



**WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM**

Memo No. 4

TO: MEMBERS OF THE SUBCOMMITTEE ON PUBLIC ACCESS AND MEMBERS OF
THE SUBCOMMITTEE ON REVENUE AND LOCAL PLANNING

FROM: Rachel Letzing, Senior Staff Attorney, and Scott Grosz, Staff Attorney

RE: Options for Subcommittee Discussion

DATE: November 10, 2010

This Memo presents options for subcommittee discussion relating to the calculation of the managed forest land open and closed acreage share payments and the distribution of the closed acreage payment in order to increase public access on open managed forest land and public land, and forest enterprise areas. Where more detail about a particular option has been provided to the committee, that information is included in the discussion of that option.

LOCALIZATION OF ACREAGE SHARES

Under current law, owners of managed forest land pay annual acreage shares as follows:

MFL Orders Effective Prior to April 28, 2004

Each owner of managed forest land must pay to the municipal treasurer an acreage share on or before January 31. Originally, this acreage share was **\$.74** per acre. In addition to this amount, each owner was required to pay **\$1** for each acre that is designated as closed under s. 77.83, Stats.

Beginning in 1992 and in each fifth year thereafter, the Department of Revenue (DOR) adjusts the amounts of tax by multiplying the original acreage shares specified by a ratio using as the denominator the DOR's estimate of the average statewide tax per acre of property classes under s. 70.32 (2) (b) 4., 5., and 6., 1993 Stats. (agricultural, swamp, or waste and productive forest land), for 1986 and, as the numerator, the DOR estimate of the average tax per acre for the same classes of property for the year in which the adjustment is made. **Based on this adjustment, the current acreage share is \$.67 per acre of open land and \$1.57 per acre of closed land.** [s. 77.84 (2) (c), Stats.]

MFL Orders Effective on or After April 28, 2004

For managed forest land orders that take effect on or after April 28, 2004, each owner of managed forest land must pay to each municipal treasurer, on or before January 31, an amount equal to 5% of the average statewide property tax per acre of property classified as productive forest land under s. 70.32 (2) (a) 6., Stats., for each acre of managed forest land.

In addition to this amount, each owner must pay to each municipal treasurer, on or before January 31, an amount equal to 20% of the average statewide property tax per acre of property classified as productive forest land under s. 70.32 (2) (a) 6., Stats., for each closed acre of managed forest land.

In 2004, 2007, and each fifth year thereafter, the DOR is required to determine the average statewide tax per acre of productive forest land by multiplying the average equalized value of productive forest land by the average tax rate determined under s. 76.126, Stats. ***Based on this determination, the current acreage share is \$1.67 per acre of open land and \$8.34 per acre of closed land.*** [s. 77.84 (2) (cm), Stats.]

Assessment Model for Acreage Shares

Under this option, the subcommittee could recommend modification of the calculation of the annual acreage shares to be based on a percentage of the assessed value of each particular property enrolled in the Managed Forest Land (MFL) Program. This modification would be prospective in nature, and would initially apply to managed forest land orders that take effect on or after the effective date of the proposed legislation. Under the proposal, calculation of yield and withdrawal taxes would, generally, remain in place and be calculated in the same manner as those calculations are made under current law.

If the committee pursues the option described above, it will need to specify the percentage of assessed value to be used for the calculation of acreage shares for open and closed acreage. To generalize, percentages of 5% of assessed value for open acreage and 25% of assessed value (5% plus 20%) for closed acreage would approximate the revenue raised by current acreage shares on managed forest land orders effective on or after April 28, 2004, except that properties would pay an acreage share based on the assessed value and local mill rate for their particular property instead of statewide averages. Thus, holding the mill rate constant, a property with an assessed value higher than the statewide average would see an increased acreage share while a property with an assessed value lower than the statewide average would see a decrease in the acreage share.

In selecting appropriate percentages, the committee may wish to consider issues such as fairness in comparison to other forms of property taxation (for example, the taxation of agricultural property according to use-value or the taxation of agricultural forest land at 50% of assessed value) as well its desire to increase revenue to fund other initiatives related to the MFL program.

The following examples approximate the calculation of acreage shares as a percentage of assessed values for various managed forest lands:

Landowner With “Small” Managed Forest Land Enrollment in a Heavily-Forested County

Location: Oneida County

MFL Enrollment: 40 acres

Assessed Value: \$64,000

Full Value Effective Tax Rate:¹ .00902

Property Taxes outside MFL program: \$577

Acreage Shares Under Current Law²

Closed Acreage Share: $\$8.34 * 40 = \333.60

Open Acreage Share: $\$1.67 * 40 = \66.80

Acreage Shares Under Assessment Model

Closed Acreage Share at 25% of Assessed Value: \$144.32

Open Acreage Share at 5% of Assessed Value: \$28.87

Closed Acreage Share at 30% of Assessed Value: \$173.18

Open Acreage Share at 10% of Assessed Value: \$57.73

Landowner With "Large" Managed Forest Land Enrollment in a Heavily-Forested County

Location: Oneida County

MFL Enrollment: 2,427.68 Acres

Assessed Value: \$4,137,800

Full Value Effective Tax Rate:³ .00902

Property Taxes outside MFL program: \$37,323

Acreage Shares Under Current Law

Closed Acreage Share: $\$8.34 * 2,427.68 = \$20,247$

Acreage Share with 80 Closed Acres: $(\$8.34 * 80) + (\$1.67 * 2347.68) = \$4,588$

¹ Note that the addition of large tracts of managed forest lands to the general tax rolls in a heavily forested county would be likely to decrease the effective tax rate in that county.

² Assumes managed forest land renewal or enrollment on or after April 28, 2004.

³ Note that the addition of large tracts of managed forest lands to the general tax rolls in a heavily forested county would be likely to decrease the effective tax rate in that county.

Open Acreage Share: $\$1.67 * 2,427.68 = \$4,054$

Acreage Shares Under Assessment Model

Closed Acreage Share at 25% of Assessed Value: \$9,331

Acreage Share with 80 Closed Acres: $\$307.48 + \$1,804.65 = \$2,112.13$

Open Acreage Share at 5% of Assessed Value: \$1,866

Closed Acreage Share at 30% of Assessed Value: \$11,197

Acreage Share with 80 Closed Acres: $\$368.97 + \$3,609.3 = \$3,978$

Open Acreage share at 10% of Assessed Value: \$3,732

Landowner With "Small" Managed Forest Land Enrollment in a County With Mixed Forestation

Location: Trempealeau County

MFL Enrollment: 19.5 Acres

Assessed Value: \$42,900

Full Value Effective Tax Rate: .01901

Property Taxes outside MFL program: \$815.53

Acreage Shares Under Current Law

Closed Acreage Share: $\$8.34 * 19.5 = \162.63

Open Acreage Share: $\$1.67 * 19.5 = \32.57

Acreage Shares Under Assessment Model

Closed Acreage Share at 25% of Assessed Value: \$203.88

Open Acreage Share at 5% of Assessed Value: \$40.78

Closed Acreage Share at 30% of Assessed Value: \$244.66

Open Acreage Share at 10% of Assessed Value: \$81.55

Landowner With “Large” Managed Forest Land Enrollment in a County With Mixed Forestation

Location: Trempealeau County

MFL Enrollment: 522.76 Acres

Assessed Value: \$867,700

Full Value Effective Tax Rate: .01901

Property Taxes outside MFL program: \$16,495

Acreage Shares Under Current Law

Closed Acreage Share: $\$8.34 * 522.76 = \$4,360$

Acreage Share with 80 Closed Acres: $(\$8.34 * 80) + (\$1.67 * 442.76) = \$1,407$

Open Acreage Share: $\$1.67 * 522.76 = \873

Acreage Shares Under Assessment Model

Closed Acreage Share at 25% of Assessed Value: \$4,124

Acreage Share with 80 Closed Acres: $\$631 + 699 = \$1,330$

Open Acreage Share at 5% of Assessed Value: \$825

Closed Acreage Share at 30% of Assessed Value: \$4,949

Acreage Share with 80 Closed Acres: $\$757 + \$1397 = 2,154$

Open Acreage share at 10% of Assessed Value: \$1,650

Landowner With “Small” Managed Forest Land Enrollment in an Urbanized County

Location: Waukesha County

MFL Enrollment: 10 Acres

Assessed Value: \$50,000

Full Value Effective Tax Rate: .01318

Property Taxes outside MFL program: \$659

Acreage Shares Under Current Law

Closed Acreage Share: $\$8.34 * 10 = \83.40

Open Acreage Share: $\$1.67 * 10 = \16.70

Acreage Shares Under Assessment Model

Closed Acreage Share at 25% of Assessed Value: \$164.75

Open Acreage Share at 5% of Assessed Value: \$32.95

Closed Acreage Share at 30% of Assessed Value: \$197.70

Open Acreage Share at 10% of Assessed Value: \$65.90

Landowner With “Large” Managed Forest Land Enrollment in an Urbanized County

Location: Waukesha County

MFL Enrollment: 80 Acres

Assessed Value: \$416,000

Full Value Effective Tax Rate: .01318

Property Taxes outside MFL program: \$5,483

Acreage Shares Under Current Law

Closed Acreage Share: $\$8.34 * 80 = \667.20

Open Acreage Share: $\$1.67 * 80 = \133.60

Acreage Shares Under Assessment Model

Closed Acreage Share at 25% of Assessed Value: \$1,371

Open Acreage Share at 5% of Assessed Value: \$274.15

Closed Acreage Share at 30% of Assessed Value: \$1,645

Open Acreage Share at 10% of Assessed Value: \$548.30

PUBLIC ACCESS

The Special Committee and the Subcommittee on Public Access have discussed various options for the use of closed acreage fees generated under the current MFL program to create additional public

access opportunities on land enrolled as “open” land in the MFL program and on other types of public land.

Current Law

Current law requires that MFL landowners with closed acreage make their closed acreage payments to the municipal (town, village, or city) treasurer on or before January 31 of each year. The municipal treasurer must then pay all closed acreage amounts received to the county treasurer. The county treasurer must then, by June 30 of each year, pay all closed acreage fees received to the Department of Natural Resources (DNR). All amounts received from the DNR must be credited to the Forestry Account of the Conservation Fund and reserved for land acquisition, resource management activities, and grants for land acquisition for outdoor activities. [s. 77.89 (2) (b), Stats.]

The grant program for land acquisition for outdoor activities is described in s. 77.895, Stats. Under this provision, the DNR must establish a program to award grants to nonprofit conservation organizations, to local governmental units, and to itself to acquire land to be used for hunting, fishing, hiking, sightseeing, and cross-country skiing. The Managed Forest Land Board must administer the program and award the grants under the program.

Section 20.370 (5) (bz), Stats., provides the appropriation for grants for land acquisition for outdoor activities, specifying, “As a continuing appropriation [from the Conservation Fund], the amounts in the schedule for grants awarded by the managed forest law board under s. 77.895.” However, for fiscal year 2009-10 and fiscal year 2010-11, the schedule specifies zero dollars for the appropriation. As such, the grant program is not funded in the current biennium.

Composition of the Managed Forest Land Board is specified under s. 15.345 (6), Stats. The board is to consist of the chief state forester, or his or her designee, and the following members appointed for three-year terms:

- One member appointed from a list of five nominees submitted by the Wisconsin Counties Association.
- One member appointed from a list of five nominees submitted by the Wisconsin Towns Association.
- One member appointed from a list of five nominees submitted by an association that represents the interests of counties that have county forests within their boundaries.
- One member appointed from a list of five nominees submitted by the Council on Forestry.

Options

At its meeting on November 4, 2010, the Subcommittee on Public Access reached consensus on the following proposal offered by Chair Clark:

- Instead of the closed acreage fees being deposited in the Forestry Account of the Conservation Fund, specify that the managed forest land closed acreage fees will be distributed as follows:
 - Twenty-five percent of the money generated by closed acreage fees will be distributed to towns to be used for general local expenditures.
 - Seventy-five percent of the money generated from closed acreage fees will be distributed to counties. Counties will be required to use two-thirds of this money (30% of total closed acreage fees) to fund public access opportunities for recreational activities on managed forest land enrolled as “open” and publicly owned land. The remainder of the closed acreage fees may be used for local expenses.
 - If a county has reached a threshold amount of land on which public access for outdoor activities is provided, a county may use the closed acreage fees that were intended to create or enhance public access for the following activities: to create a forest enterprise area, for forest management, or for natural resources management.

Items that the committee may wish to address in developing drafting instructions on the distribution of closed acreage fees addressed in this Memo include the following:

- What should the threshold amount of public access be and how should it be measured? Should the threshold amount remain a fixed number or should it be reviewed and amended over time? If it should be reviewed, how often should the review occur and who should conduct the review?
- What should be included in “publicly owned land”?
- What types of outdoor activities should be included? The grant program for land acquisition for outdoor activities includes hunting, fishing, hiking, sightseeing, and cross-country skiing.
- What activities should “forest management” include?
- What activities should “natural resource management” include?
- If a county has achieved the threshold amount of public access, should the county give preference to certain activities over others? For example, should the creation of forest enterprise areas be given priority over forest management or natural resources management?

Forest Enterprise Areas

At the October 6, 2010 committee meeting, Public Member Richard Stadelman outlined the concept of a “forest enterprise area” (FEA) as a model for development and administration of forest land. This concept is based on recent legislation authorizing the creation of “agricultural enterprise areas” (AEA).

Under current law, an AEA is a contiguous land area, devoted primarily to agricultural use, which the Department of Agriculture, Trade and Consumer Protection (DATCP) may designate by

administrative rule in response to a joint petition filed by each political subdivision in which any part of the proposed AEA is located and owners of at least five eligible farms located in the area. DATCP may designate AEA's with a combined area of no more than 1,000,000 acres; however, before January 1, 2012, DATCP may designate up to 15 AEA's with a combined area of no more than 200,000 acres of land. Farmers within designated AEAs will be eligible to enter into voluntary farmland preservation agreements and to collect the farmland preservation tax credits.

At the November 4, 2010 meeting of the Subcommittee on Public Access, Mr. Stadelman and Public Member Bill Horvath provided additional information about forest enterprise areas in a handout, "Forest Enterprise Areas with MFL." The handout includes the following information:

- The definition of an FEA is "a land area that is locally targeted for forest preservation and development."
- A tax credit for the municipality and other landowners would be higher if local forestland preservation zoning is in place.
- An FEA would be part of a larger strategy to promote forest and forest related enterprises. The strategy may include other local initiatives such as zoning, purchase of conservation amenities, land purchase, land donation, development grants, and cooperative agreements, regulating flexibility, financial incentives, and related strategies.
- The county or town would apply to the DNR for FEA designation and would organize the effort at the local level.
- The FEA designated area must be in a county or town approved planning area to protect forestland.
- Ten pilot areas would be authorized in the first two years of the program.
- Minimum size for the FEA is 2,000 acres of which 1,000 must be in managed forest land. It may include other forestland including non-managed forest land planned or non-planned land and farm forestland.
- Towns would receive \$1 an acre for the managed forest land acreage in addition to present aids paid out of the Forestry Account for creating the FEA. Counties would receive \$.50 per acre. Forestland owners could receive additional tax reduction for providing recreational opportunities. The funding source of the FEA payments would be the forestry mill tax.

Options

Items that the committee may wish to address in developing drafting instructions on FEAs include the following:

- Should the funding source of the FEA payments to towns and counties be the forestry mill tax or some other source, such as the closed acreage fees generated by the MFL program?

- According to the Legislative Fiscal Bureau, in 2009-10, the forestry mill tax generated \$87 million and is the largest source of revenue to the Forestry Account. The DNR estimates that the closed acreage fees generated approximately \$3 million last year.
- Should the FEA payments to towns and counties be smaller for the first three to five years and then increase after five years?
- What opportunities would be available to current managed forest land owners in an FEA? For example, would an FEA be a mechanism to allow small managed forest land owners to aggregate some of their costs, such as the cost of preparing a management plan?
- What opportunities or benefits would be available to non-managed forest land owners in an FEA?

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