conversion fee of \$100 per acre. The land owner must pay the fee before the local government rezones the land, so there is no lien placed on the rezoned land.

Farmland Preservation Agreements

Under current law, farmers in participating counties may claim farmland preservation tax credits if their land is covered by a farmland preservation agreement with DATCP. A farmer may enter into an agreement covering land located in a farmland preservation plan area identified in the county's certified farmland preservation plan. An agreement may be for a term of 10 to 25 years. An agreement is binding on subsequent owners of the same land until the agreement expires. An agreement may not be released, except for certain specified reasons.

This bill makes the following changes related to farmland preservation agreements:

- *This bill prohibits the extension or renewal of current agreements.* However, current agreements remain in effect until they expire (unless released at the request of the landowner). Farmers may claim the same tax credits currently provided under the agreements, until the agreements expire.
- *This bill authorizes new agreements, but only in "working lands enterprise areas."* A "working lands enterprise area" may include all or part of a farmland preservation area identified under a certified county farmland preservation plan. A "working lands enterprise area" must be established according to DATCP rules (there are no "working lands enterprise areas" or rules at this time).

- *This bill provides an annual farmland preservation tax credit of \$7.50 per acre under a new agreement (the same credit that applies to land covered by a farmland preservation zoning ordinance).*
- *This bill spells out terms for new agreements, including the following:*
 - The agreement must be for a term of 15 years.
 - The agreement must cover at least 35 acres of land on a farm that produced at least \$6,000 in gross farm profits during the last taxable year preceding the owner's application for a farmland preservation agreement (or a total of at least \$18,000 in gross farm profits during the last 3 taxable years preceding that application).
 - The agreement must limit the land to agricultural use, or to undeveloped natural resource or open space use.
- *This bill simplifies the application process for farmland preservation agreements, and reduces work for county and local governments. Under this bill:*
 - An applicant must file an application with the county clerk.
 - Within 60 days, the county must determine whether the land is located in an eligible area (this bill eliminates other county and local procedures and approvals required by current law).
 - If the land is located in an eligible area, the county must forward the application to DATCP.
- *This bill makes it easier to release land from an agreement, and simplifies the release process.*

Current law prohibits the release of land from a farmland preservation agreement, except for certain reasons. In some cases, DATCP may release land from an agreement, but in other cases only the LWCB may release land from an agreement. This bill simplifies the release process, eliminates LWCB involvement, and makes it easier to release land from an agreement. DATCP may release an agreement if all of the following apply:

- All of the owners of the covered land request or consent to the release.
- The release will not impair or limit agricultural use of other protected farmland.
- The consenting owners pay to DATCP, for deposit to the general fund, a flat conversion fee of \$100 per acre of land released (current law requires a payback of farmland preservation tax credits, with interest, in most cases).

Land and Water Conservation by Farmers Claiming Tax Credits

Under current law, farmers claiming farmland preservation tax credits must comply with county land and water conservation standards. Each county must adopt its own

1 (3) "Farm" has the meaning given in s. 91.01(10).

2 (4) "Farmland preservation agreement" has the meaning given in s. 91.01(12).

3 (5) "Farmland preservation zoning district" has the meaning given in s.
4 91.01(15).

5 *[DRAFTER'S NOTE: According to s. 91.01(15), a "farmland preservation*
6 *zoning district" is a zoning district that is certified for compliance with the*
7 *Farmland Preservation Law, ch. 91, Stats.]*

8 (6) "Gross farm profits" means gross receipts from agricultural use of a farm
9 during the taxable year for which a person claims a tax credit for that farm under s. 71.59,
10 less the purchase cost of livestock or other purchased agricultural commodities that the
11 person resold as part of that farm operation during that taxable year.

12 *[DRAFTER'S NOTE: "Gross farm profits" includes profits from rent (change*
13 *from current law).]*

14 (7) "Levied" means included in the tax roll that is delivered under s. 74.03(2), for
15 collection, to the treasurer of the taxation district.

16 (8) "Person" means an individual, corporation, partnership, limited liability
17 company, cooperative, trust, estate or other legal entity.

18 (9) "Property tax" means general property tax under ch. 70, net of special
19 assessments, delinquent interest, charges for service, and any property tax credit under s.
20 79.10.

21 (10) "Taxable year" has the meaning given in s. 71.01(12).

22 *[DRAFTER'S NOTE: The "taxable year" is, for most persons, the calendar*
23 *year.]*
24

1 **71.58 Eligible claimants.** A person who owned a farm in this state at any time
2 during that person's taxable year may claim a tax credit under s. 71.59 for that farm for
3 that taxable year, if all of the following apply:

4 ***[DRAFTER'S NOTE: A claimant does not have to be a resident of this state, as***
5 ***under current law, as long as the claimant owns farmland and pays income or***
6 ***franchise taxes in this state. The claimant may be an individual, corporation,***
7 ***partnership, limited liability company, cooperative, trust, estate or other legal***
8 ***entity that owned a farm in this state at any time during the taxable year.]***

9 **(1)** All or part of the farm was covered by a farmland preservation agreement or
10 was located in a farmland preservation zoning district at the end of the taxable year for
11 which the person claims the tax credit or, if the person transferred the person's ownership
12 interest during the person's taxable year, on the date when the person transferred that
13 ownership interest. A land contract is deemed to be a transfer of an ownership interest
14 for purposes of this subsection.

15 **(2)** The farm produced at least \$6,000 in gross farm profits from agricultural use
16 during the taxable year for which the person claims the tax credit, or a total of at least
17 \$18,000 in gross farm profits from agricultural use during that taxable year and the 2
18 preceding taxable years.

19 **(3)** The person has paid, or is legally responsible for paying, some or all of the
20 property taxes levied against the farm during the taxable year for which the person claims
21 the tax credit.

22 **(4)** There was at the end of the taxable year for which the person claims the tax
23 credit, or on the date when the person transferred the person's ownership interest in the
24 farm if the person did so during that taxable year, no outstanding notice of
25 noncompliance issued against the farm under s. 91.82(2).

1 ***[DRAFTER'S NOTE: A county land conservation committee may issue a***
2 ***notice under s. 91.82(2) to a farmer who fails to comply with state land and***
3 ***water conservation standards. If the county land conservation has issued a***
4 ***notice that is still outstanding, the farmer may not claim the tax credit under s.***
5 ***71.59.]***

6
7 **71.59 Tax credit. (1) CREDIT AGAINST WISCONSIN INCOME OR FRANCHISE TAX.**

8 A person who qualifies under s. 71.58 may claim the amount under sub. (2) as a credit
9 against Wisconsin income or franchise taxes otherwise owed by that person for the
10 taxable year for which the person claims the credit, up to the amount of that tax
11 obligation.

12 **(2) CREDIT AMOUNT; GENERAL.** Except as provided in sub. (3) or (4), the tax
13 credit under sub. (1) is equal to the product of the following amounts:

14 (a) The number of qualifying acres under s. 71.58(1) for which the person has
15 paid or is legally responsible for paying property taxes during the taxable year for which
16 the person claims the tax credit, regardless of whether all of those acres are in agricultural
17 use.

18 (b) \$7.50 for each acre under par. (a).

19 **(3) JOINT OWNERS; CREDIT AMOUNT.** If a farm is jointly owned by 2 or more
20 persons under sub. (1) who file separate income or franchise tax returns, each of those
21 persons may claim a proportionate share of the tax credit under sub. (2) based on each
22 person's ownership share.

23 **(4) SUCCESSIVE OWNERS; CREDIT AMOUNT.** If a person acquires or transfers
24 ownership of qualifying acres under s. 71.58(1) during the taxable year for which that
25 person claims a tax credit under this section, that person may claim a proportionate share

1 of the tax credit under sub. (2) based on that person's share of the annual farm property
2 tax obligation for those qualifying acres.

3 **71.60 Claiming the credit.** A person claiming a tax credit under s. 71.59 shall
4 file the claim, on a form provided by the department, with the claimant's annual
5 Wisconsin income or franchise tax return. If required by the department on the claim
6 form, the person shall include appropriate documentation of eligibility under s. 71.58 and
7 claim amount under s. 71.59.

8 **SECTION 5.** Chapter 91 of the statutes is repealed and recreated to read:

9 **CHAPTER 91**
10 **FARMLAND PRESERVATION**

11 **Subchapter I**
12 **Definitions and General Provisions**

13 **91.01 Definitions.** In this chapter:

14 (1) "Accessory use" means any of the following land uses on a farm:

15 (a) Buildings, structures, improvements, activities and business operations that
16 are an integral part of, or incidental to, an agricultural use.

17 (b) A farm residence.

18 (c) A business, activity or enterprise, whether or not associated with an
19 agricultural use, which meets all of the following criteria:

20 1. It is conducted by the owner or operator of the farm.

21 2. It requires no buildings, structures or improvements other than those under par.

22 (a) or (b).

23 3. It employs no more than 4 annual full-time equivalent employees.

1 4. It does not impair or limit current or future agricultural use of that farm or
2 other protected farmland.

3 (d) Any use that the department, by rule, identifies as an accessory use.

4 (2) "Agricultural use" means all of the following:

5 (a) Any of the following activities conducted for the purpose of producing an
6 income or livelihood:

7 1. Crop, fiber or forage production.

8 2. Dairying.

9 3. Keeping livestock, poultry, horses, farm-raised deer or farm-raised game birds.

10 4. Egg production.

11 5. Beekeeping.

12 6. Nursery, ornamental plant, turf and tree production.

13 7. Aquaculture.

14 8. Fur farming.

15 9. Forest management.

16 10. Enrolling land in federal or state agricultural commodity or agricultural land
17 conservation payment programs.

18 (b) Undeveloped natural resource or open space use on land primarily devoted to
19 one or more uses under par. (a).

20 (c) Any use that the department, by rule, identifies as an agricultural use.

21 (3) "Agriculture-related use" means any of the following:

22 (a) An agricultural equipment dealership, agricultural supply facility, agricultural
23 storage or processing facility, agricultural waste processing facility, and any other facility

1 or activity that is primarily designed to support or serve local agricultural operations as
2 opposed to non-agricultural businesses, non-local businesses, or the general public.

3 (b) Any other use that the department, by rule, identifies as an agriculture-related
4 use.

5 (4) "Base farm tract" means any of the following:

6 (a) All contiguous land that is part of a single farm when the department under s.
7 91.36(1) first certifies a farmland preservation zoning district covering that land,
8 regardless of any subsequent change in that farm.

9 (b) A tract that the department by rule defines as a "base farm tract."

10 *[DRAFTER'S NOTE: This definition is used to determine residential density*
11 *limits in farmland preservation zoning districts. See ss. 91.46(2) and (3).]*

12 (5) "Conditional use" means a use authorized under a conditional use permit,
13 special exception, or other special zoning permit issued by a local governing authority.

14 (6) "County land conservation committee" means the committee created by a
15 county board under s. 92.06, Stats.

16 (7) "Currently certified county farmland preservation plan" means a plan
17 described in s. 91.12.

18 (8) "Currently certified farmland preservation zoning ordinance" means an
19 ordinance described in s. 91.32.

20 (9) "Department" means the department of agriculture, trade and consumer
21 protection.

22 (10) "Farm" means land, owned by the same person or persons, that is primarily
23 devoted to agricultural use and is part of a single economic unit for purposes of income
24 tax filing.
25

1 (11) "Farm acreage" means acreage that is part of a farm.

2 ***[DRAFTER'S NOTE: This definition is used to determine residential density***
3 ***limits in farmland preservation zoning districts. See ss. 91.46(2) and (3).]***
4

5 (12) "Farmland preservation agreement" means any of the following agreements
6 between a land owner and the department, under which the land owner agrees to restrict
7 the use of land in return for tax credits:

8 (a) A farmland preservation agreement or transition area agreement created under
9 ch. 91, Stats., before ***[revisor inserts effective date of this act].***

10 (b) A farmland preservation agreement created under s. 91.60(1) on or after
11 ***[revisor inserts effective date of this act].***

12 (13) "Farmland preservation plan" means a county plan for the preservation of
13 farmland in the county. "Farmland preservation plan" may include an agricultural
14 preservation plan certified under ch. 91, Stats., prior to ***[revisor inserts effective date of***
15 ***this act].***

16 (14) "Farmland preservation plan area" means an area, identified by a currently
17 certified farmland preservation plan, which is primarily planned for agricultural use or
18 agriculture-related use, or both. "Farmland preservation plan area" may include any of
19 the following areas identified in a currently certified farmland preservation plan:

20 (a) An agricultural preservation area or transition area identified under ch. 91,
21 Stats., before ***[revisor inserts effective date of this act].***

22 (b) A farmland preservation plan area identified under s. 91.10(1)(d) on or after
23 ***[revisor inserts effective date of this act].***

24 (15) "Farmland preservation zoning district" means a zoning district, included in
25 a currently certified farmland preservation zoning ordinance, which is primarily zoned for

1 agricultural use or agriculture-related use, or both. “Farmland preservation zoning
2 district” may include any of the following districts in a currently certified farmland
3 preservation zoning ordinance:

4 (a) An exclusive agricultural use or exclusive agricultural use-transition district
5 created under ch. 91, Stats., prior to *[revisor inserts effective date of this act]*.

6 (b) A farmland preservation zoning district designated under s. 91.38(1)(d) on or
7 after *[revisor inserts effective date of this act]*.

8 (16) “Farmland preservation zoning ordinance” means any of the following:

9 (a) An exclusive agricultural zoning ordinance adopted under ch. 91, Stats., prior
10 to *[revisor inserts effective date of this act]*.

11 (b) An ordinance adopted under s. 91.30 on or after *[revisor inserts effective date*
12 *of this act]*.

13 (17) “Farm residence” means any of the following structures that is located on a
14 farm, and includes normal residential use of the structure and the land on which it is
15 located:

16 (a) A single-family or duplex residence that is at least one of the following:

- 17 1. The only residential structure on the farm.
- 18 2. Occupied by an owner or operator of the farm.
- 19 3. Occupied by a parent or child of an owner or operator of the farm.
- 20 4. Occupied by an individual who earns a majority of his or her gross income
21 from the farm.

22 (b) A migrant labor camp licensed by the state of Wisconsin.

23 (18) “Gross farm profits” has the meaning given in s. 71.57(6).

1 (19) “Local governing authority” means the elected governing board or council
2 of a county, town or municipality, or a subcommittee of the elected governing board or
3 council that is authorized to act on behalf of that board or council.

4 (20) “Non-farm residence” means a residence other than a farm residence.

5 (21) “Non-farm residential acreage” means the combined acreage of all parcels
6 on which non-farm residences are constructed.

7 ***[DRAFTER’S NOTE: This definition is used to determine residential density***
8 ***limits in farmland preservation zoning districts. See ss. 91.46(2) and (3). If a***
9 ***non-farm residence is constructed on a parcel of land, the entire parcel is***
10 ***considered “non-farm residential acreage” (not just the footprint of the house).]***

11 (22) “Owner” means a person who has an ownership interest in land. The
12 “owner” of a land parcel includes all of the owners of that parcel.

13 (23) “Permitted use” means a use that is permitted without a conditional use
14 permit, special exception or other special zoning permit or zoning authorization from a
15 local governing authority.

16 ***[DRAFTER’S NOTE: See s. 91.44. Although no special zoning permit is***
17 ***required for a “permitted use,” a zoning ordinance may specify lawful***
18 ***standards (e.g., standard setback requirements) related to that use. Other***
19 ***permits, such as building, plumbing and electrical permits, may be required.]***

20 (24) “Person” means an individual, corporation, partnership, limited liability
21 company, cooperative, trust, estate or other legal entity.

22 (25) “Prime farmland” means any of the following:

23 (a) Class I or class II soil areas identified on soil maps published by the United
24 States department of agriculture, natural resource conservation service.

25 (b) Other land that is identified as prime farmland in the county farmland
26 preservation plan.

1 (b) Includes information under s. 59.69(3) or s. 66.1001(2) that is relevant to the
2 farmland preservation plan. The county may incorporate, by reference, relevant
3 information contained in other parts of the county comprehensive plan under ss. 59.59(3)
4 or 66.1001(2), if the county has a comprehensive plan.

5 ***[DRAFTER'S NOTE: This bill does not require a county to have a***
6 ***comprehensive plan.]***
7

8 (c) Identifies, describes and documents all of the following:

9 1. Current agricultural uses of land in the county, including key agricultural
10 specialties if any.

11 2. Key agricultural resources, including available land, soil and water resources.

12 3. Key agricultural infrastructure, including key processing, storage,
13 transportation and supply facilities.

14 4. Significant trends related to agricultural land use, agricultural production and
15 conversion of agricultural lands in the county.

16 5. County plans for agricultural preservation and development.

17 6. Key land use issues related to subd. 5., and county plans for addressing those
18 issues.

19 (d) Clearly identifies land areas that the county plans to preserve for agricultural
20 use or agriculture-related uses, or both. These may include undeveloped natural resource
21 and open space areas, but may not include any area that is planned for non-agricultural
22 development within 15 years after the date of plan adoption. Plan maps shall clearly
23 delineate all areas identified under this paragraph, so the reader can easily determine area
24 boundaries in relation to land parcels. The plan shall clearly correlate the maps with plan
25 text that describes the types of land uses planned for each mapped area.

1 (e) Identifies programs and actions that the county and local government units
2 within the county may use to preserve the lands under par. (d) for agricultural or
3 agriculture-related uses, or both.

4 (2) A farmland preservation plan under sub. (1) shall be consistent with and
5 included in the county comprehensive plan under ss. 59.69(3) and 66.1001, if the county
6 has a comprehensive plan.

7 *[DRAFTER'S NOTE: This bill does not require a county to have a*
8 *comprehensive plan.]*

9
10 (3) The county shall develop and adopt its farmland preservation plan under sub.
11 (1) according to procedures under ss. 59.69(3) and 66.1001(4) that are relevant to a
12 farmland preservation plan.

13 (4) The department may provide information and assistance to a county in the
14 development of a farmland preservation plan under sub. (1).

15 (5) A county shall notify the department before the county holds a public hearing
16 on a proposed farmland preservation plan under sub. (1), or on any amendment to a
17 farmland preservation plan under sub. (1). Notice shall include a copy of the proposed
18 plan or plan amendment. The department may review and comment on the plan or plan
19 amendment.

20 *[DRAFTER'S NOTE: Section 91.10 applies, regardless of whether the county*
21 *farmland preservation plan is certified under this chapter. A county is not*
22 *required to have its plan certified. But if it does, land owners may qualify for*
23 *farmland preservation tax credits under subch. IX of ch. 71, Stats. A county*
24 *may include other elements in its plan, in addition to the elements required*
25 *under sub. (1).]*

26 **91.12 Certified plan.** A county farmland preservation plan is certified, for
27 purposes of this chapter and subch. IX of ch. 71, if any of the following apply:

1 (1) The land and water conservation board or a predecessor agency certified the
2 plan under ch. 91, Stats., prior to *[revisor inserts effective date of this act]*, and the
3 certification has not expired.

4 (2) The department has certified the plan under s. 91.16 and the certification has
5 not expired.

6 **91.14 Certification expires.** (1) If the land and water conservation board or a
7 predecessor agency certified a county farmland preservation plan under ch. 91, Stats.,
8 prior to *[revisor inserts effective date of this act]*, the certification expires on the date
9 provided in the certification or, if no expiration date was provided in the certification, on
10 the following applicable date:

11 (a) January 1, 2010 in a county with a population density of 216 or more persons
12 per square mile.

13 (b) January 1, 2011 in a county with a population of 76 to 215 persons per square
14 mile.

15 (c) January 1, 2012 in a county with a population of 46 to 75 persons per square
16 mile.

17 (d) January 1, 2013 in a county with a population of 30 to 45 persons per square
18 mile.

19 (e) January 1, 2014 in a county with a population of 20 to 29 persons per square
20 mile.

21 (f) January 1, 2015 in a county with a population of 1 to 19 persons per square
22 mile.

1 (2) If the department certifies a county farmland preservation plan under s.
2 91.16(1) on or after *[revisor inserts effective date of this act]*, the certification expires at
3 the end of the time period specified under s. 91.16(2).

4 **91.16 Certification by the department.** (1) GENERAL. The department may
5 certify a county farmland preservation plan or plan amendment for purposes of this
6 chapter and subch. IX of ch. 71. Certification shall comply with this section.

7 (2) CERTIFICATION PERIOD. (a) The department may certify a county farmland
8 preservation plan for a period, specified by the department, which does not exceed 10
9 years.

10 (b) If the department certifies an amendment to a previously certified plan, the
11 certification of the amendment expires at the same time as the certification of the plan,
12 except that the department may treat a comprehensive plan revision as a new plan under
13 par. (a).

14 (3) SCOPE OF DEPARTMENT REVIEW. (a) The department may certify a county
15 farmland preservation plan or plan amendment based on a county certification under s.
16 91.20(3), without further department review or audit.

17 (b) Notwithstanding county findings under s. 91.20(3), the department may do
18 any of the following before the department certifies a county farmland preservation plan
19 or plan amendment:

20 1. Review the county farmland preservation plan or plan amendment for
21 compliance with this subchapter.

22 2. Review and audit the certification application, including the county findings
23 under s. 91.20(3).

1 (4) DENYING CERTIFICATION. The department may deny a county's application
2 for certification of a county farmland preservation plan or plan amendment if the
3 department finds any of the following:

4 (a) The plan or plan amendment does not comply with the standards in s. 91.18.

5 (b) The certification application does not comply with s. 91.20.

6 (5) TIMELY WRITTEN DECISION. The department shall grant or deny a certification
7 application under s. 91.20 within 90 days after a county submits a complete application,
8 unless the county agrees to a time extension. The department shall issue its decision in
9 the form required by s. 227.47(1).

10 (6) CONDITIONAL CERTIFICATION. The department may grant a certification
11 application under s. 91.20 subject to conditions specified by the department in its
12 certification decision. The department may certify a county farmland preservation plan
13 contingent upon county board adoption of the plan as certified.

14 (7) CERTIFICATION EFFECTIVE DATE. A certification under sub. (1) takes effect
15 when the department issues the certification, or when the department determines that the
16 county has met all of the conditions specified under sub. (6), whichever is later.

17 (8) PLAN AMENDMENTS. For purposes of this chapter and subch. IX of ch. 71, a
18 certified county farmland preservation plan does not include a subsequent plan
19 amendment adopted after *[revisor inserts effective date of this act]* unless the department
20 certifies that plan amendment.

21 ***[DRAFTER'S NOTE: Farmland preservation zoning ordinances must be***
22 ***consistent with the last certified county farmland preservation plan, exclusive of***
23 ***uncertified plan amendments. See s. 91.38(1)(g) and (h).]***

1 **(9) WITHDRAWING CERTIFICATION.** The department may withdraw a certification
2 that it granted under sub. (3)(a) based on a county certification under s. 91.20(3) if the
3 department finds, notwithstanding the county certification, that the plan materially
4 violates the standards under s. 91.18.

5 **91.18 Certification standards. (1) PLAN STANDARDS.** To qualify for
6 certification under s. 91.16, a county farmland preservation plan shall comply with all of
7 the following:

- 8 (a) Standards under s. 91.10(1) and (2).
- 9 (b) Other standards, if any, which the department specifies by rule.

10 **(2) PLAN AMENDMENT STANDARDS.** To qualify for certification under s. 91.16, an
11 amendment to a county farmland preservation plan shall comply with all of the standards
12 in sub. (1) that are relevant to that amendment. A plan amendment does not qualify for
13 certification if it causes a plan to violate the standards in sub. (1).

14 **91.20 Applying for certification.** A county seeking certification of a farmland
15 preservation plan or plan amendment shall submit all of the following to the department,
16 in writing:

- 17 **(1)** The complete plan or plan amendment proposed for certification.
- 18 **(2)** All of the following background information:
 - 19 (a) A concise summary of the plan or plan amendment, including key changes
20 from any previously certified plan.
 - 21 (b) A concise summary of the process by which the plan or plan amendment was
22 developed, including public hearings, notice to and involvement of other governmental
23 units, and approval by the county. The summary shall identify key unresolved issues

1 between the county and other governmental units within the county related to the
2 farmland preservation plan or plan amendment.

3 (c) The relationship of the plan or plan amendment to the county comprehensive
4 plan, if any, under ss. 59.59(3) and 66.1001.

5 (d) Other information, relevant to the certification application, which the
6 department requests or the county wishes to include.

7 (3) A statement, signed by the county corporation counsel and the county
8 planning director, certifying that the plan or plan amendment meets all of the standards in
9 s. 91.18.

10 (4) Other relevant information required by the department by rule.

11 **Subchapter III**
12 **Farmland Preservation Zoning**

13
14 **91.30 County, town or municipality may adopt.** A county, town or
15 municipality may adopt a farmland preservation zoning ordinance.

16 *[DRAFTER'S NOTE: A county, town or municipality may adopt and enforce a*
17 *farmland preservation zoning ordinance, regardless of whether the ordinance is*
18 *certified under this chapter. However, if the ordinance is certified, land owners*
19 *covered by the ordinance may claim farmland preservation tax credits under*
20 *subch. IX of ch. 71, Stats.]*

21
22 **91.32 Certified ordinance.** A farmland preservation zoning ordinance is
23 certified, for purposes of this chapter and subch. IX of ch. 71, if any of the following
24 apply:

25 (1) The land and water conservation board or its predecessor agency certified the
26 ordinance under ch. 91, Stats., prior to *[revisor inserts effective date of this act]*, and the
27 certification has not expired.

1 (2) The department has certified the ordinance under s. 91.36 and the certification
2 has not expired.

3 **91.34 Certification expires.** (1) If the land and water conservation board or a
4 predecessor agency certified a farmland preservation zoning ordinance prior to *[revisor*
5 *inserts effective date of this act]*, the certification expires on the date provided in the
6 certification or, if no expiration date is provided in the certification, on the following
7 applicable date:

8 (a) January 1, 2011 in a county with a population density of 216 or more persons
9 per square mile.

10 (b) January 1, 2012 in a county with a population of 76 to 215 persons per square
11 mile.

12 (c) January 1, 2013 in a county with a population of 46 to 75 persons per square
13 mile.

14 (d) January 1, 2014 in a county with a population of 30 to 45 persons per square
15 mile.

16 (e) January 1, 2015 in a county with a population of 20 to 29 persons per square
17 mile.

18 (f) January 1, 2016 in a county with a population of 1 to 19 persons per square
19 mile.

20 (2) If the department certifies a farmland preservation zoning ordinance under s.
21 91.36 on or after *[revisor inserts effective date of this act]*, the certification expires at the
22 end of the certification period specified by the department under s. 91.36(2).

1 **91.36 Certification by the department. (1) GENERAL.** The department may
2 certify a farmland preservation zoning ordinance or ordinance amendment for purposes
3 of this chapter and subch. IX of ch. 71. Certification shall comply with this section.

4 **(2) CERTIFICATION PERIOD. (a)** The department may certify a farmland
5 preservation zoning ordinance for a period, specified by the department, which does not
6 exceed 10 years.

7 **(b)** If the department certifies an amendment to a previously certified farmland
8 preservation ordinance, the certification of the amendment expires on the same day as the
9 certification of the ordinance, except that the department may treat a comprehensive
10 ordinance revision as a new ordinance for purposes of par. (a).

11 **(3) SCOPE OF DEPARTMENT REVIEW. (a)** The department may certify a farmland
12 preservation zoning ordinance or ordinance amendment based on certifications under ss.
13 91.40(3)(a) and (4), without further department review or audit.

14 **(b)** Notwithstanding certifications under ss. 91.40(3)(a) and (4), the department
15 may do any of the following before the department certifies a farmland preservation
16 zoning ordinance or ordinance amendment:

17 1. Review the ordinance or ordinance amendment for compliance with this
18 subchapter.

19 2. Review and audit the certification application, including certifications under
20 ss. 91.40(3)(a) and (4).

21 **(4) DENYING CERTIFICATION.** The department may deny an application for
22 certification of a farmland preservation zoning ordinance or ordinance amendment if the
23 department finds any of the following:

1 (a) The ordinance or amendment does not comply with the standards in s. 91.38.

2 (b) The certification application does not comply with s. 91.40.

3 (5) TIMELY WRITTEN DECISION. The department shall grant or deny a certification
4 application under s. 91.40 within 90 days after a county, town or municipality submits a
5 complete application, unless the county, town or municipality agrees to a time extension.
6 The department shall issue its decision in the form required by s. 227.47(1).

7 (6) CONDITIONAL CERTIFICATION. The department may grant a certification
8 application under s. 91.40 subject to conditions specified by the department in its
9 certification decision. The department may certify an ordinance contingent upon
10 adoption of the certified ordinance by the county, town or municipality.

11 (7) CERTIFICATION EFFECTIVE DATE. A certification under sub. (1) takes effect
12 when the department issues the certification, or when the department determines that all
13 of the conditions under sub. (6) have been met, whichever is later.

14 (8) ORDINANCE AMENDMENTS; CERTIFICATION. (a) Except as provided in par.
15 (b) or (c), an amendment to a currently certified farmland preservation ordinance is
16 automatically deemed to be certified as part of the certified ordinance.

17 (b) A land owner may not claim farmland preservation tax credits under subch.
18 IX of ch. 71 pursuant to any of the following farmland preservation zoning ordinance
19 amendments adopted after *[revisor inserts effective date of this act]* unless the ordinance
20 amendment is certified by the department under sub. (1):

21 1. A comprehensive ordinance revision.

22 2. An amendment that extends ordinance coverage to a town not previously

23 covered.

1 3. An ordinance amendment, of a type specified by the department by rule, which
2 may materially affect ordinance compliance with the standards under s. 91.38.

3 (c) The department may withdraw certification of a farmland preservation zoning
4 ordinance if, as a result of an ordinance amendment adopted after *[revisor inserts*
5 *effective date of this act]*, the amended ordinance fails to meet the standards under s.
6 91.38. This paragraph applies, regardless of whether the ordinance was originally
7 certified by the department, the land and water conservation board, or a predecessor of
8 the land and water conservation board.

9 (d) A county, town or municipality shall notify the department in writing
10 whenever the county, town or municipality adopts a material amendment to a farmland
11 preservation zoning ordinance. The notice shall include a copy of the amendment. This
12 paragraph does not apply to the rezoning of land out of a farmland preservation zoning
13 district.

14 ***[DRAFTER'S NOTE: A county, town or municipality may adopt and enforce a***
15 ***farmland preservation zoning ordinance amendment, regardless of whether the***
16 ***ordinance amendment is certified by the department. However, certification***
17 ***may be required in order for a land owner to claim farmland preservation tax***
18 ***credits under the ordinance amendment.***

19
20 ***Minor amendments are automatically deemed to be certified, but major***
21 ***amendments listed in par. (b) are not. For example, if a county amends its***
22 ***farmland preservation zoning ordinance to cover a town not covered by the***
23 ***previously certified ordinance, land owners in that town may not claim***
24 ***farmland preservation tax credits until the department certifies that ordinance***
25 ***amendment. The department may decertify an entire ordinance if, as a result of***
26 ***an ordinance amendment, the amended ordinance fails to meet the standards***
27 ***under s. 91.38.]***

28
29 **91.38 Certification standards. (1) ORDINANCE STANDARDS.** To qualify for
30 certification under s. 91.36, a farmland preservation zoning ordinance shall comply with
31 all of the following standards:

1 (a) The ordinance shall be developed and adopted according to relevant county,
2 town or municipal law, including relevant provisions of chs. 59 to 68, Stats. The
3 department may certify an ordinance contingent upon final adoption by the county, town
4 or municipality.

5 (b) The ordinance shall clearly declare a purpose to protect agricultural uses, or
6 agricultural and agriculture-related uses.

7 (c) The ordinance shall include jurisdictional, organizational and enforcement
8 provisions that are necessary for proper ordinance administration, consistent with county
9 and municipal law.

10 (d) The ordinance shall clearly designate farmland preservation zoning districts
11 in which land uses are limited according to s. 91.42.

12 (e) Ordinance maps shall clearly delineate each farmland preservation zoning
13 district under par. (d), so the reader can easily determine the boundaries of each district in
14 relation to land parcels. Maps shall be correlated to ordinance text under par. (f), and
15 shall comply with technical specifications that the department establishes by rule.

16 (f) Ordinance text shall clearly describe the types of land uses authorized in each
17 farmland preservation zoning district under par. (d), subject to s. 91.42.

18 (g) The ordinance shall be consistent with the currently certified county farmland
19 preservation plan.

20 (h) Except as provided by the department by rule, land may not be included in a
21 farmland preservation zoning district under par. (d) unless that land is included in a
22 farmland preservation plan area identified in the currently certified county farmland
23 preservation plan.

1 (i) If an overlay district such as an environmental corridor is superimposed on a
2 farmland preservation zoning district under par. (d), the overlay district shall be clearly
3 identified as such and shall be mapped in such a way that the reader can clearly identify
4 the underlying farmland preservation zoning district and its boundaries. An overlay
5 district may add land use restrictions to an underlying farmland preservation zoning
6 district, but may not remove any land use restrictions from the underlying district.

7 (j) The ordinance shall comply with other requirements, if any, which the
8 department specifies by rule.

9 (2) ORDINANCE AMENDMENT STANDARDS. To qualify for certification under s.
10 91.36, an amendment to a farmland preservation zoning ordinance shall comply with all
11 of the standards in sub. (1) that are relevant to that amendment. An ordinance
12 amendment does not qualify for certification if it causes the amended ordinance to violate
13 the standards in sub. (1).

14 **91.40 Applying for certification.** A county, town or municipality seeking
15 certification of a farmland preservation zoning ordinance or ordinance amendment shall
16 submit all of the following to the department, in writing:

17 (1) The complete ordinance or ordinance amendment proposed for certification.

18 (2) All of the following background information:

19 (a) A concise summary of the ordinance or ordinance amendment, including key
20 changes from any previously certified ordinance.

21 (b) A concise summary of the process by which the ordinance or ordinance
22 amendment was developed, including public hearings, notice to and involvement of other
23 governmental units, and approval by the applying county, town or municipality. The

1 summary shall identify key unresolved issues with other governmental units, related to
2 the ordinance or ordinance amendment.

3 (c) The relationship of the ordinance or ordinance amendment to the county's
4 certified farmland preservation plan, including material inconsistencies between the
5 ordinance and the plan.

6 (d) Other relevant background information that the department requests, or that
7 the applicant wishes to include.

8 (3) One of the following statements:

9 (a) A statement, signed by the county planning director, certifying that the
10 ordinance or ordinance amendment complies with s. 91.38(1)(g) and (h).

11 (b) A statement, signed by the applicant's chief elected official, certifying that
12 the county planning director has failed or refused to provide a requested statement under
13 par. (a). The statement shall include the reason, if any, given by the county planning
14 director.

15 (4) A statement by the applicant's chief elected official or attorney, certifying
16 that the ordinance or amendment complies with all applicable standards under s. 91.38.

17 (5) Other relevant information required by the department by rule.

18 **91.42 Land use in farmland preservation zoning districts; general.** An
19 ordinance certified under s. 91.36 may not authorize any land uses in a farmland
20 preservation zoning district other than the following land uses:

21 (1) Permitted uses under s. 91.44.

22 *[DRAFTERS NOTE: A "permitted use" means a use that is permitted without*
23 *a conditional use permit, special exception or other special zoning*
24 *authorization. See s. 91.01(23).]*
25

1 (2) Conditional uses under s. 91.46.

2 *[DRAFTER'S NOTE: A "conditional use" means a use that is authorized only*
3 *under a conditional use permit, special exception, or other special authorization*
4 *issued by a county, town or municipality (see s. 91.01(5)).]*

5 (3) Prior nonconforming uses. A prior nonconforming use may continue, without
6
7 further approval, unless materially altered. A prior nonconforming residence may be
8 expanded or remodeled, as long as there is no increase in the number of dwelling units in
9 the residence.

10 *[DRAFTER'S NOTE: A "prior nonconforming use" is an isolated land use*
11 *that is inconsistent with a farmland preservation zoning ordinance provision,*
12 *but which existed lawfully until the ordinance provision was enacted. See s.*
13 *91.01(26).]*

14 (4) Other uses authorized by the department by rule.

15
16 *[DRAFTER'S NOTE: A land use that does not qualify under s. 91.42 is*
17 *prohibited unless the land is rezoned out of the farmland preservation zoning*
18 *district.]*

19 **91.44 Permitted uses.** Except as provided by the department by rule, an
20 ordinance certified under s. 91.36(1) may authorize any of the following uses as
21 permitted uses in a farmland preservation zoning district, subject to lawful standards
22 specified in the ordinance:
23

24 (1) Agricultural uses.

25 *[DRAFTERS NOTE: See s. 91.01(2).]*

26 (2) Accessory uses, including farm residences.

27 *[DRAFTERS NOTE: See ss. 91.01(1) and (17).]*

28 (3) Agriculture-related uses.

29 *[DRAFTERS NOTE: See s. 91.01(3).]*

1 (4) Non-farm residences constructed in a rural residential cluster, pursuant to a
2 prior approval of that cluster as a conditional use under s. 91.46(1)(e).

3 *[DRAFTERS NOTE: Non-farm residences normally require a conditional use*
4 *permit (see s. 91.46). However, if a developer obtains a conditional use permit*
5 *for a non-farm residential "cluster" under s. 91.46(1)(e), individual*
6 *homeowners may construct homes on approved lots in that "cluster" without*
7 *having to obtain another conditional use permit.]*
8

9 (5) Undeveloped natural resource and open space areas.

10 (6) Uses specifically mandated or approved, at a specified locations, under state
11 or federal laws that preempt the requirement of a conditional use permit for those uses.

12 (7) Other uses identified by the department by rule.

13 **91.46 Conditional uses. (1) GENERAL.** Except as provided by the department
14 by rule, an ordinance certified under s. 91.36(1) may authorize any of the following as
15 conditional uses in a farmland preservation zoning district, subject to lawful standards
16 specified in the ordinance:

17 (a) Agricultural uses.

18 *[DRAFTERS NOTE: See s. 91.01(2). Routine agricultural and accessory uses*
19 *are normally classified as "permitted uses," not "conditional uses," in a*
20 *farmland preservation zoning district. However, a local ordinance may require*
21 *conditional use permits for agricultural or accessory uses that are of an*
22 *exceptional type or scale, or that pose special land use concerns (local*
23 *governments may exercise discretion when designing their ordinances). Under*
24 *the Livestock Facility Siting Law (s. 93.90, Stats.), a local government may not*
25 *require a land owner to obtain a conditional use permit for a livestock facility*
26 *under 500 "animal units."]*
27

28 (b) Accessory uses, including farm residences.

29
30 *[DRAFTERS NOTE: See ss. 91.01(1) and (17).]*
31

32 (c) Agriculture-related uses.

33 *[DRAFTERS NOTE: See s. 91.01(3).]*
34

1 (d) Non-farm residences that qualify under sub. (2), or meet more restrictive
2 standards in the farmland preservation zoning ordinance.

3 ***[DRAFTERS NOTE: See s. 91.01(20).]***

4 (e) A non-farm residential cluster that qualifies under sub. (3), or meets more
5 restrictive standards in the farmland preservation zoning ordinance.

6 (f) Transportation, communications, pipeline, electrical transmission, utility or
7 drainage uses that qualify under sub. (4).

8 (g) Governmental, institutional, religious or nonprofit community uses, other
9 than uses covered by par. (f), which qualify under sub. (5).

10 (h) Nonmetallic mineral extraction, including clay or gravel extraction, which
11 qualifies under sub. (6).

12 (i) Oil and gas exploration licensed by the department of natural resources under
13 subch. II of ch. 295.

14 (j) Other uses authorized by the department by rule.

15 (2) NON-FARM RESIDENCES. A non-farm residence qualifies under sub. (1)(d) if
16 the local governing authority finds that the residential construction complies with all of
17 the following standards:

18 (a) The ratio of non-farm residential acreage to farm acreage may not exceed
19 1:20 in any base farm tract.

20 ***[DRAFTER'S NOTE: For example, assume that there is a "base farm tract" of***
21 ***220 acres (see s. 91.01(4)). The farmer sells two 5-acre parcels to prospective***
22 ***homeowners, each of whom applies for a conditional use permit to build a non-***
23 ***farm residence on his or her 5-acre parcel. Residential construction on those 2***
24 ***parcels would meet the standard under par. (a).***

25
26 ***However, if the farmer then sells a 3rd parcel of 5 acres, construction of a non-***
27 ***farm residence on that parcel would violate par. (a) because the ratio of***

1 *nonfarm residential acreage (5+5+5=15) to farm acreage (220-15=205) within*
2 *the “base farm parcel” would exceed 1:20. See definitions of “non-farm*
3 *residential acreage” (s. 91.01(21)) and “farm acreage” (s. 91.01(11)).*

4
5 *Farm consolidations and changes in farm ownership do not affect this result,*
6 *because the “base farm tract” as defined in s. 91.01(4) is fixed at a point in time*
7 *and remains unchanged, regardless of subsequent changes in farm ownership*
8 *or size.*

9
10 *Note that par. (a) does not limit the division of farm parcels, per se (nor does it*
11 *limit further division of the divided parcels). It merely limits the construction of*
12 *non-farm residences on the divided parcels, because that construction converts*
13 *the parcels to “non-farm residential acreage.” If the farmer sells three 5-acre*
14 *parcels, and nobody constructs a house, there is no violation and no*
15 *requirement of a conditional use permit (nor would there be under current law).*
16 *If the farmer sells three 5-acre parcels at the same time, the first 2 buyers to get*
17 *conditional use permits will be able to build houses (the 3rd buyer will not).*

18
19 (b) There may be no more than 4 non-farm residences, nor more than 5 total
20 residences, in any base farm tract.

21 *[DRAFTER’S NOTE: For example, assume that there is a “base farm tract” of*
22 *220 acres (see s. 91.01(4)). The farmer sells five one-acre parcels to prospective*
23 *homeowners, each of whom applies for a conditional use permit to build a non-*
24 *farm residence on his or her one-acre parcel. Residential construction on those*
25 *5 parcels would meet the “acreage” standard under par. (a) and the “building*
26 *density” standard under par. (b).*

27
28 *If the farmer then sells a 6th one-acre parcel, construction of a non-farm*
29 *residence on that parcel would still meet the “acreage” standard under par. (a),*
30 *but would NOT meet the “building density” standard under par. (b).*

31
32 (c) All non-farm residences shall be single-family residences.

33 *[DRAFTER’S NOTE: Paragraph (c) prohibits the construction of non-farm*
34 *duplexes and multi-unit residential structures in farmland preservation zoning*
35 *districts. Together with par. (b), it operates to limit “population density” in*
36 *those districts.*

37
38 (d) Neither the location of a non-farm residential parcel, nor the location of a
39 non-farm residence on that parcel, may do any of the following:

40 1. Unnecessarily convert prime farmland from agricultural use.

1 ***[DRAFTER'S NOTE: See definition of "prime farmland," s. 91.01(25).***

2 2. Significantly impair or limit the current or future agricultural use of other
3 protected farmland.

4 ***[DRAFTER'S NOTE: See definition of "protected farmland," s. 91.01(27).***

5 **(3) NON-FARM RESIDENTIAL CLUSTER.** A non-farm residential cluster qualifies
6 under sub. (1)(e) if all of the following apply:

7 (a) The cluster consists of contiguous parcels that would collectively meet the
8 standard under sub. (2)(a) if non-farm residences were constructed on all of the parcels.

9 (b) Construction of non-farm residences in the cluster is legally restricted to
10 ensure compliance with all of the standards in sub. (2).

11 ***[DRAFTER'S NOTE: Once a local governing authority grants a conditional***
12 ***use permit under sub. (1)(e) to the developer of a "nonfarm residential cluster,"***
13 ***the owners of individual parcels within the cluster may construct residences on***
14 ***those parcels without any further conditional use permit, provided that they***
15 ***comply with the legal restrictions in sub. (3)(b).***

16 **(4) TRANSPORTATION, COMMUNICATIONS, PIPELINE, ELECTRICAL TRANSMISSION,**
17 **UTILITY OR DRAINAGE USE.** A transportation, communications, pipeline, electrical
18 transmission, utility or drainage use qualifies under sub. (1)(f) if all of the following
19 apply:
20

21 (a) The use and its location are necessary in light of alternative locations, or are
22 specifically approved under state or federal law.

23 (b) The use does not unnecessarily convert land from agricultural use, or from
24 undeveloped natural resource or open space use, to other uses.

25 (c) The use does not unnecessarily convert prime farmland from agricultural use.

26 ***[DRAFTER'S NOTE: See definition of "prime farmland," s. 91.01(25).***

1 (d) The use does not unnecessarily impair or limit the current or future
2 agricultural use of other protected farmland.

3 ***[DRAFTER'S NOTE: See definition of "protected farmland," s. 91.01(27).***

4 (e) Construction damage is minimized and repaired, to the maximum extent
5 feasible, to maintain and restore agricultural use of land.

6 **(5) GOVERNMENTAL, INSTITUTIONAL, RELIGIOUS OR NONPROFIT COMMUNITY USE.**

7 A governmental, institutional, religious or nonprofit community use qualifies under sub.

8 (1)(g) if all of the following apply:

9 (a) The use and its location are necessary in light of alternative locations.

10 (b) The use does not unnecessarily convert land from agricultural use, or from
11 undeveloped natural resource or open space use, to other uses.

12 (c) The use does not unnecessarily convert prime farmland from agricultural use.

13 ***[DRAFTER'S NOTE: See definition of "prime farmland," s. 91.01(25).***

14 (d) The use does not convert more than 5 acres of land from agricultural use, or
15 from undeveloped natural resource or open space use, to other uses.

16 (e) The use does not unnecessarily impair or limit the current or future
17 agricultural use of other protected farmland.

18 ***[DRAFTER'S NOTE: See definition of "protected farmland," s. 91.01(27).***

19 (f) Construction damage is minimized and repaired, to the maximum extent
20 feasible, to maintain and restore agricultural use of land.

21 **(6) NONMETALLIC MINERAL EXTRACTION.** Nonmetallic mineral extraction
22 qualifies under sub. (1)(h) if all of the following apply:

1 (a) The extraction complies with subch. I of ch. 295, with applicable department
2 of natural resources rules implementing that subchapter, and with any applicable local
3 ordinance under s. 295.13 or 295.14.

4 (b) The extraction does not unnecessarily convert land from agricultural use, or
5 from undeveloped natural resource or open space use, to other uses.

6 (c) The extraction does not unnecessarily convert prime farmland from
7 agricultural use.

8 *[DRAFTER'S NOTE: See definition of "prime farmland," s. 91.01(25).*

9 (d) The extraction does not unnecessarily impair or limit current or future
10 agricultural use of protected farmland.

11 *[DRAFTER'S NOTE: See definition of "protected farmland," s. 91.01(27).*

12 (f) The land is restored to agricultural use, to the maximum extent feasible and
13 consistent with a locally approved reclamation plan, when the extraction is completed.

14 **91.48 Rezoning land out of farmland preservation zoning district.** A county,
15 town or municipality may rezone land out of a farmland preservation zoning district,
16 without having the rezoning certified under s. 91.36, if all of the following apply:

17 (1) The local governing authority finds all of the following, after public hearing:

18 (a) The rezoned land is better suited for a use not authorized in the farmland
19 preservation zoning district.

20 (b) The rezoning is consistent with the comprehensive plan, if any, of the county,
21 town or municipality.

22 (c) The rezoning is consistent with the currently certified county farmland
23 preservation plan.

1 (d) The rezoning will not impair or limit agricultural use of other protected
2 farmland.

3 ***[DRAFTER'S NOTE: See definition of "protected farmland," s. 91.01(27).***

4 (2) The owner of each rezoned parcel pays to the county, town or municipality a
5 conversion fee which the county, town or municipality shall use to fund farmland
6 preservation planning, zoning or compliance monitoring under this chapter. The
7 conversion fee is 100 dollars per acre of rezoned land unless the department specifies a
8 different conversion fee by rule.

9 (3) The county, town or municipality annually reports all of the following to the
10 department and, if the ordinance is administered by a town or municipality, to the county:

11 (a) The amount of land that the county, town or municipality has rezoned under
12 sub. (1) since *[revisor inserts effective date of this act]*, or since the date of its last
13 previous report under this paragraph, whichever date is later. The report shall include a
14 map that clearly shows the location of the rezoned land.

15 (b) The amount of conversion fee revenue that the county, town or municipality
16 has received under sub. (2) since *[revisor inserts effective date of this act]*, or since the
17 date of its last previous report under this paragraph, whichever date is later.

18 **91.50 Exemption from special assessments.** (1) Except as provided in sub. (3),
19 no county, town, municipality, special use district or other local governmental entity may
20 impose any special assessment for sanitary sewers, water, lights or drainage on land in
21 agricultural use, if that land is located in a farmland preservation zoning district.

1 1. Certified by the land and water conservation board under ch. 91, Stats., before
2 *[revisor inserts effective date of this act]* for a definite period of time specified in the
3 certification.

4 ***[DRAFTER'S NOTE: Recent LWCB certifications, unlike older certifications,***
5 ***have specified a definite certification expiration date (typically 10 years from***
6 ***the certification date).]***

7
8 2. Certified by the department on or after *[revisor inserts effective date of this*
9 *act]*.

10 (c) It is part of a working lands enterprise area that meets criteria specified by the
11 department by rule.

12 **(3) PRIOR AGREEMENTS.** (a) Except as provided in s. 91.66, a farmland
13 preservation agreement created, extended or renewed prior to *[revisor inserts effective*
14 *date of this act]* remains in effect, according to the terms that were agreed upon when the
15 agreement was last created, extended or renewed, for the term specified in that
16 agreement.

17 (b) Except as provided in sub. (1), the department may not enter into, extend or
18 renew a farmland preservation agreement on or after *[revisor inserts effective date of this*
19 *act]*.

20 **91.62 Farmland preservation agreements; requirements.** A farmland
21 preservation agreement under s. 91.60(1) shall comply with all of the following
22 requirements:

23 **(1)** The agreement shall be for a term of at least 15 years. Except as provided in
24 s. 91.66, the agreement shall remain in effect for the specified term.

1 (2) The agreement shall cover an eligible tract of land under s. 91.60(2), and shall
2 include a correct legal description of that land.

3 (3) The agreement shall be binding on subsequent owners of the land covered by
4 the agreement, for as long as the agreement remains in effect.

5 (4) The agreement shall restrict land use, on land covered by the agreement, to
6 the following uses:

7 1. Agricultural and accessory uses.

8 2. Undeveloped natural resource or open space uses.

9 ***[DRAFTER'S NOTE: See ss. 91.01(1), (2) and (17).]***

10
11 (5) In consideration for the commitments made in the agreement, including the
12 land use restrictions under sub. (4), an owner of the covered land may claim farmland
13 preservation tax credits under subch. IX of ch. 71, Stats., to the extent that the owner is
14 eligible for those tax credits.

15 (6) The agreement shall be signed by all owners of the land covered by the
16 agreement.

17 (7) The agreement shall be based on an application under s. 91.64.

18 (8) The agreement shall be in a form specified by the department, and shall be
19 suitable for filing with the county register of deeds.

20 (9) The agreement shall take effect when signed by all parties to the agreement.

21 An owner of land covered by the agreement may claim farmland preservation tax credits
22 under subch. IX of ch. 71, Stats., for the tax year in which the agreement takes effect.

1 (10) The department shall provide a copy of the signed agreement to a person
2 designated by all of the signing owners, and shall promptly file the signed agreement
3 with the county register of deeds.

4 **91.64 Applying for a farmland preservation agreement. (1) SUBMITTING AN**
5 **APPLICATION.** A person may apply for a farmland preservation agreement under s.
6 91.60(1) covering a tract of land in which the person has an ownership interest. The
7 person shall submit the application, on a form provided by the department, to the county
8 clerk in the county where the land is located.

9 **(2) APPLICATION CONTENTS.** An application under sub. (1) shall include all of the
10 following:

11 (a) The name and address of each person who has an ownership interest in the
12 land proposed for coverage under the agreement.

13 (b) The location of the land proposed for coverage, indicated by street address;
14 township, range and section numbers; or global positioning system coordinates.

15 (c) A correct legal description of the land proposed for coverage.

16 (d) A map or aerial photograph of the land proposed for coverage, showing
17 parcel boundaries, residences and other structures, and significant natural features.

18 (e) Information showing that the land proposed for coverage is eligible under s.
19 91.60(2).

20 (f) Information describing every existing lien, mortgage or easement on land
21 proposed for coverage, including the name and address of the person holding the lien,
22 mortgage or easement. This paragraph does not apply to liens on growing crops.

1 (g) A signed statement from each person holding an existing lien, mortgage or
2 easement on any of the land covered by the proposed agreement, acknowledging that the
3 lien, mortgage or easement is subject to the land use restrictions in the agreement. This
4 subsection does not apply to liens on growing crops.

5 (h) Other information required by the department by rule.

6 (i) A reasonable county processing fee, if requested by the county.

7 **(3) COUNTY REVIEW.** (a) A county shall review an application under sub. (2) for
8 the sole purpose of determining whether the land proposed for coverage meets the
9 eligibility requirements under ss. 91.60(2)(b) and (c). The county shall issue its findings
10 to the applicant in writing, within 60 days after the county clerk receives a complete
11 application under sub. (1). The county planning director may issue findings on behalf of
12 the county.

13 (b) If the county finds under par. (a) that the land proposed for coverage meets
14 the eligibility requirements under ss. 91.60(2)(b) and (c), the county shall promptly
15 transmit all of the following to the department:

16 1. The original copy of the approved application, including all of the information
17 included with the application.

18 2. A copy of the county findings.

19 3. Other county comments, if any.

20 **(4) DEPARTMENT ACTION ON APPLICATION.** (a) The department may enter into a
21 farmland preservation agreement under s. 91.60(1), based on a complete application and
22 county findings under sub. (3)(b), if the department finds that the proposed agreement
23 complies with s. 91.62.

1 (b) The department may decline to enter into a farmland preservation agreement
2 for any of the following reasons:

- 3 1. The application under this section is incomplete.
- 4 2. The proposed agreement does not comply with s. 91.62.
- 5 3. Other reasons stated to the applicant in writing.

6 **91.66 Terminating a farmland preservation agreement.** The department may
7 at any time terminate a farmland preservation agreement or release land from an
8 agreement if all of the following apply:

9 (1) All of the owners of land covered by the agreement consent to the termination
10 or release, in writing.

11 (2) The department finds that the termination or release will not impair or limit
12 agricultural use of other protected farmland.

13 (3) The consenting owners under sub. (1) pay to the department, for deposit to
14 the state of Wisconsin general fund, a total combined conversion fee equal to \$100 per
15 acre of land released from coverage under the agreement. The department may specify a
16 different conversion fee by rule. No conversion fee is required if the land is converted
17 from agricultural use by direct government action, including government acquisition or
18 condemnation.

19 (4) The department does all of the following:

20 (a) Issues the termination or release in writing.

21 (b) Files the termination or release with the county register of deeds.

22 (c) Provides a copy of the termination or release to a person designated by the
23 consenting owners under sub. (1).

1 **91.68 Violations of farmland preservation agreements.** (1) The department
2 may commence an action in circuit court in the name of the state of Wisconsin to do any
3 of the following:

4 (a) To enforce a farmland preservation agreement.

5 (b) To restrain, by temporary or permanent injunction, a land use change that
6 violates a farmland preservation agreement.

7 (c) To seek a civil forfeiture to the state of Wisconsin for a land use change that
8 violates a farmland preservation agreement. The amount of the civil forfeiture may not
9 exceed twice the value of the land covered by the agreement, determined at the time of
10 the violation.

11 **91.70 Farmland preservation agreements; exemption from special**
12 **assessments.** (1) Except as provided in sub. (3), no county, town, municipality, special
13 use district or other local governmental entity may impose any special assessment for
14 sanitary sewers, water, lights or drainage on land that is covered by a farmland
15 preservation agreement at the time of the assessment.

16 (2) Land that is exempt from a special assessment under sub. (1) may be denied
17 use of improvements created by the special assessment, for as long as the exemption is
18 claimed.

19 (3) The exemption under sub. (1) does not apply to any of the following:

20 (a) An assessment that a land owner voluntarily pays, after receiving notice of the
21 exemption under sub. (1) from the assessing authority.

22 (b) An assessment lawfully imposed by a drainage district under ch. 88.

23

1 (a) Failed to comply with s. 91.80(1).

2 (b) Failed to permit a reasonable inspection under sub. (1)(a).

3 (c) Failed to certify compliance in response to a committee request under sub.
4 (1)(b), or falsely certified compliance.

5 (3) PROCEDURE. The department may by rule prescribe procedures for the
6 administration of this section by county land conservation committees.

7 ***[DRAFTER'S NOTE: See current department rules in s. ATCP 50.16, Wis.***
8 ***Adm. Code.]***

9
10 SECTION 6. 92.04(2)(c) of the statutes is repealed.

11 SECTION 7. 92.05(3)(L) of the statutes is amended to read:

12 92.05(3)(L) *Technical assistance; performance standards.* The department shall
13 provide technical assistance to county land conservation committees and local units of
14 government for the development of ordinances that implement standards adopted under s.
15 92.07(2), ~~92.105(1)~~, 92.15(2) or (3) or 281.16(3). The department's technical assistance
16 shall include preparing model ordinances, providing data concerning the standards and
17 reviewing draft ordinances to determine whether the draft ordinances comply with
18 applicable statutes and rules.

19 SECTION 8. 92.104, 92.105 and 92.106 of the statutes are repealed.

20 SECTION 9. 92.14(2)(e), (3)(a)1. and (3)(d) of the statutes are amended to read:

21 92.14(2)(e) Promoting ~~compliance with the requirements under ss. 92.104 and~~
22 ~~92.105~~ land and water conservation by persons claiming farmland preservation ~~credit tax~~
23 credits under subch. IX of ch. 71.

24 (3)(a)1. Compliance with requirements under ~~ss. 92.104 and 92.105~~ s. 91.80(1)
25 by persons claiming a farmland preservation tax ~~credit~~ credits under subch. IX of ch. 71.

1 (3)(d) Implementing land and water resource management projects undertaken to
2 comply with the requirements under ~~ss. 92.104 and 92.105~~ s. 91.80(1) by persons
3 claiming a farmland preservation ~~credit~~ tax credits under subch. IX of ch. 71.

4 **SECTION 10.** 165.25(4)(ar) of the statutes is amended to read:

5 165.25(4)(ar) The department of justice shall furnish all legal services required
6 by the department of agriculture, trade and consumer protection related to the
7 enforcement of s. 91.68, ss. 100.71, 100.173, 100.174, 100.175, 100.177, 100.18,
8 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42, 100.50 and
9 100.51 and chs. 126, 136, 344, 704, 707, and 779, together with any other services that
10 are necessarily connected to the legal services.

11 **SECTION 11.** 569.02(5) of the statutes is repealed.

(End)