



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #176

### **New Appropriations (Board of Commissioners of Public Lands)**

[LFB 2021-23 Budget Summary: Page 75, #3 and 76, #4]

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#### **CURRENT LAW**

The Board of Commissioners of Public Lands was established to accept public lands granted to Wisconsin by the federal government, including approximately 3.7 million acres of trust lands, and to oversee the sales of such trust lands and the investment of proceeds for the benefit of schools and libraries. The Wisconsin Constitution also gives the Board the power to withhold land from sale. Most of the school trust lands have been sold, with proceeds used to establish the school trust funds. Such proceeds may be used or invested to generate income for the funds, but fund principal is constitutionally protected from further expenditure or appropriation.

As of September, 2020, BCPL owned approximately 76,200 acres of school trust fund lands. BCPL has a fiduciary duty to manage these lands in trust for public education beneficiaries. Where possible, BCPL manages lands as productive forests. BCPL awards three-year timber contracts through a competitive bidding process. Proceeds from BCPL timber sales are deposited in the appropriate school trust funds in accordance with state constitutional direction.

#### **DISCUSSION POINTS**

##### **Aids in Lieu of Taxes**

1. Since 2005, BCPL is required to pay aids in lieu of taxes on land it acquires that was subject to property taxes at the time of purchase. Aids are equal to the amount of property tax levied on the land in the year prior to board acquisition. Unlike aids in lieu of property taxes paid by the Department of Natural Resources (DNR) or the Kickapoo Reserve Management Board (KRMB), aids paid by the Board are fixed and do not vary with changes in equalized value in the property tax jurisdiction.

2. The statutes require that BCPL pay aids in lieu of taxes from the "proceeds from the sale of timber or from appropriate trust fund incomes," such as certain interest earnings. Prior to fiscal year 2019-20, BCPL was authorized to deduct Board expenses, including general program operations, loan and trust fund administration expenses, and aids in lieu of taxes from the gross receipts of the trust funds. 2019 Wisconsin Act 9 eliminated expenditure authority from trust fund earnings, replacing BCPL operations funding with GPR. In 2019-20 and 2020-21, the Board paid aids in lieu of taxes from its GPR appropriation.

3. BCPL reports that as it has pursued "land-banking" transactions—selling less productive lands and using the proceeds to acquire more properties within a consolidation zone—the amount of aids that the Board is required to pay has increased. BCPL estimates that it will need to pay aids of \$15,000 in 2021-22. The Board anticipates finalizing a transaction with the U.S. Forest Service that will increase the amount of aids required of the Board to \$25,000 in 2022-23.

4. Other state entities that have significant conservation landholdings have dedicated aids in lieu of taxes appropriations. DNR pays aids in lieu of taxes on the Department's 1.5 million acres of fee-title lands under sum sufficient appropriations from the forestry account of the SEG conservation fund and from GPR. KRMB also pays aids in lieu of taxes on its 8,600 acres from a sum sufficient forestry account SEG appropriation.

5. Assembly Bill 68 / Senate Bill 111 provided an annual (sum certain) PR appropriation for aids in lieu of taxes, with funds deducted from the gross receipts of the trust funds, as required under s. 24.62(3) of the statutes. As BCPL aids in lieu of taxes are fixed and do not fluctuate with equalized value, BCPL aids may be easier to reestimate each biennium than some aids paid by DNR or those paid by KRMB, which fluctuate annually based on assessed values of unimproved land in the taxation district. As long as the BCPL annual appropriation had sufficient expenditure authority for the payment amounts provided by law, the Board would make the required payments in full. Any unused PR expenditure authority would lapse each June 30.

6. However, providing a sum certain appropriation risks underestimating the appropriation for aids due following any land transactions BCPL may make. The statutes contain no mechanism for prorating BCPL aids in lieu of taxes if an appropriation has insufficient budget authority. Rather, it would be incumbent on BCPL to request additional expenditure authority, either through budget legislation or a supplemental request of the Committee. The Committee could create an annual PR appropriation for BCPL payment of aids in lieu of taxes, providing \$15,000 in 2021-22 and \$25,000 in 2022-23 [Alternative A1].

7. As other agencies' appropriations for formula-based aids in lieu of taxes tend to be sum sufficient appropriations to avoid under-funding a required payment, the Committee could consider creating a sum sufficient aids in lieu of taxes appropriation for BCPL and estimating aids at \$15,000 in 2021-22 and \$25,000 in 2022-23 [Alternative A2]. This would allow BCPL to conform with the statutory requirement to pay aids from the gross receipts of the trust funds. It would also provide a dedicated source of funding for aids in lieu of taxes, rather than require BCPL to pay aids from general program operations. Furthermore, providing a sum sufficient appropriation would ensure that BCPL retained sufficient authority to pay required aids.

8. Chapter 34 of the Laws of 1979 authorized BCPL to deduct administrative expenses from the gross receipts of the trust funds. All other income to the trust funds is required to be distributed to the trust fund beneficiaries, including public school libraries. Providing aids in lieu of taxes from the income of the trust funds may reduce the amount of aids that can be distributed to public schools. In fiscal year 2019-20, the Board distributed \$43.5 million in library aids. The \$15,000 to \$25,000 cost of aids estimated in the 2021-23 biennium is a small fraction of this amount. However, as the Board continues to consolidate its landholdings, the value of aids in lieu of taxes would be expected to increase.

9. As noted above, approximately half of DNR aids in lieu of taxes are paid through GPR. The remaining aids are paid through the forestry account, the largest source of funding to which is an annual GPR transfer. As many other state programs for assistance payments to local units of government are funded by GPR, the Committee could consider providing BCPL a sum sufficient aids in lieu of taxes appropriation paid by GPR, estimating aids at \$15,000 in 2021-22 and \$25,000 in 2022-23. Further, amending s. 24.62(3) of the statutes would provide that BCPL may pay aids in lieu of taxes from general purpose revenue, rather than solely from the gross receipts of the trust funds [Alternative A3].

10. BCPL paid approximately \$15,400 in aids in lieu of taxes in both 2019-20 and 2020-21, with a similar amount estimated for 2021-22. BCPL has underspent its authorized budget authority by an average of about \$250,000 since the 2015-16 fiscal year. Under this perspective, the Board could likely afford to pay additional aids in lieu of taxes from existing budget authority. It should be noted Committee action to date has reduced base expenditure authority for BCPL operations by \$177,200. The Committee could take no action to create an aids in lieu of taxes appropriation. To clarify the allowable sources of aids payments, the Committee could consider amending the statutes to authorize aids in lieu of taxes to be paid from the general fund, rather than solely from timber sales revenue or trust fund investment income, as under current law [Alternative A4]. The Committee could also take no action [Alternative A5].

### **Gifts and Grants**

11. The statutes contain 71 appropriations in 39 state agencies for the deposit and expenditure of gifts and grants. With few exceptions, these appropriations generally allow state agencies to spend all moneys received from gifts and grants for their authorized purpose. Agencies are required to submit a report to the Joint Committee on Finance by December 1 each year regarding expenditures made from gifts and grants.

12. BCPL does not have an appropriation for the receipt of gifts and grants. The Board reports that when it has accepted gifts and grants in the past, the Board has deposited the gifts in the school trust funds. However, the Board contents it does not currently have sufficient authority to accept donations and carry out specific operational tasks funded by those donations.

13. BCPL reports that it has received offers from groups offering to donate money to the Board to allow BCPL to pursue specific projects. For instance, a hunters group offered to donate funds for BCPL to map the internal logging roads on timberlands that are open for hunting. BCPL estimates that it could receive between \$10,000 and \$40,000 in donations in the 2021-23 biennium. Such gifts

would provide a source of funding for BCPL to supplement current land management activities.

14. AB 68/SB 111 would create an appropriation for the deposit of gifts and grants to BCPL. The appropriations would authorize BCPL to spend all moneys received from gifts and grants for the purposes for which they were authorized. Gifts and grants would be subject to the audit and reporting requirements under s. 20.907 of the statutes. The Committee could consider providing a gifts and grants appropriation for BCPL [Alternative B1]. Alternatively, the Committee could take no action [Alternative B2].

## ALTERNATIVES

### A. Aids in Lieu of Taxes

1. Create an annual PR appropriation deducted from timber sales or the gross receipts of the school trust funds for payment of BCPL aids in lieu of taxes. Provide \$15,000 in 2021-22 and \$25,000 in 2022-23.

ALT A1	Change to Base
PR	\$40,000

2. Create a sum sufficient PR appropriation deducted from timber sales or the gross receipts of the school trust funds for payment of BCPL aids in lieu of taxes. Estimate aids at \$15,000 in 2021-22 and \$25,000 in 2022-23.

ALT A2	Change to Base
PR	\$40,000

3. Create a sum sufficient GPR appropriation for the payment of BCPL aids in lieu of taxes. Estimate aids at \$15,000 in 2021-22 and \$25,000 in 2022-23. Amend s. 24.62 (3) of the statutes to allow BCPL to pay aids in lieu of taxes from the general fund.

ALT A3	Change to Base
GPR	\$40,000

4. Amend s. 24.62 (3) of the statutes to allow BCPL to pay aids in lieu of taxes from the general fund. (This would take no action on a separate appropriation for aids in lieu of taxes payments. Aids payments would continue to be made from GPR for BCPL general operations.)

5. Take no action. (No separate appropriation for aids in lieu of taxes payments would be created. Statutory references to the funding source of aids payments would remain as under current

law.)

**B. Gifts and Grants**

1. Create an appropriation for the deposit of gifts and grants to BCPL. Authorize BCPL to spend all moneys received from the appropriation for the purposes for which those gifts and grants were authorized.

2. Take no action.

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