



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #458

### **Deer Management Initiatives and DMAP (DNR -- Fish, Wildlife, and Recreation)**

[LFB 2013-15 Budget Summary: Page 326, #4]

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#### **CURRENT LAW**

The Federal Aid in Wildlife Restoration Act, commonly referred to as the Pittman-Robertson Act, was passed in 1937. The Act provides federal grant funds to fish and wildlife agencies in states, the District of Columbia, and other U.S. territories with legislation in effect which restricts the use of revenue from license fees for use only by a fish and wildlife agency.

#### **GOVERNOR**

Provide \$1,300,500 FED in 2013-14 and \$641,500 FED beginning in 2014-15 with 1.5 positions for deer management initiatives, including a deer management assistance program (DMAP). Further, require DNR to promulgate administrative rules to implement the DMAP, specify that the Department may promulgate emergency rules without finding an emergency to implement the program, and that the emergency rules may remain in effect until June 30, 2015, or the date on which permanent rules take effect, whichever is sooner.

#### **DISCUSSION POINTS**

1. The Department anticipates increased federal funding over the 2013-15 biennium from Pittman-Robertson grants (funded through an 11 percent excise tax on sporting arms and a 10 percent tax on sales of pistols and revolvers and apportioned to states primarily based on land area and the number of paid hunting and fishing license holders). Wisconsin's share of the federal fiscal year 2011-12 apportionment was \$11.3 million (approximately 3% of the nationwide total of \$371.3 million), and Wisconsin's apportionment for federal fiscal year 2012-13 is expected to be nearly \$16 million (approximately 3.1% of the total \$523 million). Table 1 shows Wisconsin's share of total

Pittman-Robertson funds from federal fiscal year 2004-05 through 2012-13.

**TABLE 1**

**Wisconsin's Apportionment of Pittman-Robertson Funds  
Federal Fiscal Year 2004-05 through 2012-13**

<u>Fiscal Year</u>	<u>Wisconsin</u>	<u>Total</u>	<u>Wisconsin % of Total</u>
FFY05	\$7,356,100	\$235,455,900	3.1%
FFY06	7,302,100	233,310,400	3.1
FFY07	8,279,100	266,592,800	3.1
FFY08	9,628,100	309,686,600	3.1
FFY09	10,551,900	336,474,500	3.1
FFY10	14,840,400	472,719,700	3.1
FFY11	11,713,400	384,318,000	3.0
FFY12	11,305,800	371,274,800	3.0
FFY13*	15,991,600	522,552,000	3.1

\*Preliminary

2. Federal assistance pays for up to 75 percent of eligible projects while the states provide at least 25 percent. In Wisconsin, funds from the fish and wildlife account (primarily hunting and fishing license fee revenues) of the conservation fund are used to provide the required 25% match. Eligible uses of Pittman-Robertson funds include: (a) the restoration, conservation, management, and enhancement of wild birds and wild mammals, and the provision for public use of land and benefits from these resources; and (b) the education of hunters and archers in the skills, knowledge, and attitudes necessary to be responsible hunters or archers. The Act also contains prohibitions on the use of Pittman-Robertson funds for certain purposes. Table 2 shows general eligible and ineligible activities under the Pittman-Robertson Act.

**TABLE 2**

**Eligible and Ineligible Activities Under the Pittman-Robertson Wildlife Restoration Act**

Eligible Activities

**Wildlife Restoration Activities.**

- Acquisition and improvement of wildlife habitat.
- Introduction of wildlife into suitable habitat.
- Research into wildlife problems.
- Surveys and inventories of wildlife populations.
- Acquisition, development, and maintenance of access facilities for public use.

**Hunter Education Activities.**

- Hunter education programs.
- Construction and operation of public target range facilities.

Ineligible Activities

**Public Relations Activities.**

- Publication of agency magazines displays, exhibits (does not apply to educational or technical guidance activities specifically related to federally approved Pittman-Robertson projects).

**Revenue Producing Activities.**

- All processes and procedures directly related to the sale of licenses, permits, or approvals.
- Acquisition of real or personal property for the purpose of rental, lease, sale or other commercial purpose (incidental revenue produced from an otherwise eligible activity, such as collection of user fees is not prohibited).

**Enforcement of Fish and Game Laws and Regulations.**

- Routine patrol, investigations, and law enforcement training (does not prohibit activities necessary to accomplish approved project purposes or to protect assets, such as control of public entry, and does not prohibit activities to ensure public health and safety).

**Establishment, Publication and Dissemination of Fish and Wildlife Regulations.**

- Laws, orders, seasonal regulations, bag limits, creel limits, license fees, etc. (does not prohibit the scientific collection of information necessary to support wildlife management recommendations).

**Stocking of fish and game animals for hunting without objectives for restoration or re-establishment of a self-sustaining animal population.**

**Providing services or property to individuals or groups for commercial purposes or other benefit** (does not prohibit providing technical assistance to a private landowner).

**Furnishing public facilities, equipment or services in excess of the minimum required to meet project purposes or health and safety standards.**

3. DNR has two federal fiscal years in which to allocate Pittman-Robertson funds to specific projects under the DNR's Comprehensive Management System (CMS) Grant Proposal submitted to the U.S. Fish and Wildlife Service (USFWS) (for example, until September 30, 2014, for federal fiscal year 2012-13 funds). The Department is not required to allocate Pittman-Robertson funds through the biennial budget. In practice, the Department develops an annual description of how they are going to allocate that year's Pittman-Robertson apportionment, under the CMS grant, which is sent to the DNR Secretary for review and approval. DNR also submits a form to DOA for receipt of that year's allocation (with detail on which federal appropriations the funding authority should be allocated to, as well as detail on the required state match amounts and corresponding

appropriation detail). In an effort to be more transparent and to seek input on the plan, the administration included in the bill DNR's plan to use Pittman-Robertson funds to support several deer management projects, primarily items identified in the 2012 Kroll report.

4. In July, 2012, Dr. James Kroll (and two other deer management experts, David C. Gynn, Jr. and Gary L. Alt) released a report entitled, "Final Report and Recommendations By Wisconsin White-Tailed Deer Trustee and Review Committee". Overall, the report encouraged DNR to increase public involvement in deer management, particularly by landowners, hunters and the 11 tribes of Wisconsin. The report made a number of recommendations including recommendations related to: (a) deer population management; (b) hunting regulations and seasons; (c) predator management; (d) chronic wasting disease management; (e) development of a Deer Management Assistance Program (DMAP); as well as recommendations related to DNR research topics (including deer habitat, forest health, and public opinion) and technological needs (the report recommended a statewide geospatial information system be developed in Wisconsin to aid in land management). Almost \$2 million would be allocated for the following projects (items and estimated costs are listed in order of the Department's current priority, but are subject to change):

**TABLE 3**

**DNR Deer Management Initiatives**

	<u>2013-14</u>	<u>2014-15</u>	<u>FTE</u>
Update Land Cover Assessment	\$300,000	\$150,000	0.00
Statewide Trail Camera Monitoring Project	350,000	60,000	1.00
Buck Mortality and Fawn Predation Studies	170,000	70,000	0.00
Herd Health Metrics to Assess Deer Population Status	110,500	110,500	0.00
Deer Management Assistance Pilot Program	0	0	0.00*
Research to Set Management Goals and Strategies	45,000	45,000	0.50
Citizen Wildlife Observational Surveys	30,000	30,000	0.00
Deer Habitat Management Review Committees	6,000	6,000	0.00
Baiting and Feeding Study	40,000	20,000	0.00
Disease Response Plan	115,000	90,000	0.00
Citizen Monitoring Initiative	55,000	10,000	0.00
Charge fees for Antlerless Tags in CWD Zone	4,000	0	0.00
Quicker CWD Test Reporting	45,000	20,000	0.00
Field Necropsies Training and Implementation	<u>30,000</u>	<u>30,000</u>	<u>0.00</u>
Total	\$1,300,500	\$641,500	1.50

\*1.0 federal position was provided for a DMAP coordinator through the DOA allotment process in February, 2013.

5. A major recommendation in the Kroll report was that DNR establish a Deer Management Assistance Program (DMAP). The bill would require DNR to establish a DMAP. Under this program, the bill would require DNR to provide deer management assistance to participating landowners. Further, the Department would be required to provide a method for collecting information from participating landowners about deer health and the deer population in

Wisconsin and for receiving suggestions from participating landowners about managing the deer population. DNR must analyze the information received and use it to improve deer health and manage the deer population in Wisconsin. The bill would also require DNR to promulgate administrative rules to implement this program, specify that the Department may promulgate emergency rules without finding an emergency to implement the program, and that the emergency rules may remain in effect until June 30, 2015, or the date on which permanent rules take effect, whichever is sooner. DNR's scope statement for permanent rules related to deer management, hunting, and implementation of the Kroll report was approved by the Governor on March 13, 2013, (the scope statement states that the Department will prepare a similar scope statement for emergency rules if the emergency rule provision in the biennial budget bill is enacted). According to the scope statement, the rules will establish a DMAP that will allow landowners and hunters to work together with the Department to manage deer on a site-specific basis. The program will actively involve members of the public in the collection, analysis, and reporting of deer harvest information and improve management of the deer herd. The bill would specify that DNR may establish fees for participation in DMAP to be deposited in a newly created continuing appropriation in the fish and wildlife account of the conservation fund to be used for administering DMAP. No estimate of revenue was included in the bill for this appropriation. The scope statement specifies that revenues from these fees will be used for implementation of the program (as required under the bill).

6. According to the Kroll report, currently, twenty states "utilize DMAPs to facilitate deer management on private lands at the local level by involving landowners and hunters". These programs vary by state, and may involve both public and private lands. Participation is voluntary and is generally open to landowners, groups of landowners, or organizations such as a hunting club (some states have minimum acreage requirements). Generally, landowners and the state agency (in this case DNR) work together to establish a goal of whether to increase, stabilize, or decrease, the deer population on the property enrolled in a DMAP. These objectives are then accomplished through the issuance of DMAP antlerless tags. The tags are valid only on the enrolled property, may not be used for antlered bucks, and are issued to the landowner who distributes them to individual hunters. (1.0 federal position for a DMAP coordinator was provided to DNR in February, 2013, through the DOA allotment process).

7. The Department's scope statement specifies that the administrative rules may establish antlerless deer permits and allow the establishment of quotas for public lands that are different from the permits and quotas that are established for privately owned lands in a management unit. Depending on public feedback from stakeholders, DNR indicates that both private and public land could be enrolled in DMAP and that within a deer management unit, different antlerless quotas could be established for private land enrolled in DMAP, private land not enrolled in DMAP, public land enrolled in DMAP, and public land not enrolled in DMAP. Public lands could include lands owned and managed by the Department such as a state park, state forest, wildlife area, or natural area, as well as county and municipal lands (such as county parks or forests). However, this provision may conflict with other provisions in the scope statement seeking to generally simplify deer hunting rules and reducing the number of deer management units. It is not clear how these two concepts will be harmonized. To solicit public feedback on implementation of the recommendations of the Kroll report, the Department organized four "deer-trustee report action

teams" including a Deer Management Assistance Program (DMAP) action team. DNR scheduled a series of seven meetings of the action teams beginning in March, 2013, through July, 2013. The final meeting is scheduled for July 20, 2013, after which the Department plans to develop the final emergency rule, which DNR plans to have in place by March, 2014, to allow the purchase of licenses beginning in license year 2014 (April 1, 2014, through March 31, 2015), with fall 2014 as the first deer hunting season with DMAP in place. It could be argued the process DNR has outlined would provide adequate public input into DMAP development and the Governor's recommendation could be adopted (Alternative 1).

8. Depending on the level of public input and legislative oversight sought, the Committee could delete the emergency rule-making provision, but maintain the provision authorizing DNR to promulgate rules to develop a DMAP (Alternative 2). The Department would be required to promulgate these rules through the permanent rules process or with the actual finding of an agency. DNR indicates that if the emergency rule-making provision were deleted, the Department would continue to move forward with the permanent rules, as outlined in the scope statement. The administration indicates that the emergency rule-making authority was intended to allow the Department to implement DMAP in time for the fall, 2014 deer hunting season. However, if the rule were to go through the permanent rule process, the first season where DMAP would likely be in place would be fall 2015, rather than fall 2014.

## **ALTERNATIVES**

1. Adopt the Governor's recommendation to provide \$1,300,500 FED in 2013-14 and \$641,500 FED beginning in 2014-15 with 1.5 positions for deer management initiatives, including a deer management assistance program (DMAP). Require DNR to promulgate administrative rules to implement the DMAP, specify that the Department may promulgate emergency rules without finding an emergency to implement the program, and that the emergency rules may remain in effect until June 30, 2015, or the date on which permanent rules take effect, whichever is sooner.

2. Adopt the Governor's recommendation but delete the provision allowing DNR to promulgate emergency rules without the finding of an emergency to implement the DMAP. DNR would still be authorized to promulgate rules to implement the DMAP but would be required to do so through the permanent rule process, or with the actual finding of an emergency.

3. Delete the provisions. DNR would allocate Pittman-Robertson funding with the approval of the DNR Secretary (with DOA allotting the funds through the process under s. 16.54 of the statutes), as under current law. The Department could promulgate administrative rules to implement DMAP so long as they correspond with existing statutes.

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