



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #576

Outdoor Recreational Activities Land Acquisition Grant Program (DNR -- Forestry and Parks)

Bill Agency

[LFB 2007-09 Budget Summary: Page 416, #1]

CURRENT LAW

The Managed Forest Land program is designed to encourage landowners to manage private forest lands for the production of future forest crops for commercial use through sound forestry practices. Land enrolled under the program is exempt from property taxes. Instead, landowners make payments to municipalities (which in turn pay 20% to the counties) in amounts determined by the date the land is entered into these programs. For land entered prior to April 28, 2004, the acreage share payment is 83¢ per acre, and for land entered after that date, the acreage share is \$1.46 per acre. These rates will be recalculated in 2007. DNR also pays the municipality 20¢ per year for each MFL acre in the municipality, of which the municipality keeps 80% and sends 20% to the county. In addition, landowners enrolled in the MFL program must pay a yield (severance) tax of 5% on timber harvested. For MFL orders that took effect on or after April 28, 2004, the yield tax is waived on harvests in the first five years. The municipality retains 80% of the payment and sends 20% to the county.

In exchange for the property tax benefit, the owner must comply with certain forestry practices. Further, while the landowner may elect to keep a specific area closed to public access for an additional fee, the remainder of the land must be kept open for recreational activities. Annually by January 31, landowners must make an additional payment for each acre of land closed to the public (up to 160 acres per municipality). For lands entered after April 28, 2004, the fee is equal to 20% of the average 2004 statewide property tax per acre of property assessed as productive forest land (closed acreage fees) and is currently \$5.82 per acre. The fee for closed acres entered prior to 2004 (for up to 80 acres per municipality) is currently \$1.12 per acre.

Revenues from the closed acreage fee are deposited to the forestry account of the conservation fund.

GOVERNOR

Provide \$800,000 in 2007-08 and \$1,000,000 in 2008-09 in a continuing appropriation from the forestry account of the conservation fund for a land acquisition for outdoor activities grant program.

DISCUSSION POINTS

1. The bill would create a five-member Managed Forest Land (MFL) Board to administer the grant program, which would consist of the chief state forester and his or her designee and four members, serving three-year terms, appointed by the Governor from lists of five nominees each, selected by the Wisconsin Counties Association, the Towns Association, the County Forest Association, and the Council on Forestry. Of these four members, two of the initial members would serve for terms expiring on May, 1, 2009, and two of the initial members would serve for terms expiring on May, 1, 2011. The Wisconsin Counties Association member would serve as chairperson of the Board.

2. Under the bill, the Board would award grants to cities, villages, 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 outdoor activities grant would be allowed to be used for other purposes, as long as those purposes were compatible with outdoor recreation.

3. The bill would direct DNR to promulgate administrative rules, in consultation with the Board, that include the following requirements: (a) the Board would give priority to counties over other grant applicants and highest priority to counties with the highest number of MFL closed acres; (b) when awarding grants to towns, the Board would give higher priority to those towns with higher numbers of MFL acres designated as closed to public access (over 80% of new MFL acres are designated as closed to public access); (c) county board approval of each grant before a grant may be awarded to acquire land in a county; and (d) requirements regarding the use of sound forestry practices on land acquired through these grants. Given the time required to promulgate administrative rules, DNR may not be able to award grants before July, 2008. Therefore, if the Committee supports the program, an alternative could be to delete the \$800,000 recommended in SB 40 for 2007-08.

4. Currently, all counties except Milwaukee contain land enrolled in the MFL program. The average number of acres per county enrolled in MFL is currently 41,400. The six counties with the largest number of MFL closed acres are: Marathon (71,132 acres), Buffalo (69,605), Marinette (69,564), Waupaca (68,562), Shawano (68,405), and Lincoln (67,890).

5. The bill does not specify any local match requirement and does not define the costs which are eligible for funds under the grant program. For example, local governments and NCOs that are awarded grants for acquisition of urban green space, under the stewardship program, are required to provide 50% of the costs of acquisition, as defined in administrative rule. Acquisition costs are currently defined in Chapter NR 51 as "the fair market value of the property as determined by department appraisal guidelines, and reasonable costs related to the purchase of the property limited to the cost of appraisals, land surveys, relocation payments, title evidence, recording fees, historical and cultural assessments required by the department, and environmental inspections and assessments". Acquisition costs under this rule do not include attorney fees or indirect costs, which are defined as ordinary operating expenses of the sponsor (local government or NCO) not related to a specific stewardship project. The Committee could consider requiring that a recipient of a grant for land acquisition for outdoor activities provide 50% of the land acquisition costs. Further, specifying a maximum grant award would ensure multiple applicants access to the grant program (for example, a \$250,000 maximum grant would ensure that at least four grants would be awarded annually).

6. While the bill expands the uses of closed acreage fee revenues to include grants under the proposed program, it does not require (or restrict) these revenues to fund the program. These fees generated \$1,380,700 in fiscal year 2003-04, \$1,589,500 in 2004-05, \$2,476,800 in 2005-06 and are expected to generate approximately \$2.7 million in 2006-07, \$3.4 million in 2007-08 and \$3.7 million in 2008-09. It has been argued that two major benefits that accrue to citizens of Wisconsin from their investment in the MFL program are the promotion of sound forest management practices on private land and increased public access to forest land for outdoor recreation. While landowners enrolled in the MFL program are required to pay acreage shares, closed acreage fees, yield taxes and withdrawal fees, they retain a significant tax benefit from their participation in the program. The closed acreage fee of \$5.82 per acre is currently based on 20% of the average 2004 statewide property tax per acre of property assessed as productive forest land. The fees will be recalculated later this year (2007) and each five years thereafter. Although the statutes require the fees to be recalculated in 2007, DNR indicates that the new fees will first apply to payments made in January, 2009. In tax year 2005 (payable in 2006), the Department of Revenue (DOR) found that landowners enrolled in the MFL program paid, on average, approximately \$20.25 less per acre in MFL fees, than they would have paid in property taxes if their land had not been enrolled in the program. This is equivalent to paying 15.5% of the property tax that would have been assessed on their forest land. DOR found that the statewide net tax reduction under the forest tax law programs was approximately \$61 million. Some would argue that, by closing larger portions of their land to public access, the MFL landowners are reducing the benefits to citizens of their investment in the program. Since 2005, the percentage of acres entered into the MFL program that are closed to the public has averaged 81 to 89% per county. The total percentage of MFL acreage that is closed to public access has increased from 56% for land entered through 2004, to 81% for land enrolled since 2005.

7. Concerns over MFL closed acreage have grown in response to the decision by two large industrial landowners to split their MFL property into different legal ownerships so that all ownerships could close up to 160 acres (or 80 acres for land entered prior to 2004) per municipality,

to public use. By dividing their MFL land into numerous different ownerships, one company was able to transfer 12,300 acres of MFL land from open to closed status between 2005 and 2006 (9,700 acres in 2005 and 2,600 in 2006). Portions of these lands were then leased to individuals willing to pay a fee for hunting on the lands. Although this was allowed under current law, it could be argued that it violates the intent of the managed forest law, which was designed to allow limited closure of land by those who own greater than 80 or 160 acres of land in a township. DNR is currently considering potential changes that could be proposed to the managed forest law program which would prohibit or limit leasing activities or prohibit large landowners from splitting their land into smaller ownerships.

8. It may be argued that providing revenues from the forestry account for land acquisition grants for outdoor recreation to counties with the largest number of MFL closed acres would help address concerns regarding the increase in closed acres under the MFL program (and the resulting decrease in available land for outdoor recreational opportunities). On the other hand, allocating forestry account funds for land acquisition for outdoor activities may be seen as duplicating existing efforts. The forestry account currently provides grants and loans to counties for acquisition, development, preservation and maintenance of county forest lands, and provides \$13.5 million annually for debt service costs related to land acquisition and development, including local grants, from the Warren Knowles-Gaylord Nelson Stewardship program. A primary goal of stewardship is to acquire undeveloped land for outdoor recreational purposes (including hunting, fishing, hiking, sight-seeing, and cross-country skiing).

9. As of June 30, 2006, the Department of Natural Resources (DNR) owned 1.4 million acres of land, which represents approximately 4.0% of the state's land area (34.76 million acres). The DNR ownership represents approximately 22% of the publicly-owned conservation land in Wisconsin. The federal government owns approximately 2.3 million (or 37%) of the total 6.3 million acres (the majority of which constitutes national forests), and county ownership (in the form of county parks and forests) is estimated at approximately 2.5 million acres (or 40%) of the total. In addition to the 1.4 million acres owned by DNR, the Department held easements on an additional 133,900 acres on June 30, 2006.

10. 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 forestry account of the conservation fund (\$13.5 million annually). Further, the bill would authorize a \$1.05 billion 10-year extension of the stewardship program.

11. 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. A similar program was included in the Governor's 2005-07 budget bill. However, the provision was deleted by the Legislature. 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.

12. One option may be to meet this need using available resources under the stewardship program. Rather than creating a new grant program, DNR could be directed to allocate \$1 million annually under either the land acquisition (currently \$45 million annually), or the property development and local assistance (\$15 million annually) subprogram for grants to be awarded by the five-member Managed Forest Land Board in accordance with the specifications included under the bill.

ALTERNATIVES TO BILL

1. Adopt the Governor's recommendation to provide \$800,000 SEG in 2007-08 and \$1,000,000 SEG in 2008-09 from the forestry account to create a land acquisition for outdoor activities grant program. Direct the DNR, in consultation with a five-member Managed Forest Law Board, to promulgate rules establishing requirements for awarding grants, including giving higher priority to counties containing higher numbers of closed acres under the Managed Forest Land program. Specify that county board approval of the land purchase is required. Require sound forestry practices on land acquired with these grants. 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.

ALT 1	Change to Bill Funding	Change to Base Funding
SEG	\$0	\$1,800,000

2. Approve the Governor's recommendation but delete \$800,000 in 2007-08.

ALT 2	Change to Bill Funding	Change to Base Funding
SEG	-\$800,000	\$1,000,000

3. Delete the Governor's recommendation to create a forestry account appropriation to support a land acquisition for outdoor activities grant program. Rather, specify DNR make \$1 million available annually beginning in 2008-09 from the Warren Knowles-Gaylord Nelson Stewardship program for grants to be awarded by the five-member Managed Forest Land Board as follows:

- a. From the land acquisition subprogram.
- b. From the property development and local assistance subprogram.
- c. From either the land acquisition, or the property development and local assistance subprogram.

ALT 3	Change to Bill Funding	Change to Base Funding
SEG	- \$1,800,000	\$0

4. Approve alternative 1, 2, or 3, and in addition, specify that recipients of grants must provide at least 50% of acquisition costs (as defined by rule). Further, specify that a grant award may not exceed:

- a. \$50,000
- b. \$150,000
- c. \$250,000

5. Delete provision.

ALT 5	Change to Bill Funding	Change to Base Funding
SEG	- \$1,800,000	\$0

Prepared by: Erin Rushmer