



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #469

Oversight Level (DNR -- Stewardship Program)

[LFB 2011-13 Budget Summary: Page 307, #4]

CURRENT LAW

Under current law, all stewardship projects (excluding DNR property development projects and DNR acquisition of land held by the Board of Commissioners of Public Lands) in excess of \$750,000 are subject to review by the Joint Committee on Finance, under a 14 day passive review process. Further, a DNR project or activity using stewardship funds of less than or equal to \$750,000 is subject to passive review by Joint Finance if all of the following apply: (a) it is so closely related to one or more other Department projects or activities proposed as to constitute a larger project or activity that exceeds \$750,000; and (b) the Department separated the projects or activities primarily to avoid Joint Finance review.

GOVERNOR

Reduce the threshold for review of a stewardship project by the Joint Committee on Finance from \$750,000 to projects that exceed \$250,000.

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 \$1,663,000,000 in general obligation bonds currently authorized. Debt service payments (principal repayment and interest) could total almost \$2.6 billion over the life of the bonds (an over 50-year period).

2. From 1996, until the passage of 2003 Act 33 (the 2003-05 biennial budget), 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. This provision was consistent with standard passive review procedures specified under section 16.515 of the statutes.

3. Prior to July 26, 2003, 109 projects had been submitted to the Committee. Of these, 48 were reviewed by the full Committee. All but four were approved. Three projects were denied, and one project was deferred. In addition, a \$350,000 grant to the City of Green Bay to fund a portion of the cost of the acquisition of 34.2 acres of land in the Bairds Creek Parkway was scheduled for Committee review in December, 1998, but was withdrawn by DNR. The Department then reduced the amount of the grant below the \$250,000 threshold for Joint Finance review.

4. As passed by the Legislature, the 2003-05 budget would have required that all land acquisition and property development activities under stewardship be 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 organization (NCO) grants. 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 annual stewardship program allocations.

5. 2007 Act 20 restored the authority of the Joint Committee on Finance to review projects under the stewardship program through a 14-day passive review process effective July 1, 2010. The act specifies that all stewardship projects (excluding DNR property development projects and DNR acquisition of land held by the Board of Commissioners of Public Lands) in excess of \$750,000 are subject to review.

6. Currently, if the Joint Finance Co-chairs do not notify DNR within 14 working days that the Committee is scheduling a meeting to review the proposal, DNR may proceed with the project. In addition, at least five members of the 16-member Committee, including at least one Co-chair, are required to object, in writing, for the item to be scheduled for a meeting. If the Committee does not hold a meeting to review the proposal within 16 working days after the Co-chairpersons notified the Department that a meeting would be scheduled, the Department may proceed with the transaction. However, if the notification is made after the Legislature has adjourned its final general business floor period in an even numbered year, then Joint Finance would have 31 working days to hold a meeting. Further, 2009 Act 28 specifies that, if a stewardship project proposal is subject to review by the Joint Committee on Finance, the proposal is approved unless a majority of committee members present at the meeting vote to modify or deny the proposal.

7. The five-member written objection requirement, majority vote to not approve a request and limits within which the Committee must meet are unique to stewardship passive review

procedures. These provisions were included, in part, to address concerns related to anonymous objections to stewardship requests and an occasionally lengthy period where the Committee may not have met on a stewardship request that had been scheduled for formal review. However, most passive review procedures are based on procedures specified in s. 16.515 of the statutes which specify that if the Co-chairpersons of the Joint Committee on Finance do not notify a Department Secretary that the Committee has scheduled a meeting for the purpose of reviewing the requested action within 14 working days after the date of receipt of the Department's request, the Department may conduct the requested action. If, within 14 working days after the date of the Department's request, the Co-chairpersons of the Committee notify the Department that the committee has scheduled a meeting for the purpose of reviewing the requested action, the Department may not take the requested action until the Committee approves the request. It could be argued that requiring five members of the Committee, including at least one Co-chair to object in order for a meeting to be scheduled to review a proposal and the current law provision specifying that the proposal is approved unless a majority of Committee members vote to modify or deny the proposal is overly restrictive of legislative authority to review major state expenditures. An alternative could be to return to some form of the previous 14-day passive review process and alter the number of members necessary to schedule a committee meeting. Options for consideration could include only the co-chairs [consistent with s. 16.515], three members, five members, or a majority. However, s. 16.515 and the prior review provision also do not specify a time requirement by which the Committee is required to meet. This provision could be deleted. Another option could be to maintain some time certain by which Joint Finance would take up the request or the Department would be allowed to proceed (such as 30, or 60 working days).

8. From July 1, 2010, through April 30, 2011, Joint Finance has approved five stewardship projects through the passive review process (the statutory requirements for holding a meeting to review the projects were not met, and the projects were, therefore, approved). The projects included three DNR acquisitions (in Door, Marinette, and Sawyer Counties) and two grants (in Door and Douglas Counties).

9. In addition, non-legislative review procedures remain in place. 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.

10. Building projects over \$500,000 in costs are required to be specifically enumerated in state law. For example, 2009 Act 28 enumerates a \$6.1 million stewardship project for an entrance and visitor station, rebuilt entrance road with bicycle and pedestrian lanes, and water and sewer utility connections at Rib Mountain State Park. The Legislature typically enumerates these projects in the state budget. Also, any state-funded development project in excess of \$150,000 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 the Natural Resources Board. However, grants to local governments and NCOs in excess of \$750,000 are subject to Joint Finance Committee review under current law.

11. 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 \$86 million in annual bonding authority currently allocated for the program would be approximately \$950,000. Increasing the threshold for the Joint Finance Committee's passive review of projects to \$950,000 would succeed in capturing very large acquisitions by the Department for the Committee's review. Alternatively, establishing a limit for Joint Finance Committee passive review that would provide greater oversight than the current \$750,000 threshold, but also recognize that land values have increased substantially since the original \$250,000 level was established, could be considered, such as for projects over \$500,000.

12. The following table shows the 621 DNR land acquisitions (fee title and easement) and grants awarded from fiscal year 2008-09 through March 15, 2011 using stewardship funds by cost. This would represent over 220 stewardship projects annually in this time period.

TABLE 1

Stewardship Activity by Cost: June 1, 2008 through March 15, 2011

| <u>Cost</u> | <u>Grants</u> | | <u>DNR Land Acquisition</u> | | <u>Total Projects</u> | |
|------------------------|---------------|----------------|-----------------------------|----------------|-----------------------|---------------------------|
| | <u>Number</u> | <u>Percent</u> | <u>Number</u> | <u>Percent</u> | <u>Number</u> | <u>Cumulative Percent</u> |
| Less than \$250,000 | 207 | 75.3% | 267 | 77.2% | 474 | 76% |
| \$250,000 to \$499,000 | 46 | 16.7 | 38 | 11.0 | 84 | 90 |
| \$500,000 to 749,000 | 12 | 4.4 | 19 | 5.5 | 31 | 95 |
| \$750,000 to 949,000 | 5 | 1.8 | 5 | 1.4 | 10 | 96 |
| \$950,000 or more | <u>5</u> | <u>1.8</u> | <u>17</u> | <u>4.9</u> | <u>22</u> | 100 |
| Total | 275 | 100% | 346 | 100% | 621 | |

13. As shown in the table, it could be expected that Joint Finance would review approximately one of every four stewardship projects at the \$250,000 threshold. This would decline to approximately one in ten at the \$500,000 threshold. Based on the current law level of \$750,000, the Committee would review approximately one in 20 purchases. A threshold of \$950,000 or more would result in review of approximately 3.5% of stewardship projects.

ALTERNATIVES

1. Adopt the Governor's recommendation to reduce the threshold for review of a

stewardship project by the Joint Committee on Finance from \$750,000 to projects that exceed \$250,000.

2. Specify that the Joint Committee on Finance would review projects under the Warren Knowles-Gaylord Nelson Stewardship program through a passive review process under one or more of the following:

a. Cost of Projects

- (1) Projects over \$250,000 (Governor).
- (2) Projects over \$500,000
- (3) Projects over \$750,000 (current law).
- (4) Projects over \$950,000

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

- (1) 16 days, or 31 days after the Legislature has adjourned (current law).
- (2) 30 days.
- (3) 60 days.
- (4) No specified time. (Consistent with s. 16.515 passive review procedures.)

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

- (1) The Co-chairs. (Consistent with s. 16.515 passive review procedures.)
- (2) Three members
- (3) Five members, including at least one Co-chair (current law).
- (4) A majority of the Committee's members.

d. Committee Voting Procedure.

(1) Specify that, if a project proposal is subject to review by the Joint Committee on Finance, a majority of Committee members must vote to approve the proposal. (Consistent with s. 16.515 passive review procedures.)

(2) Maintain Current Law. If a stewardship project proposal is subject to review by the Joint Committee on Finance, the proposal is approved unless a majority of committee members present at the meeting vote to modify or deny the proposal.

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