



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1053/6
MGG/RNK/JK:cjs&wlj:ph

DOA:.....Wavrunek, BB0248 - Aids in lieu of taxes and stewardship provisions regarding land acquisitions

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

NATURAL RESOURCES

OTHER NATURAL RESOURCES

Current law authorizes the state to incur public debt by issuing bonds for certain conservation activities under the stewardship program, which DNR administers. The state may authorize bonds to acquire state land or easements that are under the jurisdiction of DNR for areas such as state forests and state parks and the Lower Wisconsin State Riverway. Also, currently under the stewardship program, DNR may issue bonds to award grants or state aid to certain governmental units and to nonprofit conservation organizations in order to acquire lands, easements, or development rights.

This bill limits acquisitions of land, easements, and other rights or interests in land under the stewardship program to only acquisitions of land in fee simple and acquisitions of certain easements for forestry purposes (forestry easements), easements for state trails or the ice age trail, and easements that are necessary to provide access to lands or waters that are required to be open to the public for which there is no public access or limited public access. An acquisition of land in fee simple is one where all the rights in the land are acquired as opposed to the acquisition of just an easement or development rights. Under the bill, an

easement acquired for a state trail, for the ice age trail, or to provide access to land or a body of water may not be more than five acres in size.

The bill requires a city, village, town, or county to adopt a nonbinding resolution that either supports or opposes a proposed acquisition of land or easement and requires DNR to consider the resolution in determining whether to approve the acquisition. This requirement does not apply to forestry easements.

Under current law, lands and certain easements on lands, acquired under the stewardship program must be open to the public for nature-based outdoor activities such as hunting, fishing, hiking, and cross-country skiing unless the DNR board determines that the land may be closed to protect public safety or a unique animal or plant community or to accommodate usership patterns such as conflicts between these types of activities (reasons for prohibiting public access). This bill eliminates the accommodation of usership patterns as a reason for prohibiting public access with respect to lands, or easements on lands, that are not acquired for a state trail or the ice age trail and that are acquired after the bill becomes law.

Under current law, if a land acquisition or development project under the stewardship program costs more than \$750,000, DNR cannot obligate money from the stewardship fund for that activity until DNR gives written notice of the proposed activity to JCF. JCF may schedule a meeting to review the proposal only if at least five members of JCF, one of whom is a cochairperson, object in writing to the proposed activity. If the cochairpersons of JCF do not notify DNR within 14 working days after the date of DNR's notification that JCF has scheduled a meeting to review the proposed activity, DNR can obligate the money. If the cochairpersons notify DNR that JCF has scheduled a meeting to review the proposed activity, DNR can obligate the money only if JCF approves the proposed activity or if JCF fails to hold the meeting within a specific number of working days. This bill decreases the \$750,000 threshold amount to \$250,000.

Under current law, land that DNR purchases is not subject to property taxes. Instead, DNR makes annual payments to municipalities for each parcel of land that the DNR has purchased in those municipalities. The payment amount is determined, generally, by multiplying the parcel's estimated value by the aggregate net general property tax rate that would apply to the parcel if it were subject to property taxes. This bill eliminates those payments for land purchased after the bill's effective date.

Under current law, if DNR receives funds from the sale of atlases, those funds are credited to an appropriation account in the conservation fund to be used for expenses associated with the maintenance of facilities and the production of maps and other customer services. This bill repeals that appropriation.

Current law also provides that, if DNR receives gifts and contributions under the Wisconsin natural areas heritage program or moneys from the sale of certain state-owned lands, those amounts are credited to an appropriation account in the general fund to be used for natural heritage and natural area land acquisition activities and for administration of the natural areas inventory program. This bill repeals that appropriation and provides instead that the amounts be credited to an

appropriation account in the conservation fund and used for the same purposes specified in the repealed appropriation.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.370 (1) (gr) of the statutes is amended to read:

20.370 (1) (gr) *Endangered resources program — gifts and grants; sale of state-owned lands*. All moneys received from gifts, grants and bequests for the endangered resources program, as defined under s. 71.10 (5) (a) 2., to be expended for the purposes for which made and received; and all moneys received from gifts and contributions under the Wisconsin natural areas heritage program and all moneys received from the sale of state-owned lands withdrawn from the state natural areas system for the purposes of natural heritage land acquisition activities, natural area land acquisition activities, and administration of the natural areas inventory program.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 20.370 (1) (it) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 3. 20.370 (1) (mg) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 4. 20.370 (8) (ir) of the statutes is amended to read:

20.370 (8) (ir) *Promotional activities and publications*. ~~Except as provided in sub. (1) (it), all~~ All moneys received from subscriptions and other revenues generated by promotional activities, photographs, slides, videotapes, artwork, publications, magazines and other periodicals, except the Wisconsin natural resources magazine,

to be used for these promotional activities, photographs, slides, videotapes, artwork, publications and magazines and for educational and informational activities concerning conservation and the environment.

SECTION 5. 23.09 (10) of the statutes is amended to read:

23.09 (10) CONSERVATION EASEMENTS AND RIGHTS IN PROPERTY. Confirming all the powers hereinabove granted to the department and in furtherance thereof, the department, subject to the limitations under s. 23.0917 (8m), may acquire any and all easements in the furtherance of public rights, including the right of access and use of lands and waters for hunting and fishing and the enjoyment of scenic beauty, together with the right to acquire all negative easements, restrictive covenants, covenants running with the land, and all rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public. The department also may grant leases and easements to properties and other lands under its management and control under such covenants as will preserve and protect such properties and lands for the purposes for which they were acquired.

SECTION 6. 23.09 (19) (cg) of the statutes is amended to read:

23.09 (19) (cg) The Subject to the limitations under s. 23.0917 (8m), the department may award grants from the appropriation under s. 20.866 (2) (ta) for the acquisition of land or rights in land for urban green space under this subsection only for the purposes of nature-based outdoor recreation.

SECTION 7. 23.09 (20) (am) of the statutes is amended to read:

23.09 (20) (am) Any governmental unit may apply for state aids for the acquisition and development of recreational lands and rights in lands. State aids under this subsection that are expended from the appropriation under s. 20.866 (2) (ta) may only be used for nature-based outdoor recreation. Acquisition of land or

rights in land using state aids awarded under this subsection are subject to the limitations under s. 23.0917 (8m). State aids received by a municipality shall be used for the development of its park system in accordance with priorities based on comprehensive plans submitted with the application and consistent with the outdoor recreation program under s. 23.30. An application under this subsection shall be made in the manner the department prescribes.

SECTION 8. 23.09 (20m) (c) of the statutes is created to read:

23.09 (20m) (c) Beginning with fiscal year 2011-12, the department may not obligate any moneys from the appropriation under s. 20.866 (2) (ta) for grants under this subsection.

SECTION 9. 23.0916 (1) (am) of the statutes is created to read:

23.0916 (1) (am) “Local governmental unit” means a city, a village, a town, a county, a special purpose district in this state, an agency or corporation of a political subdivision or special purpose district, or a combination or subunit of any of the foregoing.

SECTION 10. 23.0916 (1) (bg) of the statutes is created to read:

23.0916 (1) (bg) “State agency” has the meaning given in s. 16.004 (12) (a).

SECTION 11. 23.0916 (2) (a) of the statutes is amended to read:

23.0916 (2) (a) Earlier acquisitions. Except as provided in par. (b) and sub. (4), any person receiving a stewardship grant on or after October 27, 2007, and before the effective date of this paragraph [LRB inserts date], that will be used to acquire land in fee simple or to acquire an easement on former managed forest land shall permit public access to the land for nature-based outdoor activities.

SECTION 12. 23.0916 (2) (am) of the statutes is created to read:

23.0916 (2) (am) *Later acquisitions.* Except as provided in par. (b) or (c) and sub. (4), any person receiving a stewardship grant on or after the effective date of this paragraph [LRB inserts date], that will be used to acquire land in fee simple or to acquire an easement on former managed forest land shall permit public access to the land for nature-based outdoor activities.

SECTION 13. 23.0916 (2) (b) (intro.) of the statutes is amended to read:

23.0916 (2) (b) *Authority to prohibit access; earlier acquisitions; trails.* (intro.) The Except as provided in par. (c), the person receiving the a stewardship grant subject to par. (a) or (am) may prohibit public access for one or more nature-based outdoor activities, only if the natural resources board determines that it is necessary to do so in order to do any of the following:

SECTION 14. 23.0916 (2) (c) of the statutes is created to read:

23.0916 (2) (c) *Authority to prohibit access; later acquisitions.* For acquisitions of land or easements that are not for state trails or the ice age trail the person receiving a stewardship grant subject to par. (am) may prohibit public access for one or more nature-based outdoor activities only if the natural resources board determines that it is necessary to do so in order to do any of the following:

1. Protect public safety.
2. Protect a unique animal or plant community.

SECTION 15. 23.0916 (3) (a) (title) of the statutes is created to read:

23.0916 (3) (a) (title) *All acquisitions.*

SECTION 16. 23.0916 (3) (b) (intro.), 1., 2., and 3. of the statutes are consolidated, renumbered 23.0916 (3) (b) and amended to read:

23.0916 (3) (b) *Authority to prohibit access; earlier acquisitions; trails.* The department may prohibit public access on land or an easement subject to par. (a) for

one or more nature-based outdoor activities if the natural resources board determines that it is necessary to do so in order to do any of the following: 1. ~~Protect~~ protect public safety. 2. ~~Protect,~~ protect a unique animal or plant community. 3. ~~Accommodate,~~ accommodate usership patterns, as defined by rule by the department. This paragraph applies to all acquisitions of land in fee simple and easements on former managed forest land that occur on former managed forest land before the effective date of this paragraph [LRB inserts date], and to the acquisition of easements on former managed forest land for state trails and the ice age trail that occur on or after the effective date of this paragraph [LRB inserts date].

SECTION 17. 23.0916 (3) (c) of the statutes is created to read:

23.0916 (3) (c) *Authority to prohibit access; later acquisitions.* The department may prohibit public access on land or an easement subject to par. (a) for one or more nature-based outdoor activities only if the natural resources board determines that it is necessary to do so to protect public safety or to protect a unique animal or plant community. This paragraph applies to acquisitions of land in fee simple and easements on former managed forest land for purposes other than for state trails and the ice age trail that occur on or after the effective date of this paragraph [LRB inserts date].

SECTION 18. 23.0916 (4) of the statutes is amended to read:

23.0916 (4) FISH AND GAME REFUGES. The department or an owner of land that is in a fish or game refuge and that is subject to sub. (2) (a) or (am) or (3) (a) may prohibit hunting, fishing, or trapping, or any combination thereof.

SECTION 19. 23.0916 (5) (a) of the statutes is amended to read:

23.0916 (5) (a) Provisions relating to public access for nature-based outdoor activities for all lands other than those subject to sub. (2) (a) or (am) or (3) (a) that are acquired in whole or in part with funding from the stewardship programs under ss. 23.0915 and 23.0917.

SECTION 20. 23.0916 (5) (b) of the statutes is amended to read:

23.0916 (5) (b) A process for the review of determinations made under subs. (2) (b) or (c) and (3) (b) or (c).

SECTION 21. 23.0917 (1) (cm) of the statutes is created to read:

23.0917 (1) (cm) “Forestry easement” means a conservation easement that includes all of the development rights in the land and that imposes an obligation on the owner of the land to ensure that the land is managed using sustainable forestry practices to produce forest products.

SECTION 22. 23.0917 (4) (b) 3. of the statutes is amended to read:

23.0917 (4) (b) 3. Grants for acquisition of property development rights under ss. 23.09 (20m) and 23.096. Beginning with fiscal year 2011-12, the department may not obligate moneys for such grants.

SECTION 23. 23.0917 (5t) of the statutes is created to read:

23.0917 (5t) LOCAL GOVERNMENTAL RESOLUTIONS. Each city, village, town, or county shall adopt a nonbinding resolution that supports or opposes the proposed acquisition of land to be funded by moneys obligated from the appropriation under s. 20.866 (2) (ta) if all or a portion of the land is located in the city, village, town, or county. The department shall provide written notification to each city, village, town, or county that is required to adopt a resolution. Within 30 days after receiving the notification, the city, village, town, or county shall adopt the resolution and shall provide the department with a copy of the resolution. If the department receives the

copy within this time period, the department may not approve or deny the proposed acquisition until it takes the resolution into consideration. This paragraph does not apply to proposed acquisitions of forestry easements.

SECTION 24. 23.0917 (6m) (c) of the statutes is amended to read:

23.0917 **(6m)** (c) The procedures under pars. (a) and (b) apply only to an amount for a project or activity that exceeds ~~\$750,000~~ \$250,000, except as provided in pars. (d) and (dm).

SECTION 25. 23.0917 (6m) (dm) (intro.) of the statutes is amended to read:

23.0917 **(6m)** (dm) (intro.) The procedures under pars. (a) and (b) apply to an amount for a project or activity that is less than or equal to ~~\$750,000~~ \$250,000 if all of the following apply:

SECTION 26. 23.0917 (6m) (dm) 1. of the statutes is amended to read:

23.0917 **(6m)** (dm) 1. The project or activity is so closely related to one or more other department projects or activities for which the department has proposed to obligate or has obligated moneys under s. 20.866 (2) (ta) that the projects or activities, if combined, would constitute a larger project or activity that exceeds ~~\$750,000~~ \$250,000.

SECTION 27. 23.0917 (8m) of the statutes is created to read:

23.0917 **(8m)** LIMITATIONS ON ACQUISITIONS. (a) Beginning with fiscal year 2011-12, in obligating moneys from the appropriation under s. 20.866 (2) (ta), the department may obligate moneys only for the acquisition of land in fee simple and for the acquisition of a right or interest in land that is one of the following:

1. An easement that is necessary to provide the public access to land or a body of water that is required to be open to the public for which there is no other public

access or for which public access is limited to the degree that a major amount of one or more nature-based outdoor activities is not allowed.

2. An easement for a state trail or the ice age trail.

3. A forestry easement.

(b) An easement acquired under par. (a) 1. or 2. may not be more than 5 acres in size.

SECTION 28. 23.092 (3) of the statutes is amended to read:

23.092 (3) The department may acquire land and easements for habitat areas by gift or devise or ~~beginning on July 1, 1990, by purchase. The department may acquire land for habitat areas by gift, devise or purchase, subject to the limitations under s. 23.0917 (8m).~~

SECTION 29. 23.094 (5m) of the statutes is created to read:

23.094 (5m) LIMITATION ON ACQUISITIONS. Acquisitions of land and easements under this section are subject to the limitations under s. 23.0917 (8m).

SECTION 30. 23.0953 (2) (a) 1. of the statutes is amended to read:

23.0953 (2) (a) 1. Acquisition of land or easements for a county forest under s. 28.11.

SECTION 31. 23.0953 (2) (a) 2. of the statutes is amended to read:

23.0953 (2) (a) 2. Acquisition of land or easements for a project that promotes nature-based outdoor recreation or conservation and for which the department is requesting the county's assistance.

SECTION 32. 23.0953 (2) (am) of the statutes is created to read:

23.0953 (2) (am) Land and easements acquired with a grant under this section are subject to the limitations under s. 23.0917 (8m).

SECTION 33. 23.0953 (4) of the statutes is amended to read:

23.0953 (4) A county may not convert the land, or any rights in the such land, or an easement that is acquired with grant moneys awarded under sub. (2) (a) 2. to a use that is inconsistent with the type of nature-based outdoor recreation or conservation activity for which the grant was awarded unless the natural resources board approves the conversion.

SECTION 34. 23.096 (2) (a) of the statutes is amended to read:

23.096 (2) (a) The Subject to the limitations under s. 23.0917 (8m), the department may award grants from the appropriation under s. 20.866 (2) (ta) or (tz) to nonprofit conservation organizations to acquire ~~property~~ land for all of the purposes described in ss. 23.09 (2) (d) 1. to 7., 9., 11., 12. and 15., (19), (20) and (20m), 23.092, 23.094, 23.17, 23.175, 23.27, 23.29, 23.293, 30.24 and 30.277.

SECTION 35. 23.17 (4) of the statutes is amended to read:

23.17 (4) POWERS OF THE DEPARTMENT. The department may acquire land and interests in land, subject to the limitations under s. 23.0917 (8m), for the ice age trail under s. 23.09 (2) (d) 10., and may develop the ice age trail on lands under its ownership along the trail route.

SECTION 36. 23.175 (4) of the statutes is amended to read:

23.175 (4) LIMIT ON SPENDING. Except as provided in s. 23.0915 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more than \$1,000,000 under this section for trails and for grants for this purpose under s. 23.096 in each fiscal year. Acquisitions of land or easements for trails under this section are subject to the limitations under s. 23.0917 (8m).

SECTION 37. 23.27 (5) of the statutes is amended to read:

23.27 (5) NATURAL AREAS LAND ACQUISITION; COMMITMENT UNDER THE WISCONSIN NATURAL AREAS HERITAGE PROGRAM. It is the intent of the legislature to initiate

additional natural areas land acquisition activities with moneys available from the appropriations under ss. 20.370 (1) (~~mg~~) (gr) and 20.866 (2) (ta), (tt) and (tz) under the Wisconsin natural areas heritage program. This commitment is separate from and in addition to the continuing commitment under sub. (4). Moneys available from the appropriations under ss. 20.370 (1) (~~mg~~) (gr) and 20.866 (2) (ta), (tt) and (tz) under the Wisconsin natural areas heritage program may not be used to acquire land through condemnation. The department may not acquire land under this subsection unless the land is suitable for dedication under the Wisconsin natural areas heritage program and upon purchase or as soon after purchase as practicable the department shall take all necessary action to dedicate the land under the Wisconsin natural areas heritage program. Acquisitions of land or of interests in land under this section are subject to the limitations under s. 23.0917 (8m). Except as provided in s. 23.0915 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more than \$500,000 in each fiscal year for natural areas land acquisition activities under this subsection and for grants for this purpose under s. 23.096.

SECTION 38. 23.27 (6) of the statutes is amended to read:

23.27 (6) SALE; CREDIT. Moneys received by the state from the sale of any area on state-owned land under the department's management or control which is withdrawn from the state natural areas system shall be credited to the appropriation under s. 20.370 (1) (~~mg~~) (gr). An amount equal to the value of any area on state-owned land under the department's management or control which is withdrawn from the state natural areas system but remains in state ownership shall be credited to the appropriation under s. 20.370 (1) (~~mg~~) (gr).

SECTION 39. 23.29 (2) of the statutes is amended to read:

23.29 (2) CONTRIBUTIONS; STATE MATCH. The department may accept contributions and gifts for the Wisconsin natural areas heritage program. The department shall convert donations of land which it determines, with the advice of the council, are not appropriate for the Wisconsin natural areas heritage program into cash. The department shall convert other noncash contributions into cash. These moneys shall be deposited in the general conservation fund and credited to the appropriation under s. 20.370 (1) (~~mg~~) (gr). These moneys shall be matched by an equal amount released from the appropriation under s. 20.866 (2) (ta), (tt) or (tz) or from any combination of these appropriations to be used for natural areas land acquisition activities under s. 23.27 (5). The department shall determine how the moneys being released are to be allocated from these appropriations.

****NOTE: This is reconciled s. 23.27 (5). This SECTION has been affected by drafts with the following LRB numbers: LRB-0136/3 and LRB-1053/5.

SECTION 40. 28.02 (2) of the statutes is amended to read:

28.02 (2) ACQUISITION. The Subject to the limitations under s. 23.0917 (8m), the department may acquire lands or interest in lands by grant, devise, gift, condemnation or purchase within the boundaries of established state forests or purchase areas; and outside of such boundaries for forest nurseries, tracts for forestry research or demonstration and for forest protection structures, or for access to such properties. In the case of condemnation the department shall first obtain approval from the appropriate standing committees of each house of the legislature as determined by the presiding officer thereof.

SECTION 41. 70.114 (5) of the statutes is created to read:

70.114 (5) SUNSET. No aids shall be paid under this section for lands acquired after the effective date of this subsection [LRB inserts date].

SECTION 9335. Initial applicability; Natural Resources.

(1) STEWARDSHIP ACQUISITIONS.

(a) The treatment of section 23.0917 (5t) of the statutes first applies to applications for grants and state aid that are submitted to the department of natural resources on the effective date of this paragraph.

(b) The treatment of section 23.0917 (5t) of the statutes first applies to acquisitions that are submitted to the governor for his or her approval on the effective date of this paragraph.

(END)