



Legislative Fiscal Bureau

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

Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

December 27, 2016

TO: Representative Adam Jarchow
Room 19 North, State Capitol

FROM: Paul Ferguson, Program Supervisor

SUBJECT: Dividing the Department of Natural Resources into Several Agencies

In response to your request, this memorandum addresses the fiscal impacts associated with a proposal that would split the Department of Natural Resources (DNR) into separate agencies. The two primary agencies would be one with the responsibility for hunting, fishing and motorized outdoor recreation, and another with authority for endangered resources, environmental protection and pollution control. Parks, forestry, the stewardship program and certain other current DNR functions would be transferred to other existing state agencies.

Background

Currently, DNR is organized into six divisions: (1) land; (2) forestry; (3) public safety and business support; (4) air, waste and remediation; (5) water; and (6) customer and employee assistance. In addition, there are three other budgetary programs in the agency that are administered within one of those six divisions for payment of conservation aids, environmental aids, and debt service. Currently, DNR has an authorized total budget for fiscal year 2016-17 of \$559.4 million and 2,549 positions. DNR is governed by the seven-member Natural Resources Board and has a Secretary nominated by the Governor and appointed with the advice and consent of the Senate. The organizational structure of the Wisconsin DNR is similar to that of the Iowa Department of Natural Resources, in that responsibilities for conservation and environmental policy are generally vested in the same agency. Michigan's conservation and environmental duties were split in 1995, recombined in 2009, and then split again in 2011 through executive action. Michigan currently has a Department of Natural Resources and a Department of Environmental Quality. Illinois and Minnesota also place general responsibility for conservation policy in a Department of Natural Resources and responsibility for environmental policy in a separate agency (Illinois Environmental Protection Agency, Minnesota Pollution Control Agency).

PROPOSAL

Under the proposal, the current Department of Natural Resources would be divided into two separate agencies (a fish and wildlife agency and an environmental agency) on July 1, 2018. A Department of Fish and Wildlife (DFW) would be responsible for hunting and fishing programs, motorized outdoor recreation [including recreational boat, snowmobile, and all-terrain and utility-terrain vehicles (ATV/UTV) programs] and related conservation law enforcement activities. A Department of Environmental Protection (DEP) would have authority for endangered resources (also referred to as natural heritage conservation) and most non-game species, environmental protection, pollution control, and environmental regulatory functions (such as air emissions, contaminated land, solid waste, recycling, hazardous waste, wastewater, drinking water, groundwater, navigable waters, dams, wetlands, shoreland zoning, wharves, piers, boathouses, and dredging permits). The Natural Resources Board would be renamed the Fish and Wildlife Board and continue to have policy oversight of the reconfigured DFW. The Department of Environmental Protection would not have a board. The Secretaries of both DFW and DEP would be nominated by the Governor, and appointed with the advice and consent of the Senate.

New DFW. The core of the Department of Fish and Wildlife would consist of the current DNR Bureaus of Wildlife and Fisheries Management. Also included would be fish, wildlife and recreational vehicle licensing and enforcement. Responsibility for state natural area (SNA) program properties would primarily be in DFW, although specific SNA property management would primarily lie with the entity with overlaying ownership (such as within or adjacent to a state park, forest, or recreation area). DFW would manage SNAs on state wildlife and fisheries lands, as well as where a public SNA is not associated with another state property (stand-alone SNAs). The proposal would authorize two unclassified division administrator positions in DFW to oversee two divisions: (1) Division of Fish and Wildlife; and, (2) Division of Recreational Aids and Enforcement (which would include boat access, snowmobile and all-terrain vehicle trail aids, and wildlife damage aids). Further, current DNR responsibilities relating to the Lake Winnebago comprehensive project, the Horicon visitors center, Cherish Wisconsin donations, and the Natural Resources Magazine would be assigned to this agency.

New DEP. The core of the Department of Environmental Protection (DEP) would be formed by the Division of Air, Waste, Remediation and Redevelopment (which includes the Bureaus of Air Management, Waste Management and Remediation and Redevelopment), and the Bureaus of Watershed Management, Drinking Water and Groundwater, and Water Program Management in the Division of Water. The endangered resources program, also known as the natural heritage conservation program, would be in DEP. The proposal would authorize two unclassified division administrator positions to oversee two divisions: (1) Air and Waste; and (2) Water. In addition, the environmental aids administered by DNR (including grants for nonpoint source water pollution abatement, lake and river protection, dam safety, drycleaner environmental response reimbursement, petroleum tank cleanup, and recycling) and environmental and water quality-related debt service (such as that paid for water pollution abatement programs) would also be placed in the environmental agency.

Parks, Forests, Stewardship, and Other Functions. Remaining aspects of the current DNR would be transferred to three other state agencies. Duties related to state parks, southern state forests, state trails, the Lower Wisconsin State Riverway and related outdoor recreational (not primarily hunting- and fishing-related, or state natural areas) property management (such as the Chippewa and Willow Flowage Recreation Areas) would be transferred to the Department of Tourism. The MacKenzie Environmental Center operations would also be transferred to Tourism. Tourism would be given authority to charge the appropriate state agency for the costs incurred (net of any participant fees received) for environmental, forestry, hunting, trapping, fishing or outdoor recreational programs hosted at the MacKenzie Center on behalf of the contributing agency (current donor or participant fee revenues that cover a portion of MacKenzie Center programs would also be provided to Tourism).

Duties related to the state forestry program, including the current DNR Division of Forestry and the northern state forests, would be transferred to the Department of Agriculture, Trade and Consumer Protection (DATCP).

The Department of Administration (DOA), would become responsible for most aspects of the stewardship program (including related debt service and aids in lieu of taxes payments). To administer the stewardship program and the annual aids in lieu of taxes payments to municipalities, DOA would be provided 1.0 GPR position (the aid amounts on post-1989 purchases must be tracked and adjusted annually by municipality). Finally, the current DNR legal services program would be transferred to DOA. DFW and DEP would each retain 1.0 unclassified chief legal counsel position with the remainder of the current DNR legal services unit (16.1 positions) transferring to DOA. DOA would bill the respective agencies for conservation and environmental legal services provided to support the transferred functions.

Law Enforcement Authority. DFW would retain conservation wardens to enforce laws pertaining to hunting, fishing and motorized outdoor recreation. Tourism, DEP and DATCP would each be given varying degrees of law enforcement authority. Tourism and DATCP would employ credentialed officers, namely park and forest rangers, respectively, as members of a protected service classification. These personnel would retain the enforcement power of current DNR conservation wardens, from which these personnel derive current enforcement authority in DNR.

Enforcement staff of DEP would have authority to enforce civil violations of environmental protection laws, but would not be vested with arrest powers. No current civil or criminal environmental penalties would be altered, and no provisions would affect current authorities of county or municipal law enforcement to exercise police powers for suspected infractions in their jurisdiction.

Stewardship Program. The Warren Knowles-Gaylord Nelson Stewardship Program is currently authorized through state fiscal year 2019-20 (June 30, 2020). The program currently supports DNR land acquisitions and nature-based outdoor recreational development projects, recreational boating facility grants, and grants to local governments or nonprofit conservation organizations as shown in the following table.

TABLE 1
Stewardship Program Allocations

	<u>2018-19</u> <u>and 2019-20</u>
<i>Land Acquisition Subprogram</i>	
DNR Acquisition	\$9,000,000
County Forests	5,000,000
Nonprofit Conservation Organizations (NCOs)	<u>7,000,000</u>
Land Acquisition Subtotal	\$21,000,000
 <i>Property Development and Local Assistance Subprogram</i>	
DNR Property Development	\$3,750,000
Local Assistance	<u>6,000,000</u>
Subtotal	\$9,750,000
 Recreational Boating Aids	 2,500,000
 Total Bonding Allocation	 \$33,250,000

Currently DNR land acquisitions and property development projects support functions that would be in three different agencies under the proposal (state parks, state forests, recreation areas, natural areas, fisheries and wildlife properties). Under the proposal state agencies (DFW, DATCP and Tourism) would submit their proposed stewardship program conservation land acquisition and nature-based outdoor recreational property development projects to DOA. The administration would review, rank and fund projects within available resources (utilizing the current process and procedures). Local units of government and nonprofit conservation organizations would be eligible for the same land acquisition or property development grants as currently under the stewardship program, but would apply to DOA rather than DNR. Recreational boating aids would continue to be reviewed and recommended by the Waterways Commission, but the Commission would be attached to DOA, and DOA would award the grants (rather than DNR). The state conservation agencies could apply for recreational boating facility projects (at parks, forests, recreation, fisheries, and wildlife properties) as DNR may currently.

Fiscal Effect

Under the proposal DOA would be provided program revenue (PR) expenditure authority of almost \$2.0 million (along with 16.1 staff) to bill the respective agencies for conservation or environmental-related legal services provided. However, the affected agencies would pay these amounts from existing appropriated amounts. Therefore, this amount (\$2.0 million) is identified separately in the attached fiscal summary, as it is essentially a double-count of appropriated funds (once in the base-level appropriated amounts for the agency paying for the legal services, and again as a PR chargeback in DOA for providing the legal services).

Other than the legal services item discussed in the preceding paragraph, there would be no

direct net fiscal effect under the proposal, as current appropriations and positions would merely be allocated to one agency or another. Although the proposed reorganization would have no net fiscal impact initially, future impacts may be seen based on position reclassifications (and resulting pay plan costs) that typically follow a major reorganization and as future budget requests and needs of the various agencies are addressed. The proposal assumes that any move-related, or other costs, that arise as a result of splitting DNR into multiple agencies would be absorbed in the agencies' base budgets.

A total of eight unclassified positions would be authorized for the Department of Environmental Protection (Secretary, Deputy Secretary, Assistant Deputy Secretary, chief legal counsel, legislative liaison, communications director, and two division administrators). The Department of Fish and Wildlife would also have eight unclassified positions (the same six executive positions and two division administrators). Further, DATCP would be provided an unclassified administrator for the Division of Forestry. Tourism would have a State Parks and Trails unclassified administrator. While no additional position authority would be authorized under the proposal, the agencies would be authorized 18 unclassified positions, compared to 12 at DNR currently. [Although DNR is currently allowed up to 13 unclassified staff under the statutes, only 12 have been authorized through the state budget system.] Both the DEP & DFW Secretaries would be placed in executive salary group six (salary range of \$88,700 to \$146,400) which is where the secretaries for several agencies are currently, including DATCP, Tourism, Veterans Affairs, Children and Families, Military Affairs and several others. (DNR, and the Departments of Revenue, Transportation and Workforce Development are currently in group seven, with a salary range of \$95,800 to \$158,100.)

Using final appropriated DNR funding and positions for state fiscal year 2016-17, this memorandum presents an analysis of the resulting allocations between the five agencies that might have been expected had the proposed transfers been in effect for 2016-17.

Under the proposal, most of the current segregated DNR appropriations from five of the nine conservation fund accounts would be provided to the fish and game agency (fish and wildlife, boat registration, all-terrain vehicle, snowmobile, and natural resources magazine), as would boat access appropriations from the water resources account (motorboat gas tax revenues). Segregated appropriations from the endangered resources account of the conservation fund, as well as the environmental, petroleum inspection, drycleaner environmental response and environmental improvement funds would be transferred to the environmental agency. In addition, appropriations from the water resources account of the conservation fund related to dam safety, aquatic invasive species prevention, water regulation, and lake and river grants and associated administration would be transferred to the environmental agency. Forestry account funding (primarily the forestry mill tax) would be appropriated to DATCP (forestry program and Northern State Forests) and Tourism (Southern State Forests). The parks account (park camping and admission fees) would go to Tourism for the state parks and trails program.

The current DNR Divisions of Public Safety and Business Support, and Customer and Employee Assistance contain functions that would be necessary for all of the agencies. Generally,

segregated funding appropriated, and positions authorized, for these purposes from the conservation fund would be assigned to DFW, DEP (endangered resources), DATCP (forestry), or Tourism (parks and part of forestry) as appropriate. Endangered resources and a portion of water resources account funding would be provided to the environmental agency, along with segregated funding for environmental purposes (including the environmental, petroleum inspection and drycleaner environmental response funds). To the extent that certain federal, program revenue, and general purpose revenue funding are readily identifiable as being for either an environmental purpose (such as program revenue funding from air management fees) or a recreational purpose, the funding and positions would be assigned to the respective agencies.

Under the proposal, on July 1, 2018, the staff, assets, liabilities and obligations primarily associated with each agency's functions would vest in that agency. The current DNR would be reorganized (appropriation schedule retitled and statutes renumbered as necessary) to become the Department of Fish and Wildlife. The classified positions in the current DNR and the incumbents in the positions relating to environmental and endangered resources functions would be transferred to DEP. Similarly staff, assets and obligations primarily associated with the state forestry program would transfer to DATCP, and state park, trail and southern forests to Tourism. If the agencies are unable to agree on an equitable division, the Secretary of DOA would decide the matter. The current DNR employees who would be transferred to another agency would maintain all their civil service and other employee rights held prior to transfer. In addition, some adjustments in staff or appropriation transfers may be necessary as the agencies determine the actual division of staff, facilities and duties under any proposal enacted. Such transfers, if necessary, could be accomplished either by the Joint Committee on Finance under section 13.10 of the statutes, or in separate legislation.

While the proposal would not specify which positions from certain appropriations in the Divisions of Public Safety and Business Support, and Customer and Employee Assistance would be transferred from DNR to another agency, for the purposes of this memorandum, the funding and positions in these appropriations are generally divided between the proposed agencies as follows:

In the Division of Public Safety and Business Support, the funding and positions in the federal, general purpose revenue (GPR) and program revenue (PR) general operations appropriations are divided between DNR and DEP based on a rough estimate of the portion of these appropriations more closely identifiable with a conservation purpose or with an environmental purpose. Functions in the Division that would be transferred to the environmental agency would include: (a) environmental enforcement; (b) laboratory certification; (c) certification of operators of wastewater treatment systems, water supply systems, and incinerators; and (d) collection of environmental fees.

For administration and technology functions, federal, GPR and PR operations funding and positions are generally divided between the agencies roughly based on the proportion of resources in each of the other divisions assigned to the proposed agencies.

In the Customer and Employee Assistance Division, the portion of federal, GPR, and PR funding and positions from the customer service and licensing subprogram is provided to DFW (which is responsible for fish, game & recreational vehicle licensing) and the remainder is divided proportionally among the agencies.

The effects of this proposal on specific appropriations, staff or programs were not discussed with DNR staff. Such discussions may lead to a more precise, or accurate, division of resources. Instead, this analysis was done utilizing a review of available budget materials. The attached tables are intended to depict an approximate division of staff and funding between the agencies based on 2016-17 final appropriated funding levels and a limited review of a number of appropriations that would be split between the various agencies (but where the precise allocation amount is not easily identifiable under the proposal described). However, the actual distribution under a number of appropriations would be determined by specifics of any legislation directing the transfers, and the agencies involved.

The anticipated split between the agencies using the parameters discussed above is summarized in Table 2 and shown in the attachment. The budget of DFW, the fish, wildlife and motorized outdoor recreation agency, would be approximately \$135 million and 746 positions (or approximately 24% and 29%, respectively, of the current DNR appropriations), while the budget of DEP, the environmental agency, would be approximately \$185 million and 962 positions (33% and 38% of DNR). The DATCP forestry programs would represent approximately 15% of current DNR funding and 21% of staff, while Tourism parks, trails and southern state forests would represent approximately 9% and 12%. DOA funding for the stewardship program (including debt service and aids in lieu of taxes payments on state conservation lands owned) and legal services would represent 18% of current DNR funding and less than 1% of staff.

TABLE 2

Department of Natural Resources Funding Transfers

	<u>Funding</u>	<u>Positions</u>
Department of Fish and Wildlife	\$135,494,900	745.70
Department of Environmental Protection	184,976,700	961.69
DATCP Forestry Program	86,395,500	529.83
Tourism State Parks & Trails Program	51,357,500	294.78
DOA Legal Services & Stewardship Program	<u>101,166,700</u>	<u>17.10</u>
Total DNR transfers	\$559,391,300	2,549.10

I hope this information is helpful. Please contact me if I can be of additional assistance.

PF/sas
Attachment

ATTACHMENT

Funding and Position Transfers Based on 2016-17 Budget

Department of Fish and Wildlife (New)

	<u>Funding</u>	<u>Positions</u>
Division of Fish, Wildlife and Recreation	\$48,100,100	376.06
Law Enforcement and Research Services	34,576,800	230.71
Licensing, Aids, Development & Administration	<u>52,818,000</u>	<u>138.93</u>
DFW Total	\$135,494,900	745.70

Total DFW By Fund Source

GPR	\$5,356,900	32.26
SEG	101,080,800	598.05
PR	5,790,400	23.45
FED	<u>23,266,800</u>	<u>91.94</u>
Total	\$135,494,900	745.70

Department of Environmental Protection (New)

	<u>Funding</u>	<u>Positions</u>
Division of Water	\$56,835,600	465.51
Division of Air and Waste	37,884,500	325.20
Environmental Enforcement & Research	8,199,600	74.62
Endangered and Nongame Resources	5,214,700	33.80
Aids, Debt, Development & Administration	<u>76,842,300</u>	<u>62.56</u>
DEP Total	\$184,976,700	961.69

Total DEP By Fund Source

GPR	\$23,630,500	191.60
SEG	93,261,100	221.45
PR	26,340,700	215.89
FED	<u>41,744,400</u>	<u>332.75</u>
Total	\$184,976,700	961.69

DATCP Forestry Transfer

	<u>Funding</u>	<u>Positions</u>
Forestry Operations	\$55,637,900	453.86
Forestry Aids	15,058,200	0.00
Debt, Development & Administration	<u>15,699,400</u>	<u>75.97</u>
DATCP Total	\$86,395,500	529.83

Total DATCP By Fund Source

GPR	\$921,500	2.68
SEG	77,432,300	503.86
PR	2,155,800	2.30
FED	<u>5,885,900</u>	<u>20.99</u>
Total	\$86,395,500	529.83

Tourism Parks Transfer

State Parks Operations	\$30,335,900	237.74
Aids and Development	12,482,400	0.00
Support and Administration	<u>8,539,200</u>	<u>57.04</u>
Tourism Total	\$51,357,500	294.78

Total Tourism By Fund Source

GPR	\$1,046,700	1.48
SEG	39,092,400	262.89
PR	1,491,000	2.25
FED	<u>9,727,400</u>	<u>28.16</u>
Total	\$51,357,500	294.78

DOA Debt and Legal Transfer

Legal Services	---	16.10
Aids in Lieu of Taxes and Administration	14,805,000	1.00
Stewardship and Related Debt Service	<u>86,361,700</u>	<u>0.00</u>
DOA Total	\$101,166,700	17.10

Total Appropriations (current DNR)	\$559,391,300	2,549.10
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DOA Legal Services Charge-backs

	<u>Funding</u>	<u>Positions</u>
Legal Services	\$1,978,400*	---

* Reflects amounts budgeted in other agencies, and that would be expected to be charged by DOA, and paid by those agencies, for DOA provided conservation and environmental program-related legal services.

Total DOA By Fund Source

GPR	\$79,476,500	1.00
SEG	21,250,200	0.00
PR	1,978,400	16.10
FED	<u>440,000</u>	<u>0.00</u>
Total	\$103,145,100	17.10