



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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Joint Committee on Finance

Paper #557

Warren Knowles-Gaylord Nelson Stewardship 2000 Program Review (DNR -- Stewardship Program)

Bill Agency

CURRENT LAW

Under the Warren Knowles-Gaylord Nelson Stewardship 2000 program, the state may contract public debt in an amount not to exceed \$572 million. The annual bonding allotment under the program is set at \$60 million annually through 2009-10. Total general obligation bonding authority of the original and reauthorized programs is \$803 million for the 20-year program.

GOVERNOR

No provision.

DISCUSSION POINTS

1. A heightened review procedure for stewardship projects was enacted in 1995 in order to provide an increased level of legislative scrutiny for major expenditures under the stewardship program. The stewardship program is a considerable commitment of state funds with \$803 million in general obligation bonds currently authorized. Debt service payments (principal repayment and interest) could total almost \$1.3 billion over the life of the bonds (an over 40-year period).

2. Beginning in 1996, DNR was prohibited from obligating any funding from the Warren Knowles-Gaylord Nelson Stewardship program for any project or activity that exceeded \$250,000 unless the Department first notified the Joint Committee on Finance in writing of the

proposal. If the Co-Chairpersons of the Committee did not notify DNR within 14 working days after the date of the Department's notification that the Committee had scheduled a meeting to review the proposal, the Department was permitted to obligate the moneys. If, within 14 working days after the date of the notification by DNR, the Co-Chairpersons of the Committee notified the Department that the Committee had scheduled a meeting to review the proposal, DNR could only obligate the funding upon approval of the Committee.

3. During the deliberations on the 2003-05 biennial budget, the Legislature proposed lowering the threshold of the Joint Committee on Finance review of stewardship land acquisition and property development projects from \$250,000 to zero. As passed by the Legislature, all land acquisition and property development activities under stewardship would have been reviewed by Joint Finance under the 14-day passive review process. The \$250,000 threshold of review by the Committee would have been maintained for local assistance or non-profit conservation (NCO) grants provided under the stewardship program. However the Governor, in his partial vetoes of 2003 Act 33, deleted this provision. Further, the partial veto repealed all passive review requirements for land acquisition, property development, and grant activities supported by funding from the stewardship program. The repeal was accomplished by completely vetoing the sections in 2003 Senate Bill 44 (the bill passed by the Legislature) relating to this item, with the exception of Section 802m, which read: "23.0917 (6)(b) of the statutes is repealed" (this provision would have repealed the \$250,000 review threshold on stewardship projects). The Governor deleted the "(b)", thereby repealing all of 23.0917 (6), which provided for the passive review of stewardship projects by the Joint Committee on Finance.

4. In January, 2004, the Legislature passed 2003 Senate Bill 252, which would have restored the review by the Joint Committee on Finance of certain stewardship projects. The bill specified that DNR may not provide stewardship funding for a project in excess of \$250,000 unless it first notified the Committee. If three or more members of the Committee objected to the proposal within 13 working days after the date of the notification, a meeting would be scheduled to review the proposal. The Governor vetoed SB 252 in February, 2004. As passed by the Legislature, the 2005-07 budget would have restored the authority of the Joint Finance Committee to review projects under the Stewardship 2000 program through a 14-day passive review process, but would have increased the threshold of projects requiring review to \$300,000. Further, it would have specified that if the Joint Finance Committee did not meet within 75 days of notice to DNR that a meeting would be scheduled, DNR would have been able to proceed with the project. However, the Governor vetoed these provisions.

5. Non-legislative review procedures remain in place, however. Under DNR administrative rule, the following land transactions require the approval of the Natural Resources Board: (a) acquisitions where the purchase price is \$150,000 or more; (b) acquisitions where more than 40 acres are outside of an established project boundary; (c) acquisitions where the purchase price exceeds the highest appraised value; (d) acquisitions where improvement values exceed 35% of the total appraised value; (e) acquisitions of short tenure with substantial increased value; and (f) sales of state land that are no longer needed for conservation purposes where the value exceeds \$50,000 or where the acreage exceeds 40 acres.

6. In the approximately three and one-half years from July 26, 2003 (the effective date of Act 33), through Feb 27, 2007, 448 stewardship grants were awarded to local governments and nonprofit conservation organizations, of which 42 were for amounts in excess of \$250,000, 18 were awarded for grants over \$500,000, and six were for grants over \$1 million. During that same time period, approximately 796 stewardship-funded land acquisition transactions were completed by the Department. Of those transactions, 110 were over \$250,000, 51 were for amounts in excess of \$500,000, and 20 were for amounts over \$1 million.

7. In addition, building projects over \$500,000 in costs are required to be specifically enumerated in state law. For example, 1999 Act 9 enumerated a \$690,000 stewardship project for a nature and conference center at Lapham Peak State Forest. The Legislature typically enumerates these projects in the state budget. Also, any state-funded development project in excess of \$100,000 but less than \$500,000 must be reviewed by the State Building Commission for approval prior to bidding. Further, all land acquisition projects, proposals for the sale of any DNR managed land, and any development projects over \$60,000 are submitted to the Governor for review, and are subject to his approval. While grants to local governments and NCOs go through an internal DNR review and scoring process, they generally are not subject to review by either the Natural Resources Board or the Governor. For grants over \$250,000 the only additional oversight procedure for these expenditures had been the Joint Finance passive review provision.

8. From July 2005, through December, 2006, the Building Commission reviewed 21 DNR property development projects, with 12 development projects of over \$250,000 in stewardship funding (five were over \$500,000 and four were over \$1 million).

9. It is argued that DNR internal review and review by the Natural Resources Board, the Governor, and by the Building Commission for selected projects provides adequate oversight for expenditures under the stewardship program. However, given the magnitude of the financial commitment that the stewardship program represents for the State of Wisconsin, it could be argued that restoring Joint Finance oversight to the process would ensure that the largest stewardship projects would receive some level of legislative review. Based on the approximately 380 annual projects indicated by the figures above, on average, about 50 projects per year would be expected to receive Joint Finance review at a \$250,000 threshold, 24 at \$500,000 and perhaps 10 at \$1 million.

10. In a situation where the timing of the purchase is an issue, the additional step of the passive review process can potentially delay a purchase by anywhere from about three weeks to several months, if review by the full Committee is required. In some instances, the ability to act within a limited time frame can be crucial to successful land purchase negotiations. It may be argued that reducing the number of purchases required to be reviewed by Joint Finance would allow DNR to execute land transactions more quickly.

11. However, it should be noted that the Department generally negotiates with a potential seller over an extended period of time (months or even years is typical). Internal discussions and land reviews take place, and multiple appraisals may be performed by DNR staff or contracted for with private appraisers. Once an agreement is reached, any purchase or development project that required Joint Finance review was also subject to review by one or more of the

following: (a) the Natural Resources Board; (b) the Building Commission; and (c) the Governor. Given that DNR's timeframe for acquiring property can range from months to years, instituting a 14-day passive review period would not be expected to have a significant effect in transaction efficiency.

12. While the 14-day passive review process would not appear to create a substantial delay for most stewardship projects, some have raised concerns relating to the timeliness of review by the Joint Committee on Finance when a project is scheduled for active review. Under the prior provision, the Committee had 14 working days to review a DNR stewardship request. If the Committee took no action, the agency was allowed to proceed after the expiration of the 14 working days. However, if the Committee chose to review the request at a full meeting of the Committee no time requirement was specified for the meeting. While Joint Finance typically reviewed the request at its next quarterly meeting under s. 13.10, there were instances where the Committee did not meet for an extended period.

13. Options that could be considered to address this concern would be to establish a time certain by which Joint Finance would take up the request or the Department would be allowed to proceed. For example, a provision could be included to specify that if Joint Finance did not meet on the item within a certain number of calendar days (such as 60, 75, or 90 days) after notifying the Department that a meeting was being scheduled, the agency may proceed. If 75 or 90 days were to be selected, this would ensure that the Committee would not be required to meet more than quarterly, while also providing the Department and landowners some assurance that requests would be acted upon in a timely manner.

14. Establishing a higher limit for Joint Finance Committee passive review could be considered, such as for projects over \$500,000. The initial review procedure for stewardship projects was first applied in 1996, with the level of review established as projects in excess of \$250,000. At the time, the annual bonding authority for the Stewardship program was set at \$23.1 million. As the annual bonding authority has been increased, in part, in response to increases in property values, the review threshold could also be increased. A review threshold comparable to the \$60 million in annual bonding authority currently allocated for the program would be approximately \$650,000. Increasing the threshold for the Joint Finance Committee's passive review of projects to \$650,000 would succeed in capturing large acquisitions by the Department for the Committee's review. If annual bonding authority were to be increased to \$105 million, a review threshold of \$1,100,000 would be comparable to the original \$250,000 project threshold at \$23.1 million in annual bonding.

15. Based on recent program activity, a review threshold of \$250,000 would be expected to result in Joint Finance review of approximately one in seven DNR projects (14%). At \$500,000, the Committee would be expected to review approximately 8% of projects, at \$650,000, the Committee would be expected to review approximately 5% of projects, and at \$1.1 million, fewer than 3% of projects would be subject to review.

16. In addition, it should be noted that there had been some confusion under the prior provision on whether Joint Finance review applied to DNR development projects under the

stewardship program. Although the statute clearly stated the provision applied to all stewardship projects, during the over seven and one-half years the provision was in effect, DNR only submitted one development project (a \$499,000 bridge railing and decking project for the first phase of development of the Badger State Trail in Dane and Green Counties submitted in December, 2002). Any future review procedure could be drafted to more clearly specify whether stewardship development projects are subject to the legislative review procedure (for example, a specific reference clarifying that Joint Finance review is in addition to Building Commission review).

17. Finally, in response to a 2000 review by the Legislative Audit Bureau, current law requires DNR to conduct a second appraisal for grant projects that are valued at over \$200,000. In its recommendations to the DNR Secretary regarding the reauthorization of the Stewardship program, the Stewardship Advisory Council recommended that this requirement be increased to grant projects that are valued at over \$500,000. The Council argues that, given the increase in property values since the Stewardship 2000 program was authorized, the threshold for a second appraisal is too low. Further, they argue the requirement may delay a project and increases costs for grant partners (who must pay for one of the two appraisals).

ALTERNATIVES TO BILL

1. Restore authority of the Joint Committee on Finance to review projects under the Warren Knowles-Gaylord Nelson Stewardship 2000 program through a 14-day passive review process under the following:

a. Cost of Projects

1. Projects over \$250,000.
2. Projects over \$500,000.
3. Projects over \$650,000.
4. Projects over \$1,100,000.

b. Development Projects

1. Include development projects under Joint Finance review.
2. Exclude development projects from Joint Finance review.

c. Time limit in calendar days for Joint Finance to meet and consider a proposal after notification of an objection under the 14-day passive review process.

1. 60 days
2. 75 days
3. 90 days
4. No specified time.

d. Joint Finance Committee members needed to register an objection for the item to be scheduled for a meeting.

1. The Co-chairs.
2. Three members.
3. Five members.
4. A majority of the Committee's members.

2. Specify that a second appraisal is not required for DNR to provide a grant to a governmental unit or a nonprofit conservation organization under the Stewardship program if the fair market value of the land is estimated by the department to be at, or below, one of the following:

- a. \$500,000;
 - b. \$350,000; or,
 - c. Maintain current law (\$200,000).
3. Maintain current law (stewardship projects would generally not be reviewed by Joint Finance).

Prepared by: Erin Rushmer