STATE OF WISCONSIN

Farmland Preservation Program

Legislative Fiscal Bureau
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Background

The farmland preservation program was established by Chapter 29, Laws of 1977 (the 1977-79 biennial budget act), in response to serious concerns over the irreversible conversion of agricultural land to nonagricultural uses and the burden of rising property taxes on agricultural property. Under the current program, property tax relief is provided through a "circuit-breaker" mechanism directly to individual claimants and is intended to relieve farm families of low and moderate income of excessive property taxes. The farmland tax credit is determined by formula and based on the claimant's property taxes and income and on land use provisions. The farmland benefit takes the form of a credit reducing individual income tax due or a cash refund if the credit exceeds income tax due.

During the 1981-83 legislative session, a number of significant changes in the farmland tax credit were enacted by the Legislature. Among these changes was the modification of the definition of household income to eliminate the exclusion of the first $7,500 of nonfarm salaries, wages and tips and to include all depreciation expenses above $25,000 and nonfarm business losses in household income. The percentages applied to all but the lowest income bracket used to calculate the income factor in the tax credit formula were increased by 2% for each bracket. In addition, beginning with tax year 1981, a minimum farmland tax credit was provided equal to 10% of eligible property taxes for owners of farmland located in exclusive agricultural zones who meet gross farm income, farm size and residency requirements of the program.

Current Law

As originally constituted, the farmland preservation program consisted of two separate phases--an initial phase which began with enactment of the program in 1977 and ended October 1, 1982 and the permanent program which took effect on that date. In general, participation in the program in the initial phase was dependent upon individual contracts to preserve farmland while the permanent phase focuses on planning or zoning actions by local governments for farmland preservation. This section describes first the general eligibility requirements for the farmland preservation tax credit and the computation of the credit. Following this, a more detailed discussion of the various contract and land use provisions applicable to the initial and permanent programs is presented.

Tax Credit Provisions

Eligibility. An owner of farmland is eligible to apply for a farmland preservation tax credit if the farmland involved: (1) consists of at least 35 contiguous acres; (2) produced gross farm profits of at least $6,000 in the year preceding application or at least $18,000 in the three years preceding application; and (3) is covered by farmland preservation agreement or is located in an exclusive agricultural zone. "Gross farm profits" are defined as gross receipts from the farmland's agricultural activities, excluding both rent and the initial cost of livestock or any other items bought and resold within the year. The claimant may be an individual, partnership, corporation, trust, estate, or two or more persons holding an interest in the land. Full-year Wisconsin residency is required. A claimant may not receive a farmland preservation tax credit in a year in which a homestead tax credit is received.

Tax Credits. The tax credit received under the farmland preservation program is based both on the property taxes levied on the eligible land and on the income of the farm household. In addition, the credit depends on the contract, zoning or planning provisions which cover the land. Income is broadly defined to include net farm income; nonfarm wages, tips and salaries; dividends; interest; pensions; public assistance; depreciation expenses over $25,000; and nonfarm losses. All income received by the claimant, spouse and dependent children must be included. In the case of corporations, the household income of each shareholder must be included. Eligible property taxes include up to $6,000 of property taxes levied on the farmland and improvements.

Although the formula for computing the tax credit is quite complex, the claimant refers to a table in order to determine the amount of credit. Four steps summarize the procedure:

Step 1. Determine the "income factor." Table I provides more detail on the computation of the income factor.

Step 2. Determine "excessive property taxes" by subtracting the income factor from eligible property taxes (maximum of $6,000).

Step 3. Determine the "potential tax credit." The potential tax credit equals 90% of the first $2,000 of excessive property taxes, 70% of the next $2,000 of excessive property taxes and 50% of the next $2,000 of excessive property taxes. The maximum potential credit is $4,200.

Step 4. Determine the "actual credit." Claimants in exclusive agricultural zoned areas receive the credit determined under the formula or a minimum guaranteed credit equal to 10% of eligible property taxes, whichever is greater.

As Table I indicates, during the initial program, the "actual credit" was equal to 50% of the "potential credit" for landowners who signed an initial contract. The maximum credit under the initial contract program was $2,100. Higher percentages of the "potential credit" are available under the permanent program, depending upon the combination of planning, zoning and contracts. The maximum potential credit is received by owners of farmland in counties which have adopted both exclusive zoning and a farmland preservation plan. Alternative allowable combinations of county zoning and individual contracts provide a credit of 70% of the potential credit. Owners of eligible farmland subject to approved agricultural

TABLE I

Calculation of Potential Farmland Preservation Tax Credit

Step 1: Calculate "income factor." The income factor is based on the following percentages of household income:

	Maximum Income Factor for Income Bracket	Cumulative Income Factor
0% of 1st $5,000 of household income	$0	$0
7% of 2nd $5,000 of household income	350	350
9% of 3rd $5,000 of household income	450	800
11% of 4th $5,000 of household income	550	1,350
17% of 5th $5,000 of household income	850	2,200
27% of 6th $5,000 of household income	1,350	3,550
37% of household income over $30,000	2,450	6,000

Step 2: Determine "excessive property tax."

Excessive Property Tax = Eligible Property Tax - Income Factor

The maximum eligible property tax which may be claimed is $6,000.

Step 3: Determine "potential credit." The potential credit equals:

90% of first $2,000 of excessive property tax
plus 70% of next $2,000 of excessive property tax
plus 50% of next $2,000 of excessive property tax

The maximum potential credit equals $4,200.

Step 4: Determine "actual credit." The actual credit depends upon the stage of the farmland preservation program and, for the permanent program, the zoning or planning actions taken by local government. The actual credit equals:

50% of potential credit if the farmland was covered by contract under the initial stage of the farmland preservation program.

70% of potential credit if farmland is eligible under the permanent farmland preservation program under various allowed combinations of county planning, town zoning and individual contracts.

100% of potential credit if farmland is eligible in a county with both exclusive agricultural zoning and an agricultural preservation plan under the permanent farmland preservation program.

All claimants located in exclusive agricultural zoned areas receive a minimum credit equal to 10% of eligible property taxes if this amount is larger than that determined through the formula.

zoning ordinances receive the greater of the credit determined by the formula or a guaranteed credit equal to 10% of eligible property taxes. Table II shows potential farmland preservation tax credits for various levels of household income and property taxes.

Initial Program: 1977-82

During the initial phase of the farmland preservation program, an owner of farmland could qualify for property tax relief credits by voluntarily entering into an agreement to not develop his or her farmland.

Application for Contract. An eligible farmland owner who wished to participate in the program filed an application for a contract with the county clerk. A period for review and comment on the application by affected governments and agencies (county planning and zoning committee, soil and water conservation districts, for example) followed. The local governing body, in most cases the county board, then approved or rejected the application for the contract. (The local governing body responsible was the unit with zoning jurisdiction over the farmland. In almost all cases, this was the county board. However, town and village boards or city councils could have been responsible in some cases.) For the initial program, the statutes provided that the local governing body's decision be guided by the suitability and use of the land for agricultural purposes, the inclusion in the agreement of all contiguous lands under a single ownership, and similar criteria which the county board may establish which are consistent with the program's purposes. These guidelines were not strictly binding on the local governing body, however.

If the local governing body approved the application, the Department of Agriculture, Trade and Consumer Protection then entered into the contract if the land was eligible. If the local governing body rejected the application, the farmland owner could appeal to the Agricultural Lands Preservation Board.

Initial Contract Provisions. Basically, the initial contract was an agreement by the owner of the farmland to not develop the land during the term of the contract. The following, more specific, provisions applied: (1) structures or land improvements not consistent with farm use could not be built (residences for parents, children or farm workers were consistent with "farm use") and (2) the state agreed to pay tax credits for excessive property taxes. Additional provisions, mutually agreeable, could be included. The contract, which expired September 30, 1982, was binding on both the owner who signed the contract and any subsequent land owners.

Contract Relinquishment and Rollback Provisions. A contract could be terminated when it expired or it could be cancelled earlier if agreed to by the owner, county board (or city, village or town where applicable), and state. The local government with zoning jurisdiction was required to find that one of the following grounds for cancellation existed before approving the request for early termination: (1) the farm was not profitable to operate because of the restrictions in the agreement; (2) the natural physical conditions of the land had changed so it was no longer good for

TABLE II

Potential Tax Credits Available Under the Farmland Preservation Program

Maximum Tax Credit Schedule*

Household Income	Real Estate Taxes (on Land and Improvements Covered by the Agreement) $1,000	$2,000	$3,000	$4,000	$5,000	$6,000
$0	$900	$1,800	$2,500	$3,200	$3,700	$4,200
5,000	900	1,800	2,500	3,200	3,700	4,200
10,000	585	1,485	2,255	2,955	3,525	4,025
15,000	180	1,080	1,940	2,640	3,300	3,800
20,000	100**	585	1,485	2,255	2,955	3,525
25,000	100**	200**	720	1,620	2,360	3,060
30,000	100**	200**	300**	405	1,305	2,115
36,620 and Over	100**	200**	300**	400**	500**	600**

*Assumes all credits paid at 100% of potential credit.

**Applies only to land in exclusive agricultural zone under a certified county, town, vi' ge or city ordinance. For land under a farmland preservation agreement (and not zon..d), the tax credit in these categories is zero. Households whose land is in an exclusive agricultural zone and whose income is above $36,620 receive a minimum tax credit of 10% of the eligible property tax.

farming; or (3) surrounding conditions prohibited agricultural use. Review and appeal procedures similar to those followed for the original application for a contract were followed.

Expiration and early cancellation of a contract could result in the assessment of a rollback tax against the land. If this was the case, a lien was attached to the property for the specified amount of rollback taxes and interest, if applicable. The rollback tax did not have to be paid until some part of the land was sold or converted to a use prohibited by the initial contract. It could, however, be paid earlier if the owner wished to do so. Table III outlines the various rollback tax provisions which applied to situations where an initial contract was relinquished early or allowed to expire.

Permanent Farmland Preservation Program

On October 1, 1982, the focus of the farmland preservation program shifted away from the individual contract approach to an approach which relies on agricultural preservation planning and zoning. The actions of a county to implement an agricultural preservation plan or exclusive agricultural zoning are voluntary. However, the eligibility of farmland owners to receive tax credits and the level of credits which may be received depend upon the action taken by the county. An urban county (with a density of 100 or more persons per square mile) must adopt exclusive agricultural zoning if farmers are to continue to qualify for tax credits. The urban counties are Brown, Dane, Eau Claire, Fond du Lac, Jefferson, Kenosha, La Crosse, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha and Winnebago. Rural counties may adopt either an agricultural preservation plan or exclusive agricultural zoning. In cases where counties adopted these plans or zoning ordinances before October 1, 1982, farmers qualified for the higher levels of credits possible under the permanent program sooner than the 1982 starting date.

Exclusive Agricultural Zoning. In general, the procedures for adopting and administering exclusive agricultural zoning are identical with regular zoning procedures except for the following situations: (1) In an urban county, initial adoption of an exclusive agricultural zoning ordinance can be rejected for all towns if a majority of the towns file resolutions disapproving it within six months of the date it was adopted by the county; (2) If any county merely amends the text of an existing zoning ordinance to make the agricultural district provisions consistent with the standards for an exclusive agricultural zone, the amendment takes effect in each town unless that town board specifically rejects it.

The following minimum standards must be contained in an exclusive agricultural zoning ordinance:

1. The minimum parcel size for a residence or farm is 35 acres. Exceptions to this parcel size requirement must be provided for in the ordinance and may be made for residences occupied by farm workers or occupied by a parent or child of the farm operator. In addition, houses

TABLE III

Rollback Tax Provisions Under the Farmland Preservation Program When an Initial Contract is Relinquished

Situation	Rollback Tax	Interest Charges
A. Initial contract expires and either: (1) owner signs new contract; or (2) land is in an exclusive agricultural zone.	None	None
B. Initial contract expires, land is not in an exclusive agricultural zone, owner is not eligible to sign new contract because county has failed to qualify for the permanent farmland preservation program.	Last two years of tax credits received.	None
C. Initial contract expires, land is not in an exclusive agricultural zone, and owner is eligible to sign a new contract but chooses not to do so.	All tax credits received.	6% compound interest from time the initial contract expired.
D. Initial contract is cancelled before its termination date.	All tax credits received.	6% compound interest from time credits received.
E. Initial contract is converted to a new contract under permanent program provisions.	None	None

and farm buildings may be separated from a larger farm parcel without creating a 35 acre lot when farms are consolidated.

2. No structures or improvements can be made on the land unless consistent with agricultural use.

3. Agricultural zones must be consistent with the county plan.

4. Special exceptions and conditional uses are limited to agricultural, religious, utility, institutional and governmental uses.

5. The ordinance must contain adequate provisions for its effective administration and enforcement.

Approval of petitions to rezone land in an exclusive agricultural zone must be based on findings of fact regarding the adequacy of public facilities to accommodate development, the reasonableness of the burden imposed on local governments by development and the suitability of the land for development, especially considering air and water pollution, soil erosion and adverse effects on rare or irreplaceable natural areas. Rezonings and conditioned uses must be reported to the Department of Agriculture, Trade and Consumer Protection.

Currently, certification of zoning ordinances is the responsibility of the Agricultural Lands Preservation Board. However, on July 1, 1983, the Agricultural Lands Preservations Board will be abolished and its functions transferred to the Land Conservation Board.

Agricultural Preservation Plans. As an alternative to exclusive agricultural zoning, a rural county (population density of less than 100 persons per square mile) may adopt an agricultural preservation plan to qualify its farmlands for tax credits. The main objective of the farmland preservation plans would be to identify farmland to be preserved, special environmental areas, and transition areas suitable for future development. Preservation and transition areas delineated by the plan control the eligibility of farmland for farmland preservation agreements. In addition, the plans would require the county to state its policies regarding farmland preservation, development, the provision of public services, and protection of environmental areas. Finally, the plan must contain a program of "specific public actions designed to preserve agricultural lands and guide urban growth."

The farmland preservation plans are to be prepared and adopted through procedures in effect for county development plans. The Department of Agriculture, Trade and Consumer Protection and the Department of Development are directed to prepare preliminary maps of preservable farmland or to provide funds to counties which wish to develop their own farmland preservation maps.

Contracts and Tax Credits Under the Permanent Program. As noted earlier, various combinations of zoning, planning and individual contracts are possible under the permanent program. The level of tax credit available to an owner of farmland depends upon the particular combination. Table IV summarizes the possibilities in more detail.

Contracts under the permanent program follow the same procedures for application and review as applied in the initial program. The local governing body must certify that the land in question is subject to the required zoning and planning provisions. A major difference is that while the maximum term of the initial contract was five years, the permanent program provides for 10-25 year contracts for lands in a preservation district and 5-20 year contracts for farmland in an area identified as a transition area under a county preservation plan. No contract is required for land which is located in an exclusive agricultural zone.

Table V summarizes the various rollback tax and interest provisions which apply to relinquishment of contracts or rezoning of land under the permanent farmland preservation program.

Additional Elements of Farmland Preservation Program

Chapter 29, Laws of 1977, also established the five-member Agricultural Lands Preservation Board which is composed of the secretaries of the Departments of Agriculture, Trade and Consumer Protection; Development (originally the Department of Local Affairs and Development); and Administration. In addition, two citizen members are appointed by the Governor. The Board has the responsibility to: (a) certify agricultural preservation plans and exclusive agricultural zoning ordinances as being consistent with minimum standards; (b) approve or deny requests for early cancellation of contracts; (c) rule on appeals from owners denied contracts by a county; and (d) approve distribution of funds for counties to do agricultural preservation planning.

As noted, on July 1, 1983, the Agricultural Lands Preservation Board will be abolished and its functions will be performed by the Land Conservation Board. The Land Conservation Board consists of the secretaries of the Departments of Agriculture, Trade and Consumer Protection and Administration; three members of county land conservation committees and two public members appointed by the Governor.

The major daily administrative functions of the program, including signing of contracts, rest with the Department of Agriculture, Trade and Consumer Protection. In addition, some coordinative functions related to the development of agricultural preservation plans continue to be carried out by the Department of Development.

Program Participation and Funding

Chapter 29, Laws of 1977, established a sum sufficient appropriation for payment of farmland preservation tax credits. The program has shown substantial annual increases in terms of both expenditures and number of participants. The following fiscal year expenditures have been recorded:

TABLE IV

Formula Tax Credits Under the Permanent Farmland Program*

Situation	Level of Credit**
Rural Counties	
A. County has both exclusive agricultural zoning and preservation plan. No contracts required for land in an exclusive agricultural zone. Farmers in transition area must sign transition area contract to qualify.	100%
B. County has exclusive agricultural zoning only, and farmland is located in an exclusive agricultural zone. No contract is necessary.	70%
C. County has farmland preservation plan only, owner of farmland in an identified preservation district signs a 10-25 year contract, and farm operations are consistent with an approved Soil Conservation Service farm plan.	70%
D. County has farmland preservation plan and owner of farmland in an identified transition area signs a 5-20 year transition area contract.	70%
E. County has agricultural preservation plan, town has adopted exclusive agricultural zoning ordinance which meets standards, and farmland is in both a preservation district and exclusive agricultural zone, no contract necessary.	70%
F. County has no zoning ordinance, town has adopted exclusive agricultural zoning ordinance which meets standards, farmland is in an exclusive agricultural zone and owner signs a 10-25 year contract.	70%
Urban Counties	
A. County has both exclusive agricultural zoning and a farmland preservation plan, farmland is in an exclusive agricultural zone, no contract necessary.	100%

B. County has exclusive agricultural zoning, farmland is in an exclusive agricultural zone, no contract necessary.	70%
C. County has a farmland preservation plan; farmland is in an exclusive agricultural zone under a town zoning ordinance.	70%

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*Land subject to approved exclusive agricultural zoning ordinances is eligible for a minimum credit equal to 10% of eligible property taxes.

**As percent of potential credit.

TABLE V

Rollback Tax Provisions Under the Farmland Preservation
Program When a Contract is Relinquished Under Permanent Program Provisions

	Situation	Rollback Tax	Interest Charges
A.	Rural county, regular or transition area contract allowed to expire at its termination date, land is in an exclusive agricultural zone, no new contract signed.	None	None
B.	Rural county, regular contract allowed to expire at its termination date, no new contract signed, land is not in an exclusive agriculture zone.	All tax credits received in past ten years.	6% compound interest from date of contract expiration.
C.	Rural county, contract cancelled before termination date, land is in an exclusive agriculture zone.	None	None
D.	Rural county, regular contract cancelled before termination date or transition areas contract relinquished either before or at termination, land is not in an exclusive agricultural zone, no new contract is signed.	All tax credits received in past ten years.	6% compound interest from date credits received.
E.	Urban or rural county, land is rezoned out of an exclusive agricultural zone.	All tax credits received in past ten years.	6% compound interest from date when land is rezoned.

Fiscal Year	Appropriation
1977-78	$632,849
1978-79	3,400,468
1979-80	6,842,927
1980-81	10,095,202
1981-82	13,596,264
1982-83 (est.)	17,650,000

In addition, the number and amount of claims and average claim for each tax year the credit has existed are as follows (tax year refers to the year in which the income was earned and the property taxes levied):

Tax Year	Number of Claims	Total Amount of Claims	Average Tax Credit Claims
1977	1,513	$1,158,313	$766
1978	3,332	3,750,400	1,126
1979	4,742	6,636,016	1,399
1980	6,175	10,207,496	1,653
1981 (est.)	9,100	13,713,700	1,507

For 1981 tax year credits (for property taxes levied in 1981), information from the Department of Revenue estimates that 78% of all participants received credit on land located in exclusive agricultural zones. It is also estimated that 15% to 20% of claimants in that year were covered by the 10% minimum property tax credit, but that, on average, for all claimants, the credit equaled about 43% of the property taxes of participating farmers. Table VI shows the county distribution of credits against 1981 property taxes for claims filed through June 30, 1982. It must be noted, however, that credits are assigned to counties on the basis of the claimant's address. In some cases, the farmland may be located in another county.

As of July, 1982, in 25 counties exclusive agricultural zoning ordinances had been adopted either by the county or by some towns in the county. After a county has adopted a zoning ordinance, it must be individually adopted by each town before it goes into effect for that town.

TABLE VI

Farmland Preservation Credits
Provided Against 1981 Property Taxes
(Claims Through June 30, 1982)

	Number of Credits	Total	Average Credit
Adams	15	$17,846.75	$1,189.78
Ashland	2	569.00	284.50
Barron	203	284,858.41	1,403.24
Bayfield	2	1,312.00	656.00
Brown	12	15,130.69	1,260.89
Buffalo	55	87,908.40	1,598.33
Burnett	9	8,057.00	895.22
Calumet	38	48,798.20	1,284.16
Chippewa	6	1,379.50	229.91
Clark	12	12,859.79	1,071.64
Columbia	799	1,279,285.90	1,601.10
Crawford	25	32,600.78	1,304.03
Dane	1,247	1,874.833.79	1,503.47
Dodge	142	235,332.90	1,657.27
Door	10	9,135.52	913.55
Douglas	0	0	0
Dunn	19	26,739.84	1,407.36
Eau Claire	4	2,236.23	559.05
Florence	2	1,422.00	711.00
Fond du Lac	124	148,971.28	1,207.38
Forest	0	0	0
Grant	66	80,446.81	1,218.89
Green	92	154,049.51	1,674.45
Green Lake	6	6,844.10	1,140.68
Iowa	923	1,986,661.79	2,152.39
Iron	1	353.00	353.00
Jackson	4	5,790.50	1,447.62
Jefferson	1,034	1,493,727.18	1,444.61
Juneau	12	14,480.24	1,206.68
Kenosha	21	27,110.18	1,290.96
Kewaunee	8	10,189.00	1,273.62
La Crosse	145	198,485.58	1,368.86
Lafayette	303	584.705.02	1,929.71
Langlade	2	1,967.06	983.53
Lincoln	4	2,587.30	646.82
Manitowoc	261	216,439.54	829.27
Marathon	80	81,890.10	1,023.62
Marinette	7	8,546.10	1,220.87
Marquette	14	22,053.00	1,575.21
Milwaukee	29	24,780.42	854.49
Monroe	32	41,157.50	1,286.17
Oconto	4	2,983.00	745.75
Oneida	2	507.03	253.51

	Number of Credits	Total	Average Credit
Outagamie	19	17,585.50	925.55
Ozaukee	13	14,673.21	1,128.70
Pepin	49	95,378.20	1,946.49
Pierce	117	148,614.01	1,270.20
Polk	28	37,864.00	1,352.28
Portage	9	8,178.50	908.72
Price	0	0	0
Racine	33	43,595.48	1,321.07
Richland	75	92,436.72	1,232.48
Rock	811	1,095.108.63	1,350.31
Rusk	2	1,634.00	817.00
St. Croix	144	247,320.33	1,717.50
Sauk	166	276,704.46	1,666.89
Sawyer	3	3,048.50	1,016.16
Shawano	53	56,330.41	1,062.83
Sheboygan	399	362,625.74	908.83
Taylor	25	29,742.60	1,189.70
Trempealeau	76	119,065.22	1,566.64
Vernon	43	57,384.40	1,334.52
Vilas	1	1,265.00	1,265.00
Walworth	542	908,601.56	1,676.38
Washburn	2	4,283.00	2,141.50
Washington	31	55,182.84	1,180.09
Waukesha	33	42,548.44	1,289.34
Waupaca	29	31,290.48	1,078.98
Waushara	17	27,076.02	1,592.70
Winnebago	34	28,721.09	844.73
Wood	6	7,398.50	1,233.08
Menominee	0	0	0
State Total	8,552	$12,89,312.70	$1,507.28

SOURCE: Wisconsin Department of Revenue.

Totals do not add due to missing addresses for several filers. Also, returns are sorted by address of filer. The farm may be located in another county.