

The Wisconsin farmland preservation program

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State income tax credits represent the primary incentive in this novel approach to the farmland retention problem



Soil Conservation Service photo by Cole

AN innovative proposal to preserve agricultural land and provide tax relief to farmers became law in Wisconsin in July 1977. The farmland preservation law is unique because it combines tax relief for eligible farmers with incentives for local governments to adopt agricultural preservation plans and exclusive agricultural zoning ordinances.

Reasons for Preserving Farmland

People in Wisconsin, like those in many other states, were concerned about pre-

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serving farmland for a variety of reasons. Many farmers had a long-standing interest in curtailing rapid property tax increases. In more recent years some farmers became concerned about the conflict between certain urban land uses and agricultural operations.

Nonfarm citizens and groups also came to believe there was a need to protect agricultural land. The primary urban interests focused on preserving open space, reducing the costs of providing public services to scattered development, and otherwise minimizing the adverse environmental and economic impacts of urban sprawl. Both groups recognized the importance of maintaining farming and related agricultural business as important parts of the state and local economies. The need to protect lands necessary to produce food for future do-

mestic and foreign needs was also mentioned in support of farmland preservation.

Legislation was proposed that farmland be assessed for tax purposes according to its value in agricultural use. However, the uniformity of taxation clause in the state constitution first had to be changed. A constitutional amendment permitting use-value assessment of agricultural and undeveloped land received final approval in a statewide referendum in 1974. The referendum passed by a narrow 50.9 percent margin with a mixture of rural and urban support.

A special legislative study committee drafted legislation to implement the constitutional amendment, but the bill failed to pass the legislature. The main emphasis among rural legislators was on tax relief. Urban legislators, meanwhile, were concerned that a shift in property taxes to non-farmers would not be warranted without strong land use controls. The farmland preservation law was introduced in the following legislative session as a substitute approach to use-value assessment, largely because of what had been learned from experiences in other states.

Methods of Property Tax Relief

At the latest count in 1977, 44 states had adopted some type of property tax relief program for farmland. In 42 states the farmland tax relief is accomplished through use-value assessment. In two states, Wisconsin and Michigan, the tax relief is accomplished through a circuit-breaker relief system. This system provides state income tax credits (or payments) based on a comparison of the farm family's income and property tax.

Pure preferential assessment provides that farmland be assessed at its value in agricultural use. Any value due to development potential is ignored. Legislation based on this type of assessment amounts to a simple tax break.

Deferred taxation requires the payment of a rollback tax when the land is converted to a different use. The rollback is based on the difference between the use-value tax paid and the amount that would have been paid under traditional market-value assessment. If the entire difference is paid, the policy amounts to a tax deferral. If the rollback period is less than the period of use-value assessment, or if no interest is paid on the rollback, the policy amounts to a partial tax deferral and partial tax preference.

Other programs combine tax relief with some type of contract restricting the use of the land (California, Michigan, and others). Another makes use-value assess-

ment available only within voluntary agricultural districts (New York).

Details of the Wisconsin Law

In the first five years of the Wisconsin law (1977-1982) any qualified farmland owner can sign a contract with the state agreeing to keep the land in agricultural use. In exchange the landowner becomes eligible for state income tax credits (2). To qualify, he must own 35 or more acres; he must have produced \$6,000 in gross farm sales in the last year or \$18,000 over the past three years; and he must have a soil conservation district conservation plan in effect or being developed. The application must be approved by the county. The contract follows the land, and all initial contracts expire in 1982. Farmers with initial contracts are eligible for state income tax credits equal to 50 percent of the amount calculated under the credit formula.

After 1982, in order for owners to remain eligible for tax credits, the county must adopt some policy to preserve farmland. Counties are not required to act, but continued tax credits depend on county action.

In urban counties (75,000 population or over) the land must be zoned for exclusive agricultural use. The zoning ordinance must be certified by the state as meeting the statutory standards. No residences can be constructed unless occupied by the farm family or other farm workers. Special exceptions and conditional uses must be compatible with farming. Development for a use not compatible with agriculture requires a full rezoning with public hearing, and local rezoning decisions must be based on availability of public services and protection of the environment.

Farmers in exclusive agricultural zones are eligible for 70 percent of the maximum tax credit. No contract is required. In a county with both exclusive agricultural zoning and a farmland preservation plan (similar to a county land use plan), farmers are eligible for 100 percent of the credit calculated under the formula.

In rural counties (less than 75,000 population) the county must adopt either exclusive agricultural zoning or an agricultural preservation plan. As in urban counties, the plan must meet statutory standards and be certified by the state. Farmers in the plan's preservation district may voluntarily sign 10- to 25-year contracts, agreeing not to develop their land. Farmers with these long-term contracts are eligible for 70 percent of the tax credit under the formula.

The income tax credit is based on household income (which includes net

farm income, off-farm income over \$7,500, and other income earned by the individual, spouse, and dependent children). The maximum annual credit per household is \$4,200. In general, the tax credit increases with increases in property tax or decreases in household income. If the credit exceeds the income tax due, the family receives a payment for the difference. The actual tax credit received by the family depends on the land use policies adopted by the local government. The percentages refer to the "maximum credit" calculated under the formula for the particular level of family income and property tax:

- 50 percent under initial contracts (expires in 1982).
- 70 percent under exclusive agricultural zoning.
- 70 percent in a rural county with an agricultural preservation plan and a 10- to 25-year individual contract.
- 100 percent in a county with exclusive agricultural zoning and an agricultural preservation plan.

Since the relief is in the form of a state income tax credit, there is neither a reduction in the local property tax base nor a direct shift in the incidence of property taxes on the local level. Another feature of the law designed to make it acceptable to local government is the provision for grants to counties to assist in mapping productive farmland to be preserved and developing agricultural preservation plans and zoning ordinances.

A Comparison with Other State Laws

Wisconsin's farmland preservation law differs substantially from the farmland tax laws in other states. Many use-value tax laws in other states were passed with strong urban support. The belief was that lower farmland taxes would contain urban sprawl.

The results of these laws have been disappointing (1). Studies of their effects suggest that a use-value tax alone does not prevent the conversion of farmland (7).

Because of these disappointing land policy results, several states (California, Washington, Pennsylvania, and others) passed laws making use-value assessment contingent upon the landowner signing a contract, agreeing to keep the land undeveloped. California studies indicate this has had little effect on urban sprawl. Few landowners close to urban areas are willing to sign contracts (8). However, a few scattered contracts creates a checkerboard pattern of contract farms surrounded by land not under contract, which occasionally causes problems in extending urban ser-

vinces to the developing lands (6). On the other hand, many farmers in rural areas have signed contracts.

Wisconsin's new law clearly reflects these experiences with use-value assessment. Contracts are available only for land in agricultural preservation districts in a county's plan. Thus, Wisconsin may be able to duplicate other states' successful use of voluntary contracts in rural areas, but avoid the problems of checkerboard development by requiring that contracts be consistent with county land use plans.

In Wisconsin's urban counties exclusive agricultural zoning is required to qualify for tax credits. There is no attempt to guide development in urbanizing counties through the use of voluntary contracts. Such attempts in other states have largely failed.

It is also interesting to compare the land policy in Wisconsin's Farmland Preservation Act with New York's Agricultural Districts Law. Landowners in New York may propose the formation of an agricultural district in which the major activity is farming and agribusiness. Qualified farmers in a district receive use-value assessment without signing a contract. As a result, they can develop their land at any time.

Although land development is not restricted directly, limits on extension of sewer and water lines into districts effectively prevent large-scale subdivisions. Other provisions, such as limitations on government power to levy special assessments, are designed to protect farms. They are similar to those in Wisconsin's law.

Participation is widespread in New York's program (4.5 million acres in districts, about 56 percent of the permanent farmland in the state). Some feel the New York program is successful because it is voluntary. Others feel that farmland will not be preserved, although many districts have been formed, because landowners are not restricted in developing their land, especially in small subdivisions and lot-by-lot sales. Most agree that the law has had little effect in suburban areas and may be more suited for protecting rural farmlands than guiding urban growth (4).

In comparison, Wisconsin's program is also voluntary in rural counties. Farmers may choose not to sign contracts. However, both state and local approval is necessary to relinquish the contract before the end of its term, and a 10-year rollback tax is levied when the land is converted to another use. In addition, rural counties may adopt exclusive agricultural zoning if they wish to increase the tax credits available to farmers.

In urbanizing counties the programs dif-

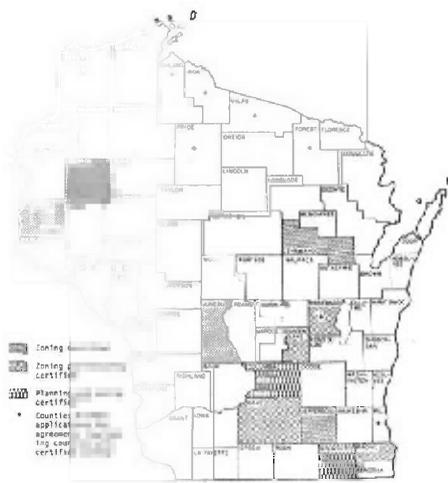


Figure 1. Farmland preservation program applications, exclusive agricultural zoning, and agricultural plans by county, July 1978.

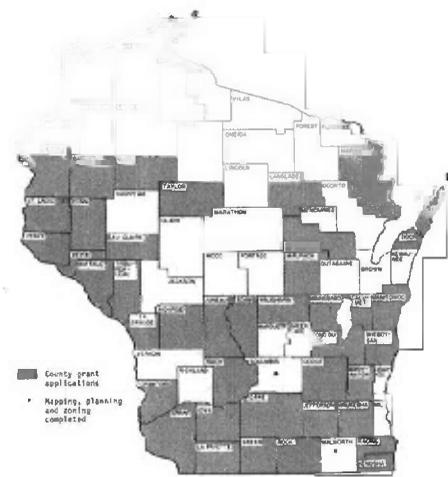


Figure 2. County grant applications for planning, mapping, and zoning under the Wisconsin farmland preservation program, July 1978.

fer substantially. New York's program remains voluntary and largely unused. The Wisconsin program requires zoning that is not voluntary from the landowner's standpoint if local government chooses to adopt exclusive agricultural zoning. If landowners strongly oppose zoning, county boards in all likelihood will not enact it. Yet the incentives to participate in the program may be greatest in urban counties since the tax credit potential is probably greatest there.

Identifying Farmlands to be Preserved

Wisconsin's farmland preservation program depends heavily on counties to develop agricultural preservation plans and exclusive agricultural zoning ordinances.

Defining and mapping farmlands to be preserved is requisite to preparing these plans and zoning provisions.

Although land use activities eligible for tax credit include agriculture, forestry and game management, the law does not define specifically what farmland is to be preserved. Because of the variety of local circumstances, a state-level decision said counties were in the best position to define and map farmlands to be preserved, subject only to general state guidelines (3). These guidelines require the county to (1) establish a local technical advisory committee consisting of the county extension agent, local Soil Conservation Service (SCS) representative, zoning administrator, and other local experts; (2) provide for public participation; (3) adopt a definition of farmlands to be preserved; (4) adopt criteria for determining when particular farmlands meeting this definition might be excluded from preservation; and (5) plot the location of lands to be protected on a suitable base map.

The county definition of farmland to be preserved must consider (1) soil type based upon SCS soil capability classes; (2) the physical and economic productivity of land; and (3) the potential productivity of land, given improvements such as clearing, irrigation, or drainage. In certain cases productive land that meets this definition may be excluded from planning and zoning districts. This exclusion depends upon such criteria as size of acreage in a single block, nature of surrounding land uses, and current or planned land use for the area in question.

Areas mapped for preservation will vary from one part of the state to another depending upon differences in soils, the type of farming, existing urban development patterns, and local land use objectives. In some southeastern Wisconsin counties farming consists primarily of corn and soybean production on lands in SCS Soil Capability Classes I-III. In other areas of the state dairying and diversified agriculture are common, with cropland, hayland, and permanent pasture located on Class I-VII soils. In still other areas irrigated land produces high-value crops, or land is used for such specialty crops as cranberries, apples, cherries, and mint. Although encompassing a wide range of soils and agricultural operations, all of these activities could be considered to involve the use of productive farmland.

Local land use policy can proceed in one of two basic directions: (1) protect the most productive agricultural land or (2) protect all land currently in productive farm use. If the focus is on the most productive agri-

cultural land, the county definition of productive farmland could be based upon criteria for farmlands that are prime, unique, or of statewide importance, as set forth in the SCS Land Inventory and Monitoring Memorandum (5). If the county decision is to protect land in productive farms, then permanent pasture, woodlots, and other nontillable land could be designated for preservation as well. This might be done, especially if the land is unsuitable for development because of limitations for septic tanks, conflicts with farm operations, or requirements for costly public services.

In either case, the existing development pattern may preclude preservation of productive land if the area is too small to farm, surrounded by incompatible urban uses, or served by public sewer and water. Local land use policy will determine whether to encourage infilling of undeveloped urban land where a full range of services is available or to permit residential development served by private wells and septic tanks on less productive soils. Where eventual urban expansion is anticipated, land may be placed in a transition area for temporary preservation in agricultural use until development is warranted.

Present Status and Future Prospects

The success of Wisconsin's attempt to preserve farmland depends largely on the actions of local governments. The tax credit is a strong incentive for farmers to urge local officials to adopt farmland preservation policies. It adds to the already-existing inducements to protect farmland and farm operations, prevent land use conflicts, and minimize public service costs from new development.

The response of farmers and county governments thus far has been rapid and substantial. By July 1, 1978, only seven months into the program, about 1,650 farmers had applied for initial farmland preservation agreements in all but eight counties (excluding counties where farmers are already eligible through certified zoning). These applications cover about 435,000 acres eligible at the 50 percent level of credit (Figure 1). In addition, about 1 million acres (approximately 5,500 farms) in five counties are under certified exclusive agricultural zoning ordinances. Three counties had certified exclusive agricultural zoning ordinances (70% credit level), and two counties had both certified zoning ordinances and certified agricultural land preservation plans (100% credit level). In addition, six counties had received preliminary certification of changes in their zoning ordinances to meet state standards (Figure 1).

County Boards in over half the counties in the state have requested funds for mapping agricultural land and preparing plans and ordinances (Figure 2). These counties, located primarily in the southern two-thirds of the state, contain the great majority of Wisconsin's farmland.

Participation in the Wisconsin program is considerably greater than at a comparable period in the California, Michigan, New York, or Washington programs.

Although the final effects of the Wisconsin farmland preservation law will not be known for some time, initial progress is substantial, particularly the county programs for mapping, planning, and zoning. Continued success depends upon the ability of federal, state, and local officials to

work cooperatively on the technical aspects of mapping, planning, and zoning. Also, citizen participation is essential.

Counties that integrate planning and zoning, using strong citizen input, can implement policies that are logically sound, legally defensible, and politically acceptable. Several Wisconsin counties had already done so prior to the law's passage. Their record in protecting agricultural lands is encouraging. In the long run the law will succeed only if local governments and the electorate believe in the importance of preserving farmland.

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Dates to remember

November 6-8, Campgrounds 1980:

Trends, Research, Future Needs

Land Between the Lakes,
Kentucky

Write: K. C. Chilman, Department of Forestry, Southern Illinois University, Carbondale 62901

November 6-10, Land Treatment of Wastewater Design Shortcourse

Madison, Wisconsin

Write: John Quigley, Department of Engineering, University of Wisconsin-Extension, 432 North Lake Street, Madison, Wisconsin 53706

November 6-10, 14th American Water Resources Conference

Orlando, Florida

Write: Melvin Anderson, Department

of Structure, Materials, and Fluids,
University of South Florida, Tampa
33620

November 6-10, National Symposium on Wetlands

Lake Buena Vista, Florida

Write: American Water Resources Association, St. Anthony Falls Hydraulic Laboratory, Mississippi River at Third Avenue, S.E., Minneapolis, Minnesota 55414

November 12-15, National Association of State Universities and Land Grant Colleges Convention

St. Louis, Missouri

Write: Russell I. Thackerey, 1 Dupont Circle, N.W., Suite 710, Washington, D.C. 20036

November 13-16, 1979 Food and Agriculture Outlook Conference

Washington, D.C.

Write: Economics, Statistics and

Cooperatives Service, U.S.
Department of Agriculture,
Washington, D.C. 20250

November 13-16, National Urban Forestry Conference

Washington, D.C.

Write: School of Continuing Education, College of Environmental Science and Forestry, Syracuse, New York 13210

November 14-16, Agricultural Irrigation Workshop

Salt Lake City, Utah

Write: Irrigation Association, 13975 Connecticut Avenue, Silver Spring, Maryland 20906

November 26-December 2, Environmental Decision-Making and Management Workshop

Banff, Alberta

Write: School of the Environment, The Banff Center, P. O. Box 1020, Banff, Alberta T0L 0C0