



## 2003 ASSEMBLY BILL 303

April 29, 2003 - Introduced by Representatives ALBERS, HUNDERTMARK, HINES, LEMAHIEU, OWENS, TOWNSEND and VAN ROY. Referred to Committee on Natural Resources.

1     **AN ACT to repeal** 70.114 (1) (d); **to renumber** 23.14 and 70.114 (1) (a); **to**  
2     **renumber and amend** 23.0917 (7) (a), 23.0917 (7) (f) 1. and 23.0917 (7) (f) 2.;  
3     **to amend** 23.0917 (1) (d), 23.0917 (6) (a), 23.0917 (8) (d) and 70.114 (1) (b); and  
4     **to create** 23.0917 (1) (h), 23.0917 (6) (d), 23.0917 (6) (e), 23.0917 (6) (f), 23.0917  
5     (7) (ab) (intro.), 1., 2. and 4., 23.0917 (7) (ag), 23.0917 (7) (g), 23.0917 (8) (am),  
6     23.0917 (8) (e), 23.0918 (8) (f), 23.14 (2) and 70.114 (1) (ad) of the statutes;  
7     **relating to:** requirements, prohibitions, and procedures relating to land  
8     acquisition under the Warren Knowles-Gaylord Nelson Stewardship 2000  
9     program; acquisitions of land and interests of land by the Department of  
10    Natural Resources; and aid in lieu of property taxes related to acquired land.

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### *Analysis by the Legislative Reference Bureau*

#### *Current general law*

Current law authorizes the state to incur public debt for certain conservation activities under the stewardship program, which is administered by the Department of Natural Resources (DNR). The state may incur this debt to acquire land for the state for conservation purposes and may award grants or state aid to certain local

**ASSEMBLY BILL 303**

governmental units, including the Kickapoo Reserve Management Board, and nonprofit conservation organizations to acquire lands for these purposes (stewardship acquisitions).

***Calculating acquisition costs for stewardship acquisitions***

Under current law, a grant or state aid to a local governmental unit or nonprofit conservation organization for a stewardship acquisition may not exceed 50% of the acquisition costs of the land. For most acquisitions, the acquisition cost is the fair market value of the land, plus other acquisition costs as determined by rule by DNR. This bill requires that fair market value be based on the adjusted highest and best use of the land and requires taxation districts upon request of persons preparing appraisals to prepare statements specifying the highest and best use. Under the bill, the adjusted highest and best use is the probable and legal use of the land that results in the highest fair market value regardless of how it is currently zoned. The bill also prohibits considering as part of the acquisition costs the value of any other land donated to the recipient of the grant or state aid by the seller of the land being acquired.

As for land acquired directly by the state, the bill requires that the fair market value of such land be determined in the same manner as it is for acquisitions by local governmental units and nonprofit conservation organizations.

***Review by Joint Committee on Finance of stewardship acquisitions***

Under current law, the Joint Committee on Finance (JCF) may schedule a meeting to review any proposed stewardship acquisition that costs more than \$250,000. This bill imposes additional requirements on stewardship acquisitions subject to this review. These requirements consist of the following:

1. DNR must provide information to JCF concerning the land's assessed value, copies of all the appraisals in its possession, and a copy of the statement prepared by the tax district concerning the land's highest and best use.

2. If the acquisitions costs of the land may equal or exceed an amount equal to four times the land's assessed value, JCF must schedule a meeting to review the proposed acquisition. DNR must provided the information it provides to JCF to the Department of Revenue (DOR) and the taxation districts in which the land is located. If the acquisition is approved by JCF, each taxation district must perform a reassessment of all of the land that is located in that taxation district that will be affected by the stewardship acquisition. If the acquisition costs will equal or exceed an amount equal to five times the land's assessed value, DNR may not use stewardship funding for this acquisition.

***Calculation of property tax for stewardship acquisitions***

Under current law, DNR must provide the assessor of each local taxation district in which the proposed stewardship acquisition is located a copy of each appraisal in DNR's possession that was prepared to determine the fair market value of the land within 30 days after the debt is incurred. An assessor receiving these appraisals must use them to value the land for property tax purposes.

Under current law, a taxation district may not impose a property tax on land purchased by DNR. Instead, the taxation district receives a payment from the state based on the land's estimated value. For the year in which the land is purchased,

**ASSEMBLY BILL 303**

“estimated value” means the land’s purchase price. Under this bill, for the year in which the land is purchased and for land purchased after June 30, 2004, “estimated value” means the land’s assessed value as determined by the most recent property tax assessment or by an assessment that is prepared within 30 days from the date of the land’s purchase and that is based on DNR’s intended use of the land.

***Other provisions***

The bill prohibits the expenditure of stewardship funding under the following circumstances:

1. The expenditure would be for the acquisition of an easement or development right in land if the term of the easement or development right is for more than 30 years.

2. The expenditure is for a grant or state aid to a local governmental unit or nonprofit conservation organization and unless the expenditure has been approved by the Natural Resources Board not later than 365 days after the date on which the governmental unit or nonprofit conservation organization acquires title to the land.

3. The expenditure is for an acquisition that will result in an adjacent landowner not having access to the landowner’s land or that will result in the landowner’s having to pay for an easement access to the landowner’s land.

4. The expenditure would be for an acquisition by DNR in a county where at least 50% of the land is owned or under the jurisdiction of the state, the federal government, or a local governmental unit (public land). Current law prohibits such expenditures when at least 66% of the land is public land. Current law provides an exemption when the county board of supervisors approves the acquisition. This bill eliminates that exemption.

The bill also defines “land” for purposes of the stewardship program to specifically include buildings and other structures and facilities located on the land.

Finally, under the bill, before the acquisition of any land or interest in land by DNR, DNR shall notify in writing each county and each city, village, or town in which the land or interest in land is located at least 30 days before such acquisition.

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

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

1           **SECTION 1.** 23.0917 (1) (d) of the statutes is amended to read:

2           23.0917 (1) (d) “Land” means land in fee simple, conservation easements, other  
3 easements in land and development rights in land, and includes any buildings,  
4 facilities, and other structures located on the land.

5           **SECTION 2.** 23.0917 (1) (h) of the statutes is created to read:

**ASSEMBLY BILL 303****SECTION 2**

1           23.0917 (1) (h) “Stewardship acquisition” means the acquisition of land using  
2 moneys obligated from the appropriation under s. 20.866 (2) (ta) for an acquisition  
3 of land by the department or for a grant or state aid for acquisition of land by a  
4 governmental unit under s. 23.09 (19), (20), or (20m) or 30.277 or by a nonprofit  
5 conservation organization under s. 23.096.

6           **SECTION 3.** 23.0917 (6) (a) of the statutes is amended to read:

7           23.0917 (6) (a) 1. The department may not obligate from the appropriation  
8 under s. 20.866 (2) (ta) for a given project or activity any moneys unless it first  
9 notifies the joint committee on finance in writing of the proposal.

10          2. If the cochairpersons of the committee do not notify the department within  
11 14 working days after the date of the department’s notification under subd. 1. that  
12 the committee has scheduled a meeting to review the proposal, the department may  
13 obligate the moneys, unless par. (f) applies.

14          3. If, within 14 working days after the date of the notification by the department  
15 under subd. 1., the cochairpersons of the committee notify the department that the  
16 committee has scheduled a meeting to review the proposal, the department may  
17 obligate the moneys only upon approval of the committee.

18           **SECTION 4.** 23.0917 (6) (d) of the statutes is created to read:

19           23.0917 (6) (d) For any stewardship acquisition that is subject to review by the  
20 joint committee on finance under this subsection, the department shall submit to the  
21 committee written information about the proposed stewardship acquisition. The  
22 written information shall include all of the following:

23           1. The assessed value, as defined in s. 70.114 (1) (ad), of the land that is the  
24 subject of the proposed acquisition.

**ASSEMBLY BILL 303**

1           2. A copy of each appraisal that the department is required to submit under sub.  
2 (7) (f).

3           3. A copy of any statement prepared by a zoning office under sub. (7) (g) that  
4 relates to the stewardship acquisition.

5           **SECTION 5.** 23.0917 (6) (e) of the statutes is created to read:

6           23.0917 (6) (e) 1. The department may not obligate moneys to provide funding  
7 for a stewardship acquisition if the stewardship acquisition is subject to review by  
8 the joint committee on finance under this subsection and if the acquisition costs, as  
9 calculated under sub. (7), of the land to be acquired may equal or exceed an amount  
10 equal to 4 times the assessed value of the land unless the stewardship acquisition  
11 is approved by the committee under par. (a) 3.

12           2. For any stewardship acquisition to which subd. 1. applies, the department  
13 of natural resources shall submit to the department of revenue and to the clerk and  
14 assessor of each taxation district in which the land is located a statement informing  
15 them of the proposed stewardship acquisition and a copy of the written information  
16 required under par. (d). If the joint committee on finance approves the stewardship  
17 acquisition, the assessor of each taxation district in which the land is located shall,  
18 within 10 days after the date of the approval, perform a reassessment of all of the  
19 land located in that taxation district that has the same zoning classification as the  
20 land that constitutes the stewardship acquisition.

21           **SECTION 6.** 23.0917 (6) (f) of the statutes is created to read:

22           23.0917 (6) (f) The department may not obligate moneys to provide funding for  
23 a stewardship acquisition if the stewardship acquisition is subject to review by the  
24 joint committee on finance under this subsection, and if the acquisition costs, as

**ASSEMBLY BILL 303**

1 calculated under sub. (7), of the land to be acquired equal or exceed an amount equal  
2 to 5 times the assessed value.

3 **SECTION 7.** 23.0917 (7) (a) of the statutes is renumbered 23.0917 (7) (am) and  
4 amended to read:

5 23.0917 (7) (am) Except as provided in pars. (b) and (c), for purposes of  
6 calculating the acquisition costs for acquisition of land under ss. 23.09 (19), (20) and  
7 (20m), 23.092 (4), 23.094 (3g), 23.096, 30.24 (4) and 30.277 from the appropriation  
8 under s. 20.866 (2) (ta) a stewardship acquisition, the acquisition costs shall equal  
9 the sum of the land's current fair market value based on its adjusted highest and best  
10 use and other acquisition costs, as determined by rule by the department.

11 **SECTION 8.** 23.0917 (7) (ab) (intro.), 1., 2. and 4. of the statutes are created to  
12 read:

13 23.0917 (7) (ab) (intro.) In this subsection:

14 1. "Adjusted highest and best use" means the highest and best use specified by  
15 a zoning office under par. (g).

16 2. "Highest and best use" means the probable and legal use of land that results  
17 in the highest fair market value.

18 4. "Zoning office" means a town board that adopts or enacts zoning ordinances  
19 under s. 60.61, 60.62, or 61.35 or a village board or common council that enacts or  
20 adopts zoning ordinances under s. 62.23 (7).

21 **SECTION 9.** 23.0917 (7) (ag) of the statutes is created to read:

22 23.0917 (7) (ag) For the purposes of calculating under pars. (am) to (c) the  
23 acquisition costs for acquisition of land under ss. 23.09 (19), (20), and (20m), 23.092  
24 (4), 23.094 (3g), 23.096, 30.24 (4), and 30.277, any donation of land to the

**ASSEMBLY BILL 303**

1 governmental unit or nonprofit conservation organization by the owner of the land  
2 being acquired may not be considered as part of the acquisition costs.

3 **SECTION 10.** 23.0917 (7) (f) 1. of the statutes is renumbered 23.0917 (7) (ab) 3.  
4 and amended to read:

5 23.0917 (7) (ab) 3. ~~In this paragraph, “taxation~~ “Taxation district” has the  
6 meaning given in s. 70.114 (1) (e).

7 **SECTION 11.** 23.0917 (7) (f) 2. of the statutes is renumbered 23.0917 (7) (f) and  
8 amended to read:

9 23.0917 (7) (f) For any stewardship acquisition of any land ~~that is funded with~~  
10 ~~moneys obligated from the appropriation under s. 20.866 (2) (ta),~~ the department,  
11 within 30 days after the moneys for the stewardship acquisition are obligated, shall  
12 submit to the clerk and the assessor of each taxation district in which the land is  
13 located a copy of every appraisal in the department’s possession that was prepared  
14 in order to determine the fair market value of the land involved. An assessor who  
15 receives a copy of an appraisal under this subdivision paragraph shall consider the  
16 appraisal in valuing the land as provided under s. 70.32 (1).

17 **SECTION 12.** 23.0917 (7) (g) of the statutes is created to read:

18 23.0917 (7) (g) For purposes of calculating the acquisition costs for a proposed  
19 stewardship acquisition, upon the request of any person preparing an appraisal for  
20 the stewardship acquisitions, the zoning office of the taxation district in which the  
21 land that may be acquired is located shall prepare a written statement as to whether  
22 the land is currently zoned to accommodate its highest and best use. If the zoning  
23 office determines that the land is not currently zoned to accommodate its highest and  
24 best use, the zoning office shall specify in its statement what is the highest and best  
25 use of the land under any circumstances and whether the zoning office would be

**ASSEMBLY BILL 303**

1 likely to approve rezoning the land to accommodate that highest and best use. The  
2 person preparing the appraisal shall utilize the written statement in determining  
3 the current fair market value of the land for purposes of par. (am).

4 **SECTION 13.** 23.0917 (8) (am) of the statutes is created to read:

5 23.0917 (8) (am) The department may not obligate moneys from the  
6 appropriation under s. 20.866 (2) (ta) for the acquisition of a conservation easement  
7 or other easement in land or a development right in land if the term of the easement  
8 or development right is for more than 30 years.

9 **SECTION 14.** 23.0917 (8) (d) of the statutes is amended to read:

10 23.0917 (8) (d) The department may not acquire land using moneys from the  
11 appropriation under s. 20.866 (2) (ta) ~~without the prior approval of a majority of the~~  
12 ~~members-elect, as defined in s. 59.001 (2m), of the county board of supervisors of the~~  
13 ~~county in which the land is located if at least 66% 50% of the land in the county is~~  
14 ~~owned or under the jurisdiction of the state, the federal government, or a local~~  
15 ~~governmental unit, as defined in s. 66.0131 (1) (a). Before determining whether to~~  
16 ~~approve the acquisition, the county in which the land is located shall post notices that~~  
17 ~~inform the residents of the community surrounding the land of the possible~~  
18 ~~acquisitions.~~

19 **SECTION 15.** 23.0917 (8) (e) of the statutes is created to read:

20 23.0917 (8) (e) The department may not obligate moneys from the  
21 appropriation under s. 20.866 (2) (ta) for a grant or state aid to a governmental unit  
22 under s. 23.09 (19), (20), or (20m) or 30.277 or to a nonprofit conservation  
23 organization under s. 23.096 unless the natural resources board approves the grant  
24 or state aid not later than 365 days after the date on which the governmental unit  
25 or the nonprofit conservation organization acquires title to the land.

**ASSEMBLY BILL 303**

1           **SECTION 16.** 23.0918 (8) (f) of the statutes is created to read:

2           23.0918 (8) (f) The department may not obligate moneys from the  
3           appropriation under s. 20.866 (2) (ta) for a grant or state aid to a governmental unit  
4           under s. 23.09 (19), (20), or (20m) or 30.277 or to a nonprofit conservation  
5           organization under s. 23.096 to acquire land if the acquisition will result in an owner  
6           of land that is adjacent to the acquired land being denied access to the owner's land  
7           or in the owner having to pay for an easement or conveyance to gain access to the  
8           owner's land.

9           **SECTION 17.** 23.14 of the statutes is renumbered 23.14 (1).

10          **SECTION 18.** 23.14 (2) of the statutes is created to read:

11          23.14 (2) Before the acquisition of any land, or interest in land, by the  
12          department, the department shall notify in writing each county and each city,  
13          village, or town in which the land or interest in land is located at least 30 days before  
14          the department completes the acquisition.

15          **SECTION 19.** 70.114 (1) (a) of the statutes is renumbered 70.114 (1) (am).

16          **SECTION 20.** 70.114 (1) (ad) of the statutes is created to read:

17          70.114 (1) (ad) "Assessed value" means the lesser of the assessed value of land  
18          as indicated by the most recent property tax assessment under s. 70.32 or the  
19          assessed value of land as indicated by a property tax assessment under s. 70.32 that  
20          is prepared within 30 days after the date on which the department purchases the  
21          land and that is based on the department's intended use of the land.

22          **SECTION 21.** 70.114 (1) (b) of the statutes is amended to read:

23          70.114 (1) (b) "Estimated value<sup>2,2</sup>" for the year during which land is purchased  
24          and for land purchased before July 1, 2004, means the purchase price and, for the  
25          year during which land is purchased and for land purchased after June 30, 2004, the

**ASSEMBLY BILL 303****SECTION 21**

1 assessed value. "Estimated value," for later years, means the value that was used  
2 for calculating the aid payment under this section for the prior year increased or  
3 decreased to reflect the annual percentage change in the equalized valuation of all  
4 property, excluding improvements, in the taxation district, as determined by  
5 comparing the most recent determination of equalized valuation under s. 70.57 for  
6 that property to the next preceding determination of equalized valuation under s.  
7 70.57 for that property.

8 **SECTION 22.** 70.114 (1) (d) of the statutes is repealed.

9 (END)