

**(Base) Agency:** DNR - Stewardship  
Use of Assessment Data

**Recommendations:**

**Paper No. 267:** Alternative 2 (a, b & c)  
(or Shibilski Motion)

**Comments:** I think the issue of the Paper will also be included in the Shibilski motion, but I'm not sure. Either ask me or FB when we get to this Paper (i.e. after we all get to see the secret Shibilski motion).

This is a very important issue. Obviously, using assessment data, especially an average of past years, to award Stewardship grants is problematic. Rarely do assessments accurately reflect market prices - especially in growing areas (i.e. in and around cities). The Building Commission recommendation really penalizes urban areas and non-profit conservation organizations. It needs to be changed.

Alternatives 2 (a, b & c) approves the Task Force recommendations. Alternative 3 maintains current law. Either would be fine.

prepared by: Barry



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #267

### Use of Assessment Data (DNR -- Stewardship)

[LFB 1999-01 Budget Summary: Page 472-7, #9]

#### CURRENT LAW

Under the Warren Knowles-Gaylord Nelson stewardship program, grants provided to local units of government and nonprofit conservation organizations (NCOs) are generally based on 50% of acquisition cost. In administrative rule, acquisition cost is defined as the fair market value of the property as determined by DNR valuation guidelines and reasonable costs related to the purchase of the property limited to the cost of appraisals, land surveys, relocation payments, title evidence costs, recording fees, interest on installment payments with prior written DNR approval and the cost of environmental inspections and audits. These costs do not include attorneys fees, environmental clean up costs, brokerage fees paid by the buyer, real estate transfer taxes or costs otherwise not identified in rule.

#### BUILDING COMMISSION

In calculating the maximum 50% state match for grants to local governments or NCOs under the local assistance and bluff protection subprograms and for grants for land acquisition for habitat areas and stream bank protection, specify that the calculation must equal 50% of the average of the assessed value of land for the three most recent taxable years if any of the moneys obligated for the grant come from the Stewardship 2000 program.

#### DISCUSSION POINTS

1. Assessors and appraisers generally determine the value of property based on the property's highest and best use, which is that use which will produce the greatest net return to the property owner over a reasonable period of time. Three methods are generally accepted in determining the value of property.

- Under the sales comparison method, value is determined by analyzing recent sales of property that are similar in size, age, use, location and other factors.
- Under the cost method, the value of the land is estimated and added to the cost of replacing any attached structures.
- Under the income method, the present value of the property is determined from the estimated future income derived from the property.

While all three approaches are accepted, the sales method is the approach most commonly used.

2. Most assessors value property at some fraction of market value, despite a statutory requirement that property be assessed at full value. A series of court cases, dating back to the nineteenth century, has interpreted statutes to allow assessed values at a fraction of market value, provided the same fraction applies to all property in the taxation district. As a result, local assessors can assess property at a level below market value without violating the state constitution's requirement of uniform taxation.

3. Under the provisions of the 1995-97 biennial budget, the assessed value of land devoted primarily to agricultural uses is no longer determined solely by the highest and best use of the land, but under a formula designed to transition to use value assessments for such land by 2007.

4. Concerns have been raised during the course of the stewardship program about the use of appraisals as the basis for determining the cost of state and local land acquisition. A number of purchases that have come before the Joint Committee on Finance for review have involved parcels of land proposed for acquisition where the appraised value was significantly greater than the assessed value.

5. The Governor's Blue Ribbon Task Force on the Stewardship Program considered the issue of property valuation in its deliberations. The Task Force agreed to recommend the following criteria for setting grant amounts to local units of government and NCOs under a reauthorized stewardship program.

- Grants to local units of government for land not zoned for agricultural use should be based on the lesser of: (a) the property's appraised value; (b) the property's purchase price; or (c) an amount equal to one and one-half times the average of the sum of the lesser of the property's appraised value or purchase price plus the equalized assessed values for the two most recent years.

- Grants to local units of government for land zoned for agricultural use should be based on the lesser of: (a) the property's appraised value; or (b) the property's purchase price.

- Grants to NCOs should be based on the property's appraised value.

6. Given the current practice of most assessors in valuing property at some fraction of market value, the three approaches presented in current law, the Task Force recommendations and

the Building Commission's proposal would have differing impacts on the funding received by local units of government and NCOs for the purchase of land under the stewardship program. In general, the current law approach would tend to provide the greatest level of funding to grant recipients, while the Building Commission's recommendations would tend to provide the lowest level of state funding.

7. As an example, the following table illustrates the results yielded by the three approaches for the grant to the City of Janesville for the acquisition of 17.4 acres on the Rock River that was considered by the Joint Committee on Finance in April, 1999, and the difference between the requested grant amount and the overall project cost (the local share). The Department requested a grant amount of \$342,500, while the Committee approved \$281,900 based on the formula recommended by the Task Force.

**Comparison of Grant Amounts for Rock River Grant to City of Janesville**

<u>Formula</u>	<u>State Grant</u>	<u>Local Share</u>	<u>State Percentage</u>
Current Law	\$342,500	\$342,500	50%
Task Force	281,900	403,100	41
Building Commission	124,500	560,500	18

8. DNR grant program staff argue that providing less than 50% of the appraised value of property to grant recipients would harm local preservation efforts, as the funding base for local and nonprofit groups is generally less than that of the state. They also argue that such provisions would also dilute the partnership aspects that have helped make the Warren Knowles-Gaylord Nelson stewardship program a success on the local level.

9. However, it could also be argued that the state should not have to subsidize the difference between appraised and assessed value of the properties when local units of government may have it within their power to equalize the assessed and appraised values of property. In addition, local units of governments and NCOs can leverage other sources of funding besides the stewardship program for acquisition of land.

10. A large disparity between assessed and appraised value may result either from local assessors significantly undervaluing all property or as a result of local land use policies. If open space that could be preserved is likely to otherwise be developed, it is often within the power of localities to zone the land in such a way as to maintain it in a relatively undeveloped state, if that is the preferred local option. In addition, a significant contributor to the rapidly-escalating value of some properties may be a municipality's history of rezoning agricultural or open space land to allow residential or commercial development. Thus, the state could rely more heavily on localities to preserve appropriate green space through zoning and other land use planning, rather than providing 50% matching grants regardless of the impact of local policy decisions on acquisition costs. In addition, since local zoning policy is an important factor in setting property value, it could be argued that the local government should bear the primary cost of acquisition where local actions result in

relatively high per acre costs.

11. The power of zoning as a tool for land preservation, however, is limited by the willingness of the locality to maintain land in an undeveloped state. Thus, it could be argued that if the state wants the land preserved, the state should be an equal partner in providing matching grants to help municipalities do so. Further, zoning ordinances must allow a reasonable use of the property by the owner to avoid a taking of private property for public use. If a parcel is not purchased by a unit of government, a change in the zoning of that parcel at any time could result in the development of land that could otherwise have been preserved.

12. The use of assessed value as the basis for stewardship grants must also be considered in light of the transition to use value assessments for land zoned for agricultural use. To the extent that the transition to use value assessment results in assessed values lower than that which would have resulted without use value assessments (and less than appraised property values) could further reduce the funding available to local units of government and NCOs. However, this could also result in greater scrutiny of purchases of agricultural lands by local units of government and NCOs.

13. The Stewardship Task Force recommended that DNR have the authority to develop administrative rules that provide incentives to local units of government that submit projects for grant funding that are consistent with a local or regional land use plan and zoning. One alternative could be to specify that stewardship grants equal up to one-third of acquisition costs, but that DNR may provide up to 50% for projects where local units of government have demonstrated a commitment to open space preservation through effective zoning and land use planning tools.

14. Under current rule, stewardship funding can be used for purposes other than the fair market value of property proposed to be acquired by a local unit of government or NCO. Under DNR rule state grants are available for up to 50% of the cost of appraisals, land surveys, relocation costs, title searches, certain interest costs and environmental inspections. These uses of funding have raised questions on some of the projects that have come before Joint Finance for review. In response to these concerns, the Committee could choose to limit any grants provided under Stewardship 2000 to only those costs related to the value of the land.

15. However, it is argued that under the current program the allowable costs beyond the fair market purchase price are necessary expenses incurred by local units of governments and NCOs in acquiring property. State restrictions on the use of stewardship funding for these expenses could be viewed as inhibiting the financial ability of local units of government and NCOs in property acquisition.

16. Department staff initially indicated that the provision involving the use of assessments for determining grant amounts under Stewardship 2000 could limit the state's ability to leverage Land and Water Conservation Act (LAWCON) funding for development of local recreational properties. Federal law requires that LAWCON funding only be used for development on parcels for which the fair market value of the property has been offered to the seller.

17. However, staff at the National Park Service indicate that, as long as local units of government and NCOs offer the fair market value to a seller, federal regulations do not specify where the funding to make the purchase comes from. That is, the state may provide a cost-share based on assessed value at less than 50% of the acquisition cost, and as long as the local unit of government or NCO provides the additional funding for the purchase based on fair market value, LAWCON funding could be utilized for development activity on that property.

18. While the federal authority for LAWCON has been in place since the 1960s, funding has not been appropriated since 1995. DNR and Park Service staff indicate that under some proposals being considered by the U.S. Congress, Wisconsin could be eligible for between \$4 million and \$8 million in LAWCON funds in the future. The level of LAWCON funding provided by the federal government will likely not be determined until the fall as part of the federal 1999-2000 budget.

19. In addition, under current law, grants for urban green space are set at 50% of eligible acquisition costs, while under the urban rivers and local park aids programs and the other recreational programs designation created under the Building Commission amendment, grants can be given for up to 50% of acquisition cost. That is, most grants set 50% as the maximum state match, allowing DNR, the Governor or the Joint Finance Committee (through its passive review procedure) the discretion to award a lower amount if circumstances warrant. The Committee could make all grant programs uniform by specifying that grants can be given for up to 50% of eligible costs.

## **ALTERNATIVES TO BASE**

1. Approve the Building Commission's recommendation to specify that, in calculating the maximum 50% state match for grants to local governments or NCOs from the Stewardship 2000 program, that the calculation must equal 50% of the average of the assessed value of land for the three most recent taxable years.

2. Approve the Task Force recommendations with respect to the maximum 50% state match as follows:

a. Grants to local units of government for land not zoned for agricultural use be based on the lesser of: (a) the property's appraised value; (b) the property's purchase price; or (c) an amount equal to one and one-half times the average of the sum of the lesser of the property's appraised value or purchase price plus the equalized assessed values for the two most recent years.

b. Grants to local units of government for land zoned for agricultural use be based on the lesser of: (a) the property's appraised value; or (b) the property's purchase price.

c. Grants to NCOs be based on the property's appraised value.

3. Continue the current law provisions specifying that grants to local units of

governments and NCOs be based on 50% of the appraised value of the property being purchased.

4. In addition to any of the above, prohibit the Department from providing any funding under Stewardship 2000 for any costs not related to the value of the land being acquired by local units of government or NCOs (costs such as appraisals, surveys and relocation payments would not be eligible for state funding).

5. Modify any of the above to specify that grant amounts to local governments be up to one-third of eligible costs, but that DNR may award grants of up to 50% of eligible costs for projects where the local government has demonstrated a commitment to open space preservation through implementation of effective land use planning and zoning policies, as determined by administrative rule.

6. In addition to any of the above alternatives, specify that grants under stewardship may be given for up to 50% of the specified amount.

7. Take no action. (No statutory standard for the determination of grant amounts would be established.)

Prepared by: Russ Kava