



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

---

May 23, 2005

Joint Committee on Finance

Paper #533

### **MFL Public Access Grant Program (DNR -- Forestry and Parks)**

[LFB 2005-07 Budget Summary: Page 364, #3]

---

#### **CURRENT LAW**

Under 2003 Act 228, an enrollee in the managed forest law (MFL) program may close up to 160 acres (or up to 80 acres for lands entered prior to April 28, 2004) to public access by paying an additional per-acre fee (\$1.12 per acre for lands entered prior to April 28, 2004, and \$5.79 per acre for lands entered after that date). Revenues from the closed acreage fee are deposited to the forestry account of the conservation fund.

#### **GOVERNOR**

Provide \$2,000,000 SEG annually from the forestry account of the conservation fund and create a public access grant program funded by closed acreage fees under the managed forest law (MFL) program. Revenues from closed acreage fees would be deposited in a new continuing appropriation to be used to provide grants for the purpose of acquiring easements or purchasing land for public access.

#### **DISCUSSION POINTS**

1. Beginning in 1986, the owner of at least 10 contiguous acres of forest land in a town or village may petition DNR to enroll the land under MFL. Owners of land enrolled in MFL do not pay property taxes. Instead, landowners make an annual acreage payment. As a condition of participation in the MFL program, owners are required to submit and follow management plans intended to result in sound forestry practices.
2. Each January, landowners pay the town 83¢ per acre for land enrolled under the

program prior to the passage of 2003 Act 228 (effective April 28, 2004). Lands enrolled under the program must be open to public access for outdoor recreational purposes, such as hunting, fishing, hiking, sightseeing, and cross-country skiing. However, landowners maintain the option of closing a maximum of 80 contiguous acres to public access if an additional \$1.12 per acre is paid for each closed acre (for a total rate of \$1.95 per acre for closed land). The base fees assessed on all MFL acres (83¢ per acre) are remitted to municipalities, while the additional closed acreage fees (\$1.12 per acre) are deposited to the forestry account of the conservation fund. The fee rates were last adjusted in 2002, and are scheduled to be adjusted every five years thereafter, using a formula that accounts for changes in the average statewide property tax for undeveloped lands.

3. January payments made by landowners who enroll land in MFL on or after April 28, 2004, are calculated by a different formula. The annual acreage payment is equal to 5% of the average statewide property tax per acre of property assessed as productive forest land in 2004. This figure will be recalculated in 2007 and every five years thereafter by the Department of Revenue using the statewide average equalized value per acre for productive forest land and the statewide average property tax rate, net of the school levy credit (this tax rate includes taxes levied in towns, villages, and cities, even though most productive forest land is in towns). The additional payment for each acre of land closed to the public would be equal to 20% of the average statewide property tax per acre of property assessed as productive forest land. Revenues generated by these closed-acreage payments are deposited to the forestry account of the conservation fund.

4. Local units of government, which currently receive 83¢ per acre for all lands enrolled in MFL within their jurisdictions, will receive higher payments from new program enrollees. Based on 2003 property tax data (payable in 2004), landowners who are enrolled beginning April 28, 2004, would pay \$1.45 per acre for open MFL land (or 62¢ per acre more than before Act 228), and an additional \$5.79 per acre for lands kept closed under the program (\$7.24 total, or \$5.29 per acre more than before Act 228). These payments represent 5% and 20%, respectively, of the 2003(04) average statewide property tax per acre of property assessed as productive forest land. These figures are based on a statewide average equalized value per acre of \$1,448 and a 2003 (payable in 2004) statewide average net tax rate (including taxes levied in towns, villages, and cities) of \$20.01 per \$1,000 of value. Approximately 1,000 applications for an estimated 90,000 acres were received between January 31, 2004, and July 1, 2004, to be processed for enrollment in the program effective by January 1, 2006. The enrollment of these acres is estimated to increase acreage payments to local units of government by approximately \$130,000 in 2005-06. This figure would increase each year as additional acreage is enrolled in the program.

5. Under the bill, revenues generated by closed acre fees are estimated at \$2 million annually. However, the number of applications received in 2004 for entry into the program by January 1, 2006, were somewhat below anticipated levels. However, applications received during 2005 (with entry into the program by January 1, 2007) are expected to slightly exceed previous estimates. Consequently, revenues from closed acreage fees are estimated at approximately \$1.8 million in 2005-06 and \$2.8 million in 2006-07. This would result in a decrease in expenditure authority for the grant program of \$185,100 in 2005-06, and an increase of \$797,600 in 2006-07, for a net increase to the bill of \$612,500 over the biennium. Revenues would continue to increase each

subsequent year as additional closed acres are enrolled in MFL.

6. While landowners enrolling in the MFL program after April, 2004, will be required to pay higher fees for keeping portions of their property closed to public access, they do have the option of closing larger blocks of land than were previously permitted under the program (up to 160 acres per parcel). It has been argued that two major benefits of the MFL program are the promotion of sound forestry management practices on private land (by means of the required forestry management plans) and increased public access to forest land for outdoor recreation. Entries under MFL are currently averaging 70 acres, with almost 90% being entered as closed acreage. Therefore, it has been suggested that the public access component that was originally viewed as an important part of the tax benefits offered to private forest landowners has largely been lost. Further, it has been argued that allocating revenues generated by closed acre payments to a program that would provide additional outdoor recreational opportunities to the public would help address concerns over the increased acreage closed to public access, partly as a result of changes to the MFL program implemented under Act 228.

7. The Governor proposes creating a public access grant program funded by revenues from closed acreage fee payments under the bill. The grant program would be administered by a Managed Forest Land Board, which would consist of five members: (a) the DNR chief state forester (or designee); (b) one member appointed by the Governor from a list of five nominees submitted by the Wisconsin Counties Association; (c) a one member appointed by the Governor from a list of five nominees submitted by the Wisconsin Towns Association; (d) one member appointed by the Governor from a list of five nominees submitted by an association that represents counties that have county forests; and (e) one member appointed by the Governor from a list of five nominees submitted by the Council on Forestry. Appointed board members would serve three-year terms, with the exception of the initial appointees. Two of the initial members of the MFL Board (excluding the state forester) would serve for terms expiring on May 1, 2007, and the remaining two of the initial members' terms would expire on May 1, 2009. Specify that the individual appointed from those nominated by the Wisconsin Counties Association serve as chairperson of the Board.

8. Under the bill, the Board would be directed to promulgate rules establishing requirements for awarding grants. The bill specifies that those requirements would include giving higher priority to counties over other grant applicants, and giving higher priority to counties containing higher numbers of closed acres under MFL. When awarding grants to towns, the Board is directed to give higher priority to towns that have higher numbers of acres that are closed under MFL. No grant could be awarded under this program without the approval of the board of each county in which the land to be purchased is located.

9. The Board would also be directed to establish requirements concerning the use of sound forestry practices on land acquired with these grants under the bill. The board may award grants to cities, towns, counties, the DNR, and nonprofit conservation organizations to acquire land for outdoor recreation, including hunting, fishing, hiking, sight-seeing, and cross-country skiing. Land acquired with an MFL public access grant may be used for other purposes, as long as those purposes are compatible with outdoor recreation.

10. It may be argued that providing revenues from closed acreage payments to increase public access for outdoor recreation addresses concerns generated, in part, by the increase in allowable closed acres per landowner from 80 to 160 acres. However, diverting this source of revenue from the forestry account when that account currently would provide \$20 million in 2005-06 and \$19.5 million in 2006-07 for debt service costs related to land acquisition and development, including local grants, from the Warren Knowles-Gaylord Nelson Stewardship program may be seen as duplicating existing efforts. A primary goal of stewardship is to acquire undeveloped land for outdoor recreational purposes (including hunting, fishing, hiking, sight-seeing, and cross-country skiing).

11. As of July 1, 2004, the Department of Natural Resources (DNR) controlled a total of 1,410,900 acres of land (including 61,200 acres under easement), which represents approximately 4% of the state's land area (34.76 million acres) and approximately 25% of the publicly held conservation land in Wisconsin. Total public conservation land ownership throughout the state of Wisconsin is estimated to include approximately 5.74 million acres (or 16.5% of the state's land area). The federal government holds almost 1.8 million (or 31%) of the 5.74 million acres (the majority of which constitutes national forests), and county ownership (in the form of county parks and forests) makes up an additional 2.5 million acres (or 44%) of the total.

12. Under current law, \$803 million in general obligation bonding has been authorized over a 20-year period (from 1990-91 through 2009-10) for the stewardship program. Total debt retirement payments over a period of 30 or more years are expected to approach \$1.3 billion. The state generally issues 20-year tax exempt general obligation bonds to support stewardship purchases and grants. Debt service for stewardship bonding is primarily funded from a sum-sufficient, general purpose revenue (GPR) appropriation in DNR. Funds for debt service have also been provided from the water resources account, and more recently from the forestry account of the conservation fund. The forestry account would be contributing \$39.5 million for this purpose over the 2005-07 biennium, and annual payments of \$19.5 million each year in subsequent biennia under the bill.

13. It may be argued that, given the state's commitment to land acquisition for public use under the stewardship program, creating an additional grant program for this same purpose is not necessary. Alternatively, it could be argued that the stewardship program pursues acquisition priorities on a statewide basis, and selects land for acquisition based on a wide range of criteria; while the function of the proposed grant program would specifically target providing public access opportunities within counties and municipalities most affected by increasing areas of closed acreage as a result of MFL, and therefore meets a specific unmet need.

14. One option may be to direct DNR to meet this perceived need using available resources under the stewardship program. Rather than creating a new grant program, DNR could be directed to create a subprogram within the stewardship land acquisition subprogram to make \$2 million available annually for grants to be awarded by the five-member Managed Forest Land Board in accordance with the specifications included under the bill.

15. If the public access grant program is not created, other forestry account

appropriations could be considered. Forestry priorities include combating terrestrial invasive species on state forest land, hiring additional foresters to complete backlogged forestry practices on state owned land, or providing additional staff time to reduce the existing backlog of practices under the MFL program. Another option would be to provide additional funding for stewardship debt service repayment from the forestry account. Providing an additional \$2 million annually would lower the anticipated GPR payment for debt service costs for the program by the same amount.

**ALTERNATIVES**

1. Adopt the Governor's recommendation (as reestimated) to provide \$1,814,800 in 2005-06 and \$2,797,600 in 2006-07 from the forestry account of the conservation fund to create a public access grant program funded by closed acreage fees under the managed forest law (MFL) program. Revenues from closed acreage fees would be deposited in a new continuing appropriation to be used to provide grants for the purpose of acquiring easements or purchasing land for public access. Specify that the grant program would be administered by a five-member Managed Forest Land Board. Direct the Board to promulgate rules establishing requirements for awarding grants. Specify that those requirements would include giving higher priority to counties over other grant applicants, and giving higher priority to counties containing higher numbers of closed acres under MFL. When awarding grants to towns, direct the Board to give higher priority to towns that have higher numbers of acres that are closed under MFL. Specify that no grant may be awarded under this program without the approval of the board of each county in which the land to be purchased is located under the bill. Finally, direct the Board to establish requirements concerning the use of sound forestry practices on land acquired with these grants under the bill. The board may award grants to cities, towns, counties, the DNR, and nonprofit conservation organizations to acquire land for outdoor recreation, including hunting, fishing, hiking, sight-seeing, and cross-country skiing. Land acquired with an MFL public access grant may be used for other purposes, as long as those purposes are compatible with outdoor recreation.

<b><u>Alternative 1</u></b>	<b><u>SEG</u></b>
<b>2005-07 FUNDING</b> (Change to Bill)	\$612,400

2. Modify the Governor's recommendation to delete the forestry account appropriation to support a public access grant program. Rather, direct DNR to make \$2 million available annually from the land acquisition subprogram of the Warren Knowles-Gaylord Nelson Stewardship program for grants to be awarded by the five-member Managed Forest Land Board. (Under this Alternative, no additional expenditure authority from the forestry account would be provided, and revenues from closed acreage fees would remain in the forestry account.)

<b><u>Alternative 2</u></b>	<b><u>SEG</u></b>
<b>2005-07 FUNDING</b> (Change to Bill)	- \$4,000,000

3. Adopt Alternative 2. Further, provide \$2 million annually from the forestry account of the conservation fund to support debt service payments for the Warren Knowles-Gaylord Nelson Stewardship 2000 program.

<u>Alternative 3</u>	<u>GPR</u>	<u>SEG</u>
<b>2005-07 FUNDING</b> (Change to Bill)	- \$4,000,000	\$4,000,000

4. Maintain current law. (No grant program would be created, and revenues from closed acreage fees would remain in the available balance of the forestry account.)

<u>Alternative 4</u>	<u>SEG</u>
<b>2005-07 FUNDING</b> (Change to Bill)	- \$4,000,000

Prepared by: Rebecca Hotynski