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

May 9, 2013 | Joint Committee on Finance | Paper #601

Farmland Preservation Per-Acre Tax Credit Funding
(Shared Revenue and Tax Relief -- Property Tax Credits)

[LFB 2013-15 Budget Summary: Page 437, #6]

CURRENT LAW

The farmland preservation per-acre tax credit was created under 2009 Wisconsin Act 28. Credits are payable on the basis of the acreage a landowner holds under a farmland preservation zoning ordinance or a farmland preservation agreement entered into with, and certified by, the Department of Agriculture, Trade, and Consumer Protection (DATCP). The Department of Revenue (DOR) has an administrative role associated with the tax credit, which is claimed on the landowner's income tax filings.

Per-acre claims are $5 for each acre under a farmland preservation agreement, $7.50 for each acre under a certified farmland preservation zoning ordinance, or $10 for each acre under both. Landowners must also practice soil and water conservation in accordance with state law. Funding for the credit is statutorily set at $27,007,200 and credits are provided from an annual, sum certain GPR appropriation set at the same amount.

GOVERNOR

Provide decreases of $1,702,900 GPR annually for the farmland preservation per-acre tax credit, which would reduce funding for the credit from $27,007,200 GPR annually to $25,304,300 GPR annually. Reduce the statutory maximum amount of credits available for any fiscal year, beginning in 2013-14, from $27,007,200 GPR to $25,304,300 GPR to reflect the reduced funding available for the credit.

DISCUSSION POINTS

Governor's Recommendation

1. Beginning after tax year 2009, Act 28 ended both the farmland preservation tax credit, except for those claimants under an existing farmland preservation agreement, and the farmland tax relief credit. Beginning in tax year 2010, these credits were replaced with a new, per-acre farmland preservation credit.

2. Act 28 combined funding from the earlier version of the farmland preservation tax credit and from the farmland tax relief credit, which were ended, and provided that funding ($27,007,200) to the new, per-acre farmland preservation credit. If per-acre credits paid are less than the amount appropriated, the excess lapses to the general fund. If credit claims exceed the maximum for a fiscal year, the excess claims are paid from the appropriation for the succeeding fiscal year. DOR is then required to prorate the per-acre rates based on the Department's estimate of the amount of eligible claims to be filed for each fiscal year, and to account for any excess claims from the preceding fiscal year. Credit claims in 2011-12 totaled $16,074,400, which resulted in $10,932,800 lapsing to the general fund from the credit's appropriation.

3. Under the Governor's recommendations, the credit's statutory amount, as well as the appropriation amount, would be reduced by $1,702,900. This reduction is being recommended as part of the Department of Administration (DOA) Secretary's budget policy directive that agencies include any GPR lapse amounts allocated by DOA, using its authority under 2011 Wisconsin Act 32, as permanent reductions in their 2013-15 budget request.

Reestimated Credit

4. When the per-acre farmland credit was established, one of the larger questions involved how many former claimants of the two credits that were being ended would be eligible to claim the new credit. The transition from the old credits to the new credit has been slower than expected. However, as claimants transition from claiming the old credits and become eligible for the new, per-acre credit through newly-signed agreements or exclusive agricultural zoning, it is expected that the total amount of per-acre credits will continue to grow. In 2010-11, the first year in which per-acre credits were available, payments totaled $12,432,200 and in 2011-12, payments totaled $16,074,400. In 2012-13, credit claims are estimated to be $18,912,500.

5. Retaining the current funding level would have no fiscal effect in the biennium because expenditures are not expected to exceed the Governor's recommended appropriation level and any excess appropriated funds would lapse to the general fund. However, the Governor's recommended reduction in the per-acre credit funding level would limit the amount of growth that would be allowed for the credit in future years. While not likely in the 2013-15 biennium, as participation in the per-acre credit grows, claims could eventually exceed the recommended funding level of $25,304,300 in future biennia. Having the lower recommended funding amount for the credit going forward would increase the likelihood that DOR would have to delay excess claims for a given year and pay them from the succeeding fiscal year appropriation.

6. Following a review of the estimates of the number of acres that will be eligible for the per-acre tax credit in the 2013-15 biennium, this office estimates that per-acre credits will total $19,900,000 GPR in 2013-14 and $20,900,000 GPR in 2014-15. This reestimated cost of the credit takes into account: (a) the current number of qualifying acres; (b) the number of newly-qualifying acres associated with new or modified per-acre agreements entered into in the 2013-15 biennium; and (c) projected growth in the number of qualifying acres associated with landowners whose farmland acres are subject to existing farmland preservation zoning and eligible for the credit who begin to apply for the per-acre credit in the 2013-15 biennium. The following table compares the current law funding level with the amount in the budget bill and the Legislative Fiscal Bureau (LFB) reestimate.

Estimated Funding Needed for Per-Acre Credits

	2013-14	2014-15	Biennium
Current Law	$27,007,200	$27,007,200	$54,014,400
Governor	$25,304,300	$25,304,300	$50,608,600
Change to Current Law	-1,702,900	-1,702,900	-3,405,800
LFB Reestimate	$19,900,000	$20,900,000	$40,800,000
Change to Current Law	-7,107,200	-6,107,200	-13,214,400
Change to Governor	-5,404,300	-4,404,300	-9,808,600

7. This paper presents three alternatives based on the LFB reestimate:

a. retain the Governor's recommended funding level and statutory maximum annual distribution ($25,304,300) and estimate lapses of $5,404,300 in 2013-14 and $4,404,300 in 2014-15 (Alternative 1);

b. retain the current law funding level and statutory maximum annual distribution ($27,007,200), provide $1,702,900 GPR annually, and estimate lapses of $7,107,200 in 2013-14 and $6,107,200 in 2014-15 (Alternative 4); and

c. convert the current, sum certain credit appropriation to a sum sufficient appropriation, reduce funding by $5,404,300 GPR in 2013-14 and $4,404,300 GPR in 2014-15, and delete the statutory maximum annual distribution (Alternative 2).

8. The first two of these alternatives would retain the concept of a statutory maximum distribution and continue to use lapses when expenditures are less than the maximum. The third option would replace the current structure with one in which funding is provided as needed for the program. This is the approach taken for credits such as the homestead tax credit and the remaining pre-2010 farmland preservation credit. At the time that the pre-acre credit was created, there was some concern that the new credit formula could generate credits exceeding the amount provided through the two credits it replaced, so the current sum certain funding approach was implemented. However, actual credit payments and current projections are less than the current maximum. Switching to a sum sufficient approach would allow appropriation levels to be reduced to reflect

payment estimates without forcing payment delays if credit claims exceed the budgetary estimate.

Adjustment to Per-Acre Rates on Qualifying Acres

9. At the time the per-acre credit was created, it was argued that the $27,007,200 in funding for the two farmland tax credits that were ended should remain available to provide tax relief to farm landowners under the new credit. Under the Governor's recommendation, $1,702,900 would no longer remain as base level funding for the program and be available beyond the 2013-15 biennium for future tax relief for farmland owners in the event the number of qualifying acres grows.

10. If the Committee is interested in providing the entire current law funding of $27,007,200 for tax relief in each fiscal year, changes to the size of the current, per-acre credit could be made. The per-acre rates of $5, $7.50, and $10 that can be provided on the qualifying acres of an eligible claimant are established in statute. However, to ensure that the amounts appropriated for farmland tax relief are actually used each year to provide that relief, the Committee could provide DOR the authority to prorate the per-acre amounts upward to spend the available funding. This authority would not be all that dissimilar to DOR's current authority to adjust the per-acre rates downward, if credit claims exceed the statutory amount in the preceding year. Also, this would be similar to the action DOR was required to take in setting the percentage of farmland taxes that could be covered each year by the former farmland tax relief credit, based on the amount of funding available for the credit, as well as the action DOR continues to take in setting the credit bases of the first dollar and lottery and gaming property tax credits.

11. Under this alternative, DOR would be required to take into account the estimated number of qualifying acres on which the credit could be claimed and the available funding, and prorate the per-acre rates to what would be needed to spend the available funding. Initially, and if the number of acres did not continue to grow, it would have the effect of increasing the size of the credit for those claiming the per-acre credit. If the number of qualifying acres and landowners claiming the credit increase in future years, DOR would have to readjust the per-acre rates back downward in order to stay within the available funding. For current claimants, this would result in a short-term increase in credits, but then a possible decline from that new amount in future years. Because DATCP staff have a role in the land use requirements associated with the per-acre credit and the agency's staff may have insight into the number of qualifying acres, the Committee could require that DATCP work with DOR to establish the per-acre rates.

12. If the Committee chose to allow DOR to prorate the per-acre rates to spend the current law funding level beginning in tax year 2013, the Committee would have to provide $1,702,900 GPR annually compared to the bill (Alternative 3a) . Conversely, the Committee could choose to allow DOR to prorate the per-acre rates to spend the Governor's recommended funding level of $25,304,300 annually, beginning with tax year 2013 (Alternative 3b). This would require no change in funding needed compared to the bill. However, in both alternatives, the additional lapse amounts associated with the LFB reestimate of the per-acre credit would be foregone.

ALTERNATIVES

1. Approve the Governor's recommendation to provide decreases of $1,702,900 GPR annually for the farmland preservation per-acre tax credit, which would reduce funding for the credit from $27,007,200 GPR annually to $25,304,300 GPR annually. Reduce the statutory maximum amount of credits available for any fiscal year, beginning in 2013-14, from $27,007,200 GPR to $25,304,300 GPR to reflect the reduced funding available for the credit.

In addition, estimate lapses from the sum certain appropriation for the credit of $5,404,300 in 2013-14 and $4,404,300 in 2014-15 to reflect a reestimate of the amount of credits to be claimed in each year of the biennium ($19,900,000 in 2013-14 and $20,900,000 in 2014-15).

ALT 1	**Change to Bill** Funding
GPR-Lapse	$9,808,600

2. Modify the Governor's recommendation by providing additional decreases in funding of $5,404,300 GPR in 2013-14 and $4,404,300 GPR in 2014-15 to reflect a reestimate in the amount of credits to be claimed in each year of the biennium ($19,900,000 in 2013-14 and $20,900,000 in 2014-15). Convert the current, sum certain credit appropriation to a sum sufficient appropriation and delete the statutory maximum annual distribution.

ALT 2	**Change to Bill** Funding
GPR	- $9,808,600

3. Delete the Governor's recommendation and instead, beginning in tax year 2013, allow DOR, in conjunction with DATCP, to annually prorate the per-acre rates for each qualifying acre under the credit in order to expend the available funding. Set the annual funding for both the statutory amount of the credit and the sum certain appropriation at:

a. the current law funding level of $27,007,200 GPR (an additional $1,702,900 GPR annually would be needed and no GPR-Lapse amounts would be expected).

ALT 3a	**Change to Bill** Funding
GPR	$3,405,800

b. the funding level of $25,304,300 GPR annually as recommended by the Governor (no additional funding would be needed and no GPR-Lapse amounts would be expected).

4. Delete the Governor's recommendation and increase GPR-Lapse amounts by

$7,107,200 for 2013-14 and $6,107,200 for 2014-15 to reflect a reestimate of the amount of credits to be claimed in each year of the biennium ($19,900,000 in 2013-14 and $20,900,000 in 2014-15). This alternative would retain the current law statutory maximum distribution of $27,007,200.

ALT 4	**Change to Bill** Funding
GPR	$3,405,800
GPR-Lapse	13,214,400

Prepared by: Al Runde and Paul Ferguson