

(Base) Agency: DNR - Stewardship
Baraboo Hills Subprogram

Recommendations:

Paper No. 265: Shibilski Motion

Comments: The resolution of papers 261 through 266 should be taken care of with the omnibus Shibilski motion. Possibly, papers 267 and 268 might also be rolled into the package.

This earmark is part of Kathleen Falk's agreement with DOT regarding the expansion of HWY 12. There's also \$5 million in the Transportation budget because of Kathleen's deal with DOT.

I think this is a good use of funds an appropriately earmarked (so does Chvala and the Nature Conservancy). But, Shibilski has a problem with earmarking it and plans to just list it as an eligible use of funds. Again, I think he wants big chunks of Stewardship money available to make big purchases of paper company lands up north (or whatever, as long as it's not in southern Wisconsin).

Chvala told me he would deal with Shibilski on this issue, either in Finance or later. So, no need to make a big deal about it.

However, if the Shibilski motion fails I would go with the governor here (i.e. Alternative 1) and uphold the agreement between DOT and Kathleen Falk.

prepared by: Barry



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June 7, 1999

Joint Committee on Finance

Paper #265

Baraboo Hills Subprogram (DNR -- Stewardship)

[LFB 1999-01 Budget Summary: Page 472-5, #7]

CURRENT PROVISIONS

In March, 1999, a memorandum of agreement (MOA) concerning construction of U.S. Highway 12 between Middleton and Lake Delton and protection of the Baraboo Range National Natural Landmark was signed by the Governor, the Secretaries of the Wisconsin Departments of Transportation and Natural Resources, the Dane County Executive, the Sauk County Administrative Coordinator and regional representatives of the Federal Highway Administration, the National Park Service, the Fish and Wildlife Service, the Environmental Protection Agency and the Nature Conservancy.

The major provisions of the agreement include allowing DOT and the Federal Highway Administration to proceed with a phased construction of a modified four-lane USH 12 in Dane County. Highway construction costs are estimated to be approximately \$65 million. All of the parties to the MOA agree to not seek referral of the USH 12 project to the Council on Environmental Quality and forego challenging the final environmental impact statement for the project. DOT also agrees to take all reasonable steps to minimize the total amount of land lost, especially that of prime farmland, to the USH 12 project. Also, the Governor agreed to recommend to the Legislature to add an additional \$5 million to the Stewardship 2000 program for acquisition of land, easements and other rights in land to protect the Baraboo Range National Natural Landmark, including the framework under which DNR can release money for expenditure and the level of state cost-share for the grants. In addition, DOT agreed to provide:

- \$1 million annually from 1999-00 to 2003-04 (\$5 million total) from state and federal transportation moneys for acquisition of land, easements and other rights in land to protect the Baraboo Range National Natural Landmark;

- \$1 million annually from 1999-00 through 2003-04 (\$5 million total) from state and federal transportation moneys for the acquisition of land, easements and development rights in northwestern Dane County to mitigate the impacts of the USH 12 project; and
- Up to \$250,000 over a five-year period from state and federal transportation moneys for the acquisition of land, easements and development rights in Sauk County outside the Baraboo Range National Natural Landmark.

The parties to the MOA also agreed to seek an additional \$2 million (\$1.25 million for Dane County and \$750,000 for Sauk County) in transportation enhancement monies for Ice Age Trail acquisitions and improvements within approved trail corridors in the vicinity of USH 12. DOT also agreed to provide funding for the other transportation-related activities in Dane and Sauk Counties related to the USH 12 project.

BUILDING COMMISSION

Specify a base amount of \$5,000,000 to be allocated in 2000-01 for the Baraboo Hills subprogram to match the value of land acquisitions that are certified by DNR as qualifying matching land acquisitions.

Allow DNR to certify as a qualifying matching land acquisition under the subprogram an acquisition to which all of the following apply: (a) the land is being acquired for conservation purposes; (b) the land is being acquired by the federal government, a local unit of government or a nonprofit conservation organization (NCO); and (c) any federal moneys being used for the acquisition are federal nontransportation moneys.

Require DNR to set aside funding from the subprogram in amounts equal to that committed by the federal government, local units of governments or NCOs for the acquisition of land in the Baraboo Hills for conservation purposes. Require federal funding for these purposes to come from nontransportation moneys. Specify that DNR may only set aside moneys for commitments made before January 1, 2006.

Require DNR to make available for expenditure moneys in an amount that equals the value of each qualifying matching land acquisition. Provide that moneys made available for expenditure may be used by the Department to acquire land in the Baraboo Hills for conservation purposes and award grants to local units of government and NCOs to acquire land for conservation purposes in the Baraboo Hills. Specify that a local unit of government or NCO that receives such a grant need not provide any matching funding. Specify that land acquired with moneys from such a grant may not be certified by DNR as a qualifying matching land acquisition.

Require DNR to certify which land acquisitions qualify as matching land acquisitions for the subprogram and determine the value of these matching land acquisitions. For land that is acquired by purchase at fair market price, the value certified as qualifying matching acquisitions

would be equal to the sum of the purchase price and the costs incurred by the federal government, local unit of government or NCO. For land that is acquired by gift, bequest or purchase at less than the fair market value, the value certified shall be equal to the sum of the appraised fair market value at the time of the acquisition (as determined by an appraisal supplied by the acquiring entity) and the costs incurred by the acquiring entity in acquiring the land.

Prohibit DNR from obligating more than \$5,000,000 under this subprogram. Specify that the amount of non-federal money that may be used by local units of governments or nonprofit conservation organizations to make land acquisitions that may be certified as qualifying matching land acquisitions may not exceed \$2,500,000. Specify that land certified as a qualifying matching land acquisition or that is acquired with moneys made available under this subprogram may not be DNR land or land that is otherwise owned or under the jurisdiction of the state on the effective date of the bill.

Provide that if the moneys set aside by DNR and made available for expenditure on January 1, 2006, are less than \$5,000,000 that the Department transfer the difference to the land acquisition subprogram. Require DNR to expend any obligated amount that has not been expended by January 1, 2006, for acquisitions by the Department and for grants to local units of government and NCOs for land for conservation purposes in the Baraboo Hills.

Prohibit any money from being obligated for the Baraboo Hills subprogram before the DOT certifies to DNR that highway construction that will result in at least four traffic lanes has begun on the portion of USH 12 between the City of Middleton and the Village of Sauk City.

DISCUSSION POINTS

1. The language included in the Building Commission amendment implements the provisions of the MOA, including the qualifying match land acquisition concept and the provisions specifying that certain grant recipients need not contribute any matching funds under the subprogram. These provisions would not otherwise be allowable under the proposed stewardship language.

2. The other provisions related to DOT funding for various transportation-related activities in Dane and Sauk Counties stemming from the USH 12 project are allowable under current law and thus, do not require any additional statutory language.

3. As part of the MOA, all parties "acknowledge that they lack the authority to legally bind subsequent legislative branches of government." Thus, it is within the authority of the Legislature to approve or deny selected parts of the agreement or the entire agreement. While the Legislature has this option, action to modify the MOA could be construed as a breach of the agreement and result in a new arrangement needing to be negotiated related to construction of USH 12.

4. Under several categories of the Warren Knowles-Gaylord Nelson stewardship

program (including the general land acquisition, stream bank protection and Ice Age Trail categories), and under the Stewardship 2000 language, DNR must match the dollar value of land and easements donated to the Department that are within a designated project boundary, and must use the matching contribution for acquisition or other activities within the boundaries of the same project for which any donation is made.

5. The mechanism for the release of funding under the proposed Baraboo Hills subprogram is similar to this arrangement. Under the current program, however, DNR may acquire land and make grants in these categories regardless of whether other units of government or NCOs first purchase land. Under the Baraboo Hills subprogram, stewardship funding would be released only after purchases are made by other entities.

6. Under the Warren Knowles-Gaylord Nelson stewardship program, grants to local units of government and NCOs are generally given for 50% of project costs. This match is generally required as a sign of the importance of the particular project to the local unit of government or the NCO.

7. No matching funding would have to be provided to a local unit of government or an NCO to receive funding under the Baraboo Hills subprogram. Unlike the current program, however, other units of government or NCOs would have to make qualifying matching land acquisitions to make funding for DNR purchases or grants available. Thus, while a particular local unit of government or NCO would not have to provide a match to a particular state grant, in the aggregate, the state funding would be matched at some level by that of other sources.

8. Given that the particular requirements in the language for the Baraboo Hills subprogram have been agreed to by various parties related to construction of USH 12, the Committee could choose to enact the provisions regardless of how they may fit within the framework of the stewardship program.

9. The stewardship program was designed to provide a long-term funding source for certain conservation and recreational activities. Under the program, categories are generally designed to be funded over the entire ten years of the program. Given that funding for the Baraboo Hills subprogram would only be provided in the first year of the program, it could be argued that it should be established outside of the stewardship program. This would maintain funding for traditional stewardship purposes, but still allow for pilot programs or other short-term activities to be undertaken.

10. If the Building Commission provision was not adopted, no stewardship funding would be designated for land acquisition in the Baraboo Hills. However, DNR could make purchases within established project boundaries or award matching grants for purchases by local units of government or NCOs under the general stewardship categories.

ALTERNATIVES TO BASE

1. Approve the Building Commission's recommendation to specify a base amount of \$5,000,000 to be allocated under Stewardship 2000 in 2000-01 for the Baraboo Hills subprogram and to implement the provisions of the MOA regarding the expenditure of the money.

2. Specify a base amount of \$5,000,000 to be allocated under stewardship in 2000-01 for the Baraboo Hills subprogram. Specify that the Department may acquire land under the subprogram and award grants for up to 50% of the cost for land in the Baraboo Hills in a manner consistent with the provisions of the land acquisition and local assistance subprograms.

3. Modify either of the above alternatives to instead create a separate bonding appropriation outside of the stewardship program for the Baraboo Hills.

Alternative 3	BR
1999-01 BONDING (Change to Base)	\$5,000,000
[Change to Bill]	\$5,000,000]

4. Take no action.

Prepared by: Russ Kava