



Legislative Fiscal Bureau

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Joint Committee on Finance

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Payment of Aids in Lieu of Taxes on Land Purchased from Department of Natural Resources (BCPL)

[LFB 2015-17 Budget Summary: Page 66, #2 and Page 306, #10]

CURRENT LAW

Under current law, land that the Department of Natural Resources (DNR) owns is not subject to property taxes. However, the state does make aids in lieu of property tax payments for DNR conservation lands. Since 1992, when DNR acquires land, the Department pays aids in lieu of property taxes on the land to the city, village or town in which the land is located in an amount equal to the tax that would be due on the estimated value of the property at the time it was purchased, adjusted annually to reflect changes in the equalized valuation of all land, excluding improvements, in the taxation district. The municipality then pays each taxing jurisdiction (including the county and school district) a proportionate share of the payment, based on its levy. For lands purchased after July 1, 2011, estimated value means either the lower of the equalized value of the property in the year prior to purchase by DNR or the purchase price (instead of the purchase price for pre-July, 2011 purchases). In cases where the property had been tax exempt in the year prior to acquisition, or enrolled in the forest crop law (FCL) or managed forest law (MFL) program at the time of purchase, estimated value means the lesser of either the purchase price or an amount that would result in a payment of \$10 per acre.

2005 Act 352 allows the Board of Commissioners of Public Lands (BCPL) to "bank" proceeds from land sales and use them for acquisitions that meet certain criteria including: (a) improving timberland management, (b) decreasing forest fragmentation, or (c) increasing public access to the land. Further, the Act specified that the total acreage of public lands managed by the Board may not exceed the total acreage of public lands managed by the Board on May 3, 2006. As of that date, BCPL managed 77,845 acres. As of January 1, 2015, BCPL owned approximately 76,500 acres. BCPL currently makes payments in lieu of taxes on land it purchases that were subject to property taxes at the time of purchase in an amount equal to the

property taxes levied on the land in the year prior to the year in which the Board purchased the land. Also under current law, BCPL may exchange part or all of any parcel of public lands for any other land of approximately equal value (not to exceed a difference in value of 10%) if the Board determines that the exchange will contribute to the consolidation or completion of a block of land, enhance conservation of lands or otherwise be in the public interest. BCPL does not make payments in lieu of taxes (PILT) on lands acquired through exchange.

GOVERNOR

Provide \$21,700 PR annually for aids in lieu of taxes. Further, specify that, if any land purchased by BCPL from DNR was not at the time of purchase subject to assessment or levy of a real property tax, the Board shall make annual payments to the appropriate taxation district from the BCPL general program operations appropriation in the manner required under s. 70.114 of the statutes (the provision governing DNR aids in lieu of property taxes payments on lands which DNR has acquired since 1992).

DISCUSSION POINTS

1. The administration submitted an errata regarding the deletion of GPR from the DNR aids in lieu of taxes appropriation under the bill. This was related to an erroneous calculation of payments in lieu of taxes that the administration understood were being made by DNR for parcels acquired by BCPL from DNR. The \$21,700 GPR annually should be restored in the DNR appropriation.

2. Currently BCPL is required to make payments in lieu of taxes on land it acquires that was subject to property taxes at the time of purchase in an amount equal to the property taxes levied on the land in the year prior to the year in which the Board purchased the land. As land purchased from DNR would generally not have been subject to property taxes in the year of purchase, under current law, BCPL would generally not be required to make aids in lieu of property taxes payments on land acquired from DNR. Over the last three fiscal years, BCPL payments for aids in lieu of taxes were approximately \$10,000 per year. BCPL staff estimate that, under current law, the Board would make additional payments in lieu of taxes of approximately \$1,000 in 2015-16 and \$2,000 in 2016-17 (a reduction of \$40,400 over the biennium compared to the bill).

3. To date, BCPL has made one purchase from DNR, a parcel of 1,520 acres of forestland in Oneida County in December, 2006. DNR had acquired the property from American Timberlands in October, 2006 for \$2,257,000. The Department wanted to acquire a conservation easement on the property while BCPL wanted to acquire the land and timber rights. DNR sold the parcel to BCPL but retained a conservation easement prohibiting development, restricting subdivision, providing public access, and requiring sustainable timber management. BCPL paid \$1,467,000 for the parcel (\$2,257,000 less the conservation easement value of \$790,000). At the time DNR purchased the property, part of the parcel was enrolled in the managed forest law (MFL) program while the remainder was enrolled in the forest crop law (FCL) program. Land enrolled in MFL and FCL is subject to preferential property tax treatment (in exchange for a commitment to sound management

of private forest lands). Because BCPL purchased the property from DNR in the same calendar year as BCPL purchased it from American Timberlands, the withdrawal from the MFL and FCL program had not gone through yet. As a result, the land was subject to property tax, albeit at the reduced MFL and FCL rates, in the year BCPL acquired the land. Therefore, BCPL has made payments in lieu of taxes in the amount equal to the forest tax law levied on the land in the year prior to the year BCPL purchased it (approximately \$1,300) every year since acquiring the land.

4. The bill would require BCPL to make payments in lieu of taxes on land acquired from DNR that was not subject to property taxes at the time of BCPL purchase. Administration officials indicate that the intent is for BCPL to, beginning with the effective date of the bill, make annual payments in lieu of taxes for lands owned by BCPL that were previously acquired from DNR as well as for future land purchases by BCPL from DNR, in an amount similar to the payments that would have been made had DNR continued to own the land. However, it may be unclear whether the payments would apply to purchases BCPL made from DNR before the effective date of the budget act. BCPL staff indicate they interpret the provision to apply prospectively to purchases made from DNR beginning with the effective date of the bill. Further, since the property involved in the only purchase BCPL has made from DNR to date was subject to property tax at the time of purchase, the calculation included in the bill would not appear to apply to this purchase.

5. Additionally, the formula under the bill appears to be based on when BCPL, rather than DNR, made the purchase. As a result, for some properties held by the Department, the amount of aids in lieu of property taxes paid by BCPL under the bill (\$10 per acre for tax-exempt lands in most cases) could exceed the amounts paid by DNR were the Department to have retained the property. For example, for land purchased by DNR prior to July 1, 1969, aids in lieu of property taxes are 88¢ per acre and for land purchased beginning January 1, 1969, through December 31, 1991, payments are based on the statewide average property tax rate for municipal, county, and school taxes for the tax year after purchase applied to the lands' assessed value. For this category of land, each year after the initial year the payment is reduced by 10% of the first year amount until the greater of 10%, or a payment of 50¢ per acre, is reached in the tenth and subsequent years. Since 1992, when DNR acquires land, the Department pays aids in lieu of property taxes in an amount equal to the tax that would be due on the estimated value of the property at the time it was purchased, adjusted annually to reflect changes in the equalized valuation of all land, excluding improvements, in the taxation district. Prior to July 1, 2011, the estimated value typically equaled the purchase price, while after that date the value typically represents the equalized (property tax) value in the year prior to purchase. According to Board staff, the calculation for aids in lieu payments for parcels acquired by BCPL from DNR under the bill would result in a significant PILT obligation on purchases of DNR properties. As a result, BCPL staff indicate that BCPL would be unlikely to purchase lands from DNR unless the potential purchase provided an extraordinary economic advantage to BCPL (such as providing permanent legal access to a large adjoining BCPL tract). Under the bill, as the Board would be unlikely to make any purchases from DNR during the 2015-17 biennium, the estimated increase in payments in lieu of taxes would be the same as current law (\$3,000 over the biennium).

6. It could be argued that if the goal of requiring BCPL to make aids in lieu of property tax payments is to provide local governments with a similar amount of revenue as they currently

receive, BCPL should make aids in lieu of taxes payments on all land it acquires whether through purchase or through exchange. For example, in June 2013, BCPL exchanged 649 acres of forestland located in Florence, Forest, and Price Counties for 480 acres of United States Forest Service (USFS) forestland located in Florence County. The property conveyed by BCPL in the exchange was appraised at \$714,000 and the property conveyed by the USFS was appraised at \$672,000 (the USFS paid BCPL \$42,000 for the difference in appraised value). Prior to BCPL acquisition of the property, the local governments were entitled to federal aids in lieu of tax payments; however, under current law and under the bill, BCPL is not be required to make aids in lieu of property taxes on this property. [Federal aids in lieu of property tax payments made to a county in 2012, the year prior to BCPL acquisition, were the higher of: (a) \$2.47 per acre of eligible land within the county boundary, reduced by the amount received under certain other federal land payment programs in the prior federal fiscal year; or (b) 34¢ per acre of eligible land (with no deduction for prior year payments and subject to certain maximums limited by population). The Committee could consider requiring BCPL to, beginning with acquisitions made on the effective date of the bill, make aids in lieu of property taxes on all land it acquires that is subject to either property tax or aids in lieu of property tax payments regardless of the method of acquisition or the seller, in an amount equal to the property taxes or aids in lieu of property taxes paid in the prior year (Alternative 2). As under current law, BCPL would not make payments in lieu of taxes on land purchased from certain tax exempt lands (such as lands owned by non-profit conservation organizations). This alternative would provide local governments with a consistent payment each year and would be simpler to administer than the calculation included in the bill (Alternative 2). BCPL indicates that they could expect additional aids in lieu of taxes payments of perhaps \$2,500 in 2015-16 and \$5,000 in 2016-17 if this alternative were adopted. These payments would create a disincentive for BCPL to purchase some state and federal lands as trust fund assets (particularly many post-1992 DNR lands due to substantial DNR aids in lieu of taxes payments for many of these purchases).

7. Some might argue that BCPL's original purpose was to sell trust lands and utilize the proceeds for investment for the benefit of public education beneficiaries, and that trust fund revenues should not be utilized for local government support through aids in lieu of taxes payments. Others might argue that, under current law, there is a disincentive for local governments to support BCPL purchases of land from DNR or the federal government because local governments would not receive aids in lieu of taxes payments from BCPL that they would otherwise continue to receive. Maintaining current law would mean that local governments would only receive aids in lieu of property tax payments from BCPL in cases where the property purchased by BCPL was subject to property tax in the year of acquisition. If BCPL purchased land from a tax exempt entity such as a government or non-profit conservation organization, BCPL would not be required to make aids in lieu of property tax payments on the property (regardless of whether the land was previously eligible for state or federal aids in lieu of property tax payments).

ALTERNATIVES

1. Adopt the Governor's recommendation to require BCPL to make aids in lieu of property tax payments [in the manner required under s. 70.114 of the statutes (the provision governing DNR aids in lieu of property taxes payments on lands which DNR has acquired since

1992)] on land BCPL purchased from DNR that was not subject to property tax assessment at the time of purchase. Further, delete \$20,700 PR in 2015-16 and \$19,700 PR in 2016-17 in BCPL and restore \$21,700 GPR annually in DNR, to reflect the estimated effect of this provision.

ALT 1	Change to Bill
GPR	\$43,400
PR	<u>- 40,400</u>
Total	\$3,000

2. Specify that, beginning with purchases made as of the effective date of the bill, if any land purchased by BCPL under s. 24.61(2)(a)10 of the statutes or acquired pursuant to an exchange under s. 24.09 was at the time of purchase or acquisition subject to assessment or levy of a real property tax or obligation for payment in lieu of taxes, the Board shall make annual payments in lieu of property taxes from the proceeds from the sale of timber or from appropriate trust fund incomes to the appropriate local governmental unit in an amount equal to property taxes levied on the land or state or federal payment in lieu of taxes made in the year prior to the year in which the Board purchased or acquired the land. Delete \$19,200 in 2015-16 and \$16,700 in 2016-17 (a base-level increase of \$2,500 PR in 2015-16 and \$5,000 PR in 2016-17 would be provided. Further, restore \$21,700 GPR annually deleted in error from the DNR aids in lieu of taxes appropriation.

ALT 2	Change to Bill
GPR	\$43,400
PR	<u>- 35,900</u>
Total	\$7,500

3. Maintain current law. (BCPL would continue to make payments in lieu of taxes on any lands purchased that were subject to property taxes in the year prior to purchase in an amount equal to the amount of property taxes levied the prior year). Delete \$20,700 PR in 2015-16 and \$19,700 PR in 2016-17. Further, restore \$21,700 GPR annually deleted in error from the DNR aids in lieu of taxes appropriation.

ALT 3	Change to Bill
GPR	\$43,400
PR	<u>- 40,400</u>
Total	\$3,000

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