

1 **AN ACT** *to amend* 25.40 (3) (a); and *to create* 20.370 (5) (ap), 20.855 (4) (v), 23.176,
 2 25.29 (1) (dr), 25.29 (1r) and 25.40 (3) (b) 17. of the statutes; **relating to:**
 3 nonmotorized trail maintenance. granting rule-making authority and making an
 4 appropriation.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on Enhancing Recreational Trails for Non-Motorized Use.

COMMENT: This bill draft creates a funding source and a new state program for the distribution of funding, by the Department of Natural Resources (DNR), for purposes of maintaining nonmotorized trails. The draft includes trail use provisions in addition to the maintenance provisions. Staff of the special committee have assembled this draft using as many of the ideas as possible that were expressed by committee members and speakers at the meetings, or contained in written materials. By preparing the draft in this manner, committee members will be able to evaluate the contents of this draft, and determine whether particular items should be retained without change, modified, or deleted. Also, the special committee should review provisions in the notes that describe observations or conclusions of the special committee. The comments will be deleted from the final draft, while the notes will be included.

PREFATORY NOTE [CONTINUED]: Trails of all types are an important part of Wisconsin’s effort to provide a wide variety of outdoor activities in the state’s attractive and pleasant natural setting, and contribute to the quality of life of the state’s residents and visitors.

All types of trails serve this purpose, including both those trails that are designed for and used by motorized off-road vehicles and those that are used exclusively or partially for nonmotorized activities.

One of the issues that is common to all trails is the ongoing need for maintenance. Without maintenance, or with insufficient maintenance, users of trails become discouraged, and trails that are eroded, rutted, overgrown, or otherwise deteriorating are used less and less.

The Warren Knowles – Gaylord Nelson stewardship program has a significant source of funds for acquisition of land for trail corridors, and funding for initial development of trails, but not for maintenance. With respect to maintenance, the special committee identified a disparity between trails used for motorized and nonmotorized activities. The motorized activities, snowmobiles, all-terrain vehicles, and off-road vehicles, each have a source of funding for trail maintenance in the registration fees paid for the vehicles, and snowmobiles and all-terrain vehicles get funding from motor vehicle fuel tax transfers. There is no comparable source of revenue for maintenance of nonmotorized trails. Although the state has a trail pass, it is required for the use of only a limited number of trails, and does not produce enough revenue for more than a very basic trail maintenance program.

With the current economic conditions, nonmotorized trails are becoming more significant as an alternate transportation method that can be used for getting to work, school, recreation, and shopping. These trails will provide many benefits, such as saving money for the trail user compared to driving an automobile, reducing traffic congestion, noise and air pollution, and delaying the need for future road and bridge projects. Nonmotorized trails also provide social benefits as people travel the trails together and gather at destinations. Finally, the use of trails for nonmotorized activities provides substantial health benefits by increasing the availability of various methods to exercise.

The special committee identified a need for a consistent, dependable, and sufficient funding source for trail maintenance that relates to the transportation benefits of the nonmotorized trails. The committee identified the motor vehicle fuel tax revenues which are deposited in the transportation fund as the best source of nonmotorized trail funding. A substantial amount of the use of nonmotorized trails is a substitute for the use of gasoline or diesel powered vehicles. By using motor vehicle tax revenues for trail maintenance, the trails can be improved and the advantages of the trails as a substitute for motor vehicle transport can be enhanced.

In addition to the need for trail maintenance, it is important that trails for nonmotorized uses be publicized, so that potential users can find the trails and trail access points, can learn the facilities that are accessible from the trail and to plan activities on the nonmotorized trail. This draft includes a provision for public information about nonmotorized trails.

- 1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the
2 following amounts for the purposes indicated:

1		2009-10	2010-11
2	20.370 Natural Resources, Department of		
3	(5) CONSERVATION AIDS		
4	(ap) Resource aids -- nonmotorized		
5	trails	SEG C	10,000,000 10,000,000

NOTE: This appropriation authorizes DNR to expend funds for nonmotorized trail maintenance. The appropriation consists of segregated funds from the conservation fund and is a continuing appropriation, allowing DNR to retain and expend in future fiscal years any funds that are not expended in the current one. Although the amount in the schedule for the appropriation is \$10 million per year, the actual amount per fiscal year is either \$10 million or 1% of the amount of the motor vehicle fuel tax collected in the prior fiscal year, whichever is less. See s. 25.29 (1) (dr), stats., as created by this draft.

6 **20.855 Miscellaneous Appropriations**

7	(4) TAX, ASSISTANCE AND TRANSFER PAYMENTS		
8	(b) Transfer to conservation fund --		
9	nonmotorized trail formula	SEG S	10,000,000 10,000,000

NOTE: This appropriation transfers the amount of the nonmotorized trail appropriation from the transportation fund to the conservation fund. As in the previous appropriation, the \$10 million amount is actually capped by the formula, which transfers either \$10 million or 1% of the amount of the motor vehicle tax collected in the prior fiscal year, whichever is less.

10 **SECTION 2.** 20.370 (5) (ap) of the statutes is created to read:

11 20.370 (5) (ap) *Resource aids -- nonmotorized trails.* As a continuing appropriation
12 from the nonmotorized trail account in the conservation fund, the amounts in the schedule for
13 the maintenance and use program for nonmotorized uses of public trails under s. 23.176.

14 **SECTION 3.** 20.855 (4) (v) of the statutes is created to read:

1 20.855 (4) (v) *Transfer to conservation fund -- nonmotorized trail formula.* From the
2 transportation fund, a sum sufficient in an amount equal to the amount to be paid into the
3 conservation fund as determined under s. 25.29 (1) (dr). The amounts may be paid at such
4 intervals during each fiscal year as the secretary of administration deems appropriate or
5 necessary.

6 **SECTION 4.** 23.176 of the statutes is created to read:

7 **23.176 Nonmotorized trails; maintenance and use program. (1) DEFINITIONS.** In this
8 section: (a) “local governmental unit” means a political subdivision or a special purpose
9 district.

10 (b) “Nonprofit conservation organization” has the meaning given in s. 23.0955 (1).

11 **(2) PROGRAM ESTABLISHED IN DEPARTMENT.** There is established in the department a trail
12 maintenance and use program to provide planning and funding of trail maintenance and use
13 for trails throughout the state that are constructed and used for nonmotorized activities. The
14 department, in consultation with the nonmotorized trail council, shall implement and
15 administer this program by promulgating the rules necessary for the program and distributing
16 the funds for trail maintenance and use.

17 **(3) ELIGIBILITY FOR FUNDING.** The department shall provide funding directly to the
18 department and to other state agencies that own or control and manage trails. The department
19 shall establish a grant program for cost-sharing with local governmental units and nonprofit
20 conservation organizations that own and maintain trails that are accessible to the public. For
21 purposes of this section, a nonprofit conservation organization is eligible for funding only if
22 its purposes, in addition to those in s. 23.0955 (1), include the ownership and maintenance of
23 trails that are accessible to and used by the public.

1 **(4) MAINTENANCE AND USE PLAN; COORDINATION WITH OTHER TRAIL PLANS.** The
2 department shall prepare a comprehensive statewide nonmotorized trail maintenance and use
3 plan and shall establish policies for implementation of the plan pursuant to this section. The
4 department shall coordinate its planning under this subsection with the state network trails
5 plan and any local trail plans. The department shall develop an initial plan under this
6 subsection within one year after the effective date of this subsection [LRB inserts date], and
7 shall revise the plan periodically, as necessary to address current trail maintenance and use
8 issues.

9 **(5) ELIGIBILITY FOR MAINTENANCE FUNDING; PRIORITIES FOR TYPES OF TRAILS.** The
10 department shall evaluate all trail maintenance needs on a statewide basis and shall establish
11 a system of priorities for allocation of funds available under this section. In developing these
12 priorities, the department shall consider the types of trails listed in this subsection, as well as
13 any other trails that have critical and substantial maintenance needs. The department is not
14 required to use the order of the paragraphs in this subsection in developing its priority list.
15 The priority list shall include:

16 (a) Connecting trails.

17 (b) Trails with substantial commuter potential, such as those near population centers,
18 those located in or near neighborhoods with access to trails and those located along roads or
19 highways that lead to workplaces.

20 (c) Trails that are near to tourist activities, particularly tourist activities that are of major
21 importance to the host communities, if any.

22 (d) Trails with substantial existing use and expected increase in use.

23 (e) Maintenance projects for longer trail segments.

24 (f) Trails that allow for more than one nonmotorized trail use on the same trail.

1 (g) Water trails.

2 (6) ELIGIBILITY FOR MAINTENANCE FUNDING; PRIORITIES FOR MAINTENANCE NEEDS. The
3 department shall establish a system of priorities for maintenance funding under this section
4 based on the type of maintenance necessary on a particular trail or trail segment and the
5 urgency of the maintenance. In developing these priorities, the department shall consider the
6 maintenance needs listed in this subsection, as well as any other related maintenance issues.
7 The department is not required to use the order of the paragraphs in this subsection in
8 developing its priority list. The priority list shall include:

9 (a) Routine maintenance of trails, including the trail surface and the facilities associated
10 with the trail.

11 (b) Medium scale maintenance and reconstruction, focusing on maintenance needs that
12 will improve the separation of uses and that relate to deferred maintenance.

13 (c) Damage caused by use of the trail by nonmotorized trail users, by motorized trail
14 users on multi-use trails, and by others.

15 (d) Damage caused by erosion or by other natural causes.

16 (e) Maintenance of facilities that provide access to trails or parking while using trails.

17 (g) Maintenance or reconstruction necessary due to the changing uses of trails.

18 (h) Maintenance of trails that have multi-season uses, including snow removal for trails
19 that serve commuters.

20 (i) Funding for volunteers who help to maintain trails.

21 (7) ELIGIBILITY FOR TRAIL USE FUNDING; PRIORITIES FOR TYPES OF USES. The department
22 shall provide funding for maintenance of facilities associated with trails and methods of
23 assisting individual trail users, and shall establish priorities for trail use funding. The
24 department shall consider the trail use issues listed in this subsection, as well as any other trail

1 use issues. The department is not required to use the order of the paragraphs in this subsection
2 in developing its priority list. The priority list shall include:

3 (a) Facilitating use by disabled individuals.

4 (b) Providing for cross-country ski trail grooming.

5 (c) Modifying bicycle trail surfacing to make it more appropriate for the type of
6 bicycling on that trail, and plowing snow to allow year-round bicycle trail use.

7 (d) Providing parking for trail users.

8 (e) Providing information to trail users by conducting, and publishing the results of,
9 research on trail usage and by providing maps, directional signs, and informational signs.

10 (f) Conducting education programs and promotions regarding trail use, such as “bike
11 to work week”.

12 (g) Enhancing water trails, including construction and maintenance of portages,
13 campsites, and directional signs.

14 **(8) DEPARTMENT SUPPORT OF TRAIL MAINTENANCE AND USE PROGRAM.** The department
15 shall develop trail maintenance standards and best management practices and shall use land
16 information systems and information about trails to provide trail information on the Internet.

17 **(9) GRANT PROGRAM.** The department shall determine:

18 (a) The amount of funding to be allocated for the various purposes under this section.

19 (b) The amount of grant funding to be provided to individual grantees or the department
20 or the agencies.

21 (c) The terms and conditions for receipt of a grant or distribution of funds under this
22 section.

NOTE: Creates the nonmotorized trails maintenance and use program in DNR. Funding for this program is from the conservation fund, consisting of moneys transferred from the transportation fund. The

funding for each fiscal year is \$10 million, or 1% of the motor vehicle fuel tax collections each fiscal year, whichever is less.

DNR is directed to implement the program by promulgating rules necessary for the program and distributing the funds for trail maintenance and use. The funds are distributed directly to state agencies (primarily the DNR and the Department of Transportation) and by means of a grant program to local governmental units and to nonprofit conservation organizations. The draft establishes a basic structure that focuses primarily on the priorities for expenditure of trail maintenance and use funds.

Grants under the nonmotorized trail program are available to “local governmental units”, which is defined in the draft as a political subdivision (city, village, town, or county) or a special purpose district. “Special purpose district” does not have a specific defined content, but includes such entities as lake districts, sewer and water districts, school districts, technical college districts, and drainage districts. To the extent that these special purpose districts own and maintain trails, they will be eligible for grants under the program.

COMMENT: The lists of issues in this draft are meant to give a sense of the broad scope of this program. However, the program is open-ended, and allows DNR to identify additional issues related to maintenance and use of nonmotorized trails, and to incorporate those issues into the program. The extensive list of issues in the draft is intended to give a sense of the urgency and necessity of a nonmotorized trail maintenance and use program, to ensure the continued viability of the nonmotorized trails in this state.

The draft includes a reference to consultation with the nonmotorized trail council, shown in brackets. This provision will remain in the draft if the special committee recommends creation of the council, and will be deleted if the special committee chooses not to recommend creation of a nonmotorized trail council.

1 **SECTION 5.** 25.29 (1) (dr) of the statutes is created to read:
2 25.29 (1) (dr) For fiscal year 2009–10 and each fiscal year thereafter, an amount equal
3 to the nonmotorized trail transfer payment. The nonmotorized trail transfer payment is one
4 percent of the amount of the motor vehicle fuel tax collected under s. 78.01 for the prior fiscal
5 year, or \$10,000,000, whichever is less.

NOTE: Provides that the conservation fund includes the moneys transferred from the transportation fund for the trail maintenance and use program.

1 **SECTION 6.** 25.29 (1r) of the statutes is created to read:

2 25.29 (1r) There is established in the conservation fund a separate account that is
3 designated the nonmotorized trail account, that consists of the moneys paid into the
4 conservation fund under s. 20.855 (4) (v).

NOTE: Creates a separate account within the conservation fund which is designated the nonmotorized trail account. This account consists of the moneys for trail maintenance and use from the transportation fund.

COMMENT: Any additional funds available to the DNR for trail maintenance can also be placed into the nonmotorized trail account by the addition of an appropriate cross-reference.

5 **SECTION 7.** 25.40 (3) (a) of the statutes is amended to read:

6 25.40 (3) (a) Except as provided in ~~s.~~ ss. 20.855 (4) (v) and 85.52 (3) (cm), beginning
7 on July 1, 2007, no moneys deposited in the transportation fund that are not appropriated may
8 be transferred from the transportation fund to any other fund or appropriation account in any
9 other fund.

NOTE: Creates an exception for the limitation on transfer of funds from the transportation fund to any other fund. This exception is for the nonmotorized trail maintenance funding that is transferred to the conservation fund.

10 **SECTION 8.** 25.40 (3) (b) 17. of the statutes is created to read:

11 25.40 (3) (b) 17. The nonmotorized trail account in the conservation fund.

NOTE: This provision is also part of the exemption from the restriction on transferring funds from the conservation fund to any other appropriation or fund.

12

(END)