



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

February 7, 2024

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 480/Senate Bill 468: Eligibility for Farmland Preservation Tax Credits

Assembly Bill 480 and Senate Bill 468, hereafter referred to as "the bill," would create certain limitations for farmland preservation tax credits under the farmland preservation program administered by the Department of Agriculture, Trade and Consumer Protection (DATCP).

Assembly Bill 480 was introduced on October 12, 2023, and referred to the Assembly Committee on Ways and Means. On November 27, 2023, Assembly Amendment 1 was offered. On November 29, 2023, a public hearing was held. On December 29, 2023, Assembly Amendment 2 was offered. On January 18, 2024, the Assembly Committee on Ways and Means recommended adoption of Assembly Amendment 2 by a vote of 8 to 4 and recommended passage of the bill as amended by a vote of 8 to 4. On January 25, 2024, the Assembly passed the bill as amended on a vote of 64 to 35 and messaged it to the Senate. The bill was referred to the Joint Committee on Finance on February 5, 2024.

Senate Bill 468 was introduced on September 29, 2023, and referred to the Senate Committee on Agriculture and Tourism. On January 2, 2024, Senate Amendment 1 was offered. On January 10, 2024, a public hearing was held. On January 11, 2024, the Senate Committee on Agriculture and Tourism recommended adoption of Senate Amendment 1 by a vote of 7 to 1 and recommended passage of the bill as amended by a vote of 5 to 3. The bill was referred to the Joint Committee on Finance on February 5, 2024.

### **BACKGROUND AND CURRENT LAW**

Beginning with tax year 2010, the per-acre farmland preservation tax credit may be claimed for acreage under one or both of: (a) a farmland preservation agreement, which is a restrictive covenant between the landowner and the state; or (b) a local ordinance zoning the land only for agricultural and closely related uses. The per-acre credit is designed to have escalating award amounts based on land being further restricted to agricultural or related uses. The credit awards per

acre are as follows beginning in the 2023 tax year under 2023 Wisconsin Act 42: (a) \$12.50, if the qualifying acres are located in a farmland preservation zoning district and under a farmland preservation agreement; or (b) \$10, if the qualifying acres are located in a farmland preservation zoning district, subject to a farmland preservation agreement, or covered by an agricultural conservation easement. The refundable credits are paid from a sum sufficient appropriation from the general fund.

Under farmland preservation agreements available currently, landowners agree to restrict land under the agreement for a minimum period of 10 years to the following purposes: (a) agricultural uses, which include crop or livestock production, forest management, or enrollment in federal agricultural programs; (b) accessory uses, which are buildings, structures, or other activities that are generally integral to, incidental to, or not otherwise impairing agricultural uses of land; or (c) undeveloped natural resource or open-space uses. Farmland preservation agreements under current law are not likely to allow a utility-scale photovoltaic solar facility due to these terms. It is unlikely that there are many existing farmland preservation agreements that contain acreage with solar facilities that are not integral or incidental to agricultural practices.

Under certified farmland preservation zoning ordinances, however, uses for electric transmission and utilities, among other uses, may be allowed. The statutes specify that uses must be reasonable and appropriate relative to alternative locations outside the farmland preservation zoning district, and the locations of these uses must be consistent with the agricultural preservation purposes of the district. Uses must also be reasonably designed to minimize land conversions from agriculture or open-space use, and they must not substantially impair surrounding parcels' current or future agricultural uses, if the surrounding parcels are zoned for or legally restricted to agricultural use.

In order to be eligible for farmland preservation tax credits, landowners must certify compliance with state soil and water conservation standards and practices. In general, these requirements include completing and following a nutrient management plan for application of fertilizer and manure to fields, adopting practices to prevent soil erosion on cropland and pasture, and preventing any discharges of animal waste to state waters. Currently, tax credit recipients may retain eligibility for their acreage if 50% or more of the total land area is designated to agricultural use.

Landowners claim the per-acre credit on a form prepared by the Department of Revenue (DOR) and submit all necessary documentation. In addition, claimants certify all of the following on the form: (a) the number of qualifying acres for which the credit is claimed; (b) the location and tax parcel number for each parcel on which the qualifying acres are located; (c) that the qualifying acres are covered by a farmland preservation agreement or located in a farmland preservation zoning district, or both; and (d) that the qualifying acres are part of a farm that complies with applicable state soil and water conservation standards.

County land conservation committees are required to monitor compliance, including conducting an inspection at least once every four years on each farm for which a landowner claims tax credits. In addition, many counties require landowners to annually self-certify compliance with soil and water conservation standards. Counties, in turn, are required under Chapter 71 of the statutes

to issue a certificate of compliance with a unique identifying number for a landowner to file with a claim for the per-acre farmland preservation tax credit. This unique identifier ensures all claimants comply with conservation standards, and provides each county with a list of known participants in the program.

## **SUMMARY OF BILL**

The bill as introduced specifies that a person may not claim the farmland preservation tax credit for any acreage on which a photovoltaic solar system exists, unless the system is an accessory to agricultural use, beginning in tax year 2023. Under current law, farmland preservation zoning acreage containing a solar energy system could qualify for the tax credit if a majority of the landowner's land remains committed to agricultural use. The bill would disqualify those acres, and only allow the tax credit to be claimed for a solar energy system that is an accessory use.

## **ASSEMBLY AMENDMENT 2/SENATE AMENDMENT 1**

Assembly Amendment 2 and Senate Amendment 1 amend the bill to begin the acreage exclusion with tax year 2024. In addition, the amendment requires DOR to include the following on the form landowners submit as certification to claim their credits: (a) the number of the claimant's qualifying acres; and (b) the number of qualifying acres containing a photovoltaic solar system that is not considered an accessory use to agriculture.

## **FISCAL EFFECT**

In tax year 2022, DOR records show landowners filing as individuals claimed a total of 2,012,100 acres and \$15,225,400 in credits, comprising: (a) 128,500 acres and \$1,284,900 in tax credits for individual agreements with zoning; (b) 1,808,200 acres and \$13,563,300 in tax credits for acreage with zoning only; and (c) 75,400 acres and \$377,200 in tax credits for acreage with agreements only. The bill would change the current application for landowners collecting the tax credit under farmland preservation zoning, accounting for approximately 89% of acreage claimed in tax year 2022. It should be noted that it is anticipated credit expenditures will increase in upcoming years, as the per-acre credit in each category was raised by 2023 Act 42, effective in tax year 2023.

DATCP and DOR do not have estimates for how many qualifying acres are currently used for solar generation and are not considered accessory uses to agriculture. According to the U.S. Energy Information Administration (EIA), there are 44 utility-scale solar facilities in service in Wisconsin as of June, 2023, with varying generating capacities and land areas. According to the Public Service Commission (PSC), 4,050 megawatts of solar energy generation on approximately 29,100 acres of land have been approved to date. PSC notes that there may be some additional acreage occupied by smaller solar projects that do not require PSC approval. It is assumed substantially all acreage disqualified by the bill would reduce state tax credit expenditures by \$10 per acre, provided the acreage had met requirements under current law to claim the credit as part of a farmland preservation zoning district. If PSC-approved projects were located entirely on otherwise eligible acreage, credit expenditures could decrease by \$290,000 annually once projects are constructed.

The effect of any individual solar power-generating facility on tax credit expenditures would vary by project. PSC reports indicate that recent approvals for two large solar projects (Badger Hollow in Iowa County and Koshkonong in Dane County) impact 3,500 to 4,600 acres of land respectively. If all of the land used by solar projects of a similar scale had otherwise been credit-eligible in farmland preservation zoning districts and were to become ineligible under the bill, the acreage exclusion in the bill would reduce tax credit expenditures by \$35,000 and \$46,000 per project. Smaller facilities not qualifying as accessory uses would forego a smaller amount of credits.

Currently, county staff issue certificates of compliance to landowners meeting soil and water conservation standards required by the farmland preservation program. Certificates of compliance identify qualifying acres for which a landowner may receive tax credits. Under the bill, landowners would be responsible for identifying which of their qualifying acres contain photovoltaic solar energy systems and removing those acres on their claims. DATCP reports that this may require significant outreach in the form of informational sessions, individual conversations, and published materials to ensure that landowners are in compliance with the law. DATCP contends that it may require allocating staffing to this outreach and implementation.

Prepared by: Margo Poelstra