



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #575

Recycling Fund and Grants (Natural Resources -- Air, Waste, and Contaminated Land)

[LFB 2003-05 Budget Summary: Page 335, #7 and #8]

CURRENT LAW

The Legislature enacted 1989 Wisconsin Act 335 to provide a statewide regulatory and financial assistance program aimed at encouraging, and in some instances requiring, solid waste recycling and reduction. Most solid waste management, recycling regulation, financial assistance and technical assistance programs are administered by the Department of Natural Resources (DNR).

State recycling programs are funded from the segregated recycling fund. Revenues to the recycling fund are provided from the recycling surcharge and recycling tipping fee. A temporary recycling surcharge was imposed on most businesses beginning in 1991 and expired in April, 1999. A permanent surcharge, at a reduced rate, was recreated in 1999 Act 9 effective with tax year 2000. The recycling surcharge is 3% of gross tax liability for corporations (including insurance companies and limited liability companies taxed as corporations) or 0.2% of net business income for sole proprietorships, partnerships, limited liability companies taxable as partnerships, and S corporations. There is a minimum payment of \$25 and a maximum payment of \$9,800. Farms and other businesses with less than \$4 million in gross receipts are excluded from paying the recycling surcharge. Noncorporate farms (sole proprietorships, partnerships, LLCs taxable as partnerships) that are subject to the recycling surcharge pay the \$25 minimum amount. Farms organized as regular C corporations and S corporations that are subject to the surcharge, determine surcharge payments the same as other C and S corporations. The Department of Revenue administers and collects the recycling surcharge.

1999 Act 9 also created a recycling tipping fee of \$0.30 per ton of solid waste, excluding high-volume industrial waste, disposed of in Wisconsin landfills on or after January 1, 2000. In

2001 Act 16, the recycling tipping fee was increased from \$0.30 to \$3.00 per ton, effective with waste disposed of on or after January 1, 2002. DNR collects the tipping fee.

DNR administers the municipal and county recycling grant program that provides financial assistance to 1,018 responsible units of local government for eligible recycling expenses. The grant program has provided \$24.5 million to responsible units in each of 1999-00 through 2002-03. In order to address a potential cash-flow problem in the recycling fund, 2001 Act 16 provided \$19,500,000 in 2001-02 and \$29,500,000 in 2002-03 for the municipal and county recycling grant program. For grant year 2002 only, DNR was required to calculate total eligible grant awards of \$24,500,000 and to disburse the grants in two installments. DNR disbursed \$19,500,000 of the awards by June 1, 2002, from the 2001-02 appropriation and the remaining \$5,000,000 by December 1, 2002, from the 2002-03 appropriation. For grant year 2003 only, DNR is required to disburse the remaining \$24,500,000 from the 2002-03 appropriation by June 1, 2003. Currently, for grant year 2004 and subsequent years, DNR is required to disburse the entire municipal and county grant appropriation by June 1 of the year for which the grants are made.

GOVERNOR

Reduce funding for DNR recycling administration by \$158,100 recycling fund SEG annually (an 18% reduction from base level funding) and delete 2.0 SEG positions in 2004-05 in the waste management program. Transfer \$3,158,000 in 2003-04 and \$158,100 in 2004-05 from the recycling fund to the general fund.

Decrease by \$5,000,000 SEG annually the appropriation for municipal and county recycling grants to provide total grants of \$24,500,000 annually in each of 2003-04 (calendar year 2004) and 2004-05 (calendar year 2005). The bill would provide the same level of grant funding as in the calendar years 2000 through 2003.

DISCUSSION POINTS

1. Table 1 shows the estimated balance of the recycling fund. Under the bill, the recycling fund is expected to have a June 30, 2005, unencumbered balance of \$12.0 million. Current law revenues from the recycling surcharge, recycling tipping fee and interest income should provide revenues of approximately \$36.9 million in 2003-04 and \$38.0 million in 2004-05. Expenditures would total approximately \$30.1 million annually.

TABLE 1**Recycling Fund Condition -- SB 44
(\$ Millions)**

	2001-02 <u>Actual</u>	2002-03 <u>Estimated</u>	2003-04 <u>Estimated</u>	2004-05 <u>Estimated</u>
Opening Balance -- July 1	\$13.6	\$8.7	\$0.7	\$4.3
Recycling Surcharge	12.5	14.4	15.6	15.9
Recycling Tipping Fee	6.0	21.9	21.1	21.9
Interest Income and Other	<u>0.5</u>	<u>0.3</u>	<u>0.2</u>	<u>0.2</u>
Total Revenue	19.0	36.6	36.9	38.0
Total Revenue Available	\$32.6	\$45.3	\$37.6	\$42.3
Expenditures	22.5	34.7	30.1	30.1
Reserves and Lapses	0.0	-0.2	0.0	0.0
Encumbrances and Continuing Balances	<u>1.4</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total Expenditures and Reserves	\$45.0	\$34.5	\$30.1	\$30.1
Transfer to General Fund	0.0	-9.1	-3.2	-0.2
Transfer to Conservation Fund	0.0	-1.0	0.0	0.0
Closing Balance -- June 30	\$8.7	\$0.7	\$4.3	\$12.0

2. During the last 12 years, the largest recycling program expenditure has been for the DNR municipal and county recycling grant program, which provides financial assistance to responsible units of local governments for a portion of eligible recycling expenses. Approximately two-thirds of cumulative recycling fund expenditures have been for the municipal and county recycling grant program. A responsible unit is the local unit of government responsible for implementing state-mandated recycling programs and can be the town, village, city, county, Indian Tribe or multiple-jurisdiction unit.

3. Municipal and county recycling grants averaged 28.9% of the estimated net eligible recycling costs of 1,011 responsible units of local government in 2001, 27.7% of the eligible costs of 1,018 responsible units in 2002, and 27.0% in 2003. Local governments use the grants to implement "effective recycling programs" that include specific components, and to comply with the landfilling and incineration bans that prohibit certain recyclable materials from being landfilled (for example, newspapers, aluminum cans and glass containers). The remainder of local recycling programs costs are paid by the local government. Local governments indicate that the main local revenue sources for recycling programs are: (a) the state grant program; (b) local property tax revenues; and (c) in some communities, volume-based or other user fees. Local governments also may receive some revenue from the sale of recyclable materials. The average municipal and county recycling grant as a percent of net eligible costs has decreased from almost 52% in 1992 to 27.0% in

2003. Table 2 shows the grant as a percent of net eligible costs from 1992 through 2003.

TABLE 2

**Municipal and County Recycling Grants: Eligible Cost,
Grant Award and Award as Percent of Costs
(\$ Millions)**

<u>Year</u>	<u>Net Eligible Recycling Costs</u>	<u>Grant Award</u>	<u>Grant Award as Percent of Net Eligible Costs</u>
1992	\$35.6	\$18.5	52.0%
1993	48.5	23.7	48.9
1994	56.5	29.8	52.7
1995	61.0	29.1	47.7
1996	66.3	29.2	44.0
1997	68.8	29.2	42.4
1998	71.4	23.9	33.5
1999	73.3	24.1	32.9
2000	76.6	24.3	31.7
2001	84.1	24.3	28.9
2002*	88.0	24.4	27.7
2003*	90.3	26.4**	29.1

* Estimate.

**Includes \$1.9 million in recycling efficiency incentive grant funds that up to 128 responsible unit applicants will receive.

4. In 2001 Act 16, a recycling efficiency incentive grant program was created. DNR is appropriated \$1,900,000 recycling fund SEG in 2002-03 for grants to responsible units under the program. A recycling efficiency incentive grant plus a municipal and county recycling grant may not exceed the net eligible recycling costs that the responsible unit incurred two years before the year for which the efficiency incentive grant is made. DNR promulgated administrative rules to define the types of efficiencies that responsible units could claim as eligible for grants. The rules became effective in early 2003, and the first grant applications were due on March 15, 2003. DNR is currently reviewing 128 applications and will disburse the 2002-03 grant funds before the end of June, 2003. The recycling efficiency incentive grant program increases the overall amount of state recycling grant funds available to local governments from \$24.5 million to \$26.4 million. Under the bill, base level funding of \$1.9 million would be continued for the program.

5. Recycling fund revenues have exceeded earlier projections for both the surcharge and the tipping fee. This has resulted in a growing recycling fund balance and annualized revenues that will exceed authorized expenditures by approximately \$8 million in 2004-05.

6. Projections of recycling tipping fee revenues for the 2003-05 biennium include a major cleanup of PCB-contaminated sediments in the Fox River expected to begin in the summer of

2004, generating approximately 7.25 million cubic yards of dredged contaminated sediment over an estimated 10 years. The cleanup will result in the landfilling of roughly 362,500 tons of waste annually, beginning in calendar year 2004 (fiscal year 2004-05 revenue). The landfilled dredged sediment would be subject to the recycling tipping fee. Thus, the revenue projections for 2004-05 include \$1,087,500 for recycling tipping fees from the cleanup project. In addition, there will be environmental management account revenues of approximately \$232,000. If there are delays in the cleanup, or if the actual amount of contaminated sediment removed during the next few years varies from this estimate, the recycling fund revenues would vary from current estimates.

7. Some would argue that it is appropriate to transfer the \$3 million to the general fund under the bill to address the larger general fund deficit situation. Additional transfers of all or a portion of the balance could be made. For example, up to \$4 million in 2003-04 and up to \$8 million in 2004-05 could be transferred in addition to the amount in the bill. Alternatively, a total of \$10 million could be lapsed to maintain a balance of approximately \$2 million in the event that actual revenues are less than projected or the Fox River cleanup results in less than estimated recycling tipping fee revenues.

8. Some would argue that too large an amount of segregated recycling revenues have been transferred to non-recycling uses in recent years. Over \$31 million has been transferred from the recycling fund to the general fund in recent years (\$22 million in 1999-01 biennium and \$9.1 million in the 2001-03 biennium). In addition, \$1 million was transferred to the conservation fund for chronic wasting disease expenditures in the fall of 2002 under provisions of 2001 Act 108. It could be argued that any recycling fund balance should be used to increase the local recycling grant appropriation, allowing state grants to pay for a larger percentage of local recycling expenditures.

9. A portion of the anticipated June 30, 2005, recycling fund balance could be appropriated to increase the total grants provided under the municipal and county recycling grant program as compared with current grant funding levels. For example, if the \$24.5 million annually provided under the bill for local recycling grants would be increased by \$5 million in each year, \$29.5 million would be appropriated in each of 2003-04 and 2004-05 for local recycling grants. This is somewhat higher than the level provided in 1995 through 1997 and would represent a 20% increase from the \$24.5 million for grants in calendar years 1999 through 2003. If the level of recycling grants had been \$29.5 million in 2002-03, that amount, in combination with \$1.9 million in recycling efficiency incentive grants, would equal approximately 34.8% of total statewide net eligible recycling costs in 2003. Under this alternative, recycling expenditures would increase from \$30.1 million to \$35.1 million in each year, and would still be less than the \$38.0 million in revenue in 2004-05.

10. Some would argue that the surplus of annual revenues over annual expenditures shows that the state is collecting more revenue than is necessary for state commitments. The recycling surcharge or tipping fee could be decreased so that annual revenues would not exceed annual expenditures.

11. Recycling surcharge revenues have continued to be higher than earlier estimates.

The ongoing recycling fund revenues could be reduced closer to the level of ongoing expenditures by reducing the surcharge. The recycling surcharge is 3% of gross tax liability for corporations (including insurance companies and limited liability companies taxed as corporations) or 0.2% of net business income for sole proprietorships, partnerships, limited liability companies taxable as partnerships, and S corporations. Since the recycling surcharge was imposed solely to fund state recycling programs, it could be argued that the current surcharge rate is higher than necessary. From this perspective, the surcharge rate could be lowered to a level where total ongoing recycling fund revenues were sufficient to fully fund state recycling programs. As an alternative the recycling surcharge rate could be reduced to 1.3% for corporations and 0.1027% for sole proprietorships, partnerships, LLCs taxed as partnerships, and S corporations beginning in tax year 2004. Total recycling surcharge revenues would be decreased by an estimated \$3.1 million in 2003-04 and \$7.0 million in 2004-05 and annually thereafter. This would leave some monies available that would allow for unanticipated fluctuations in future revenues and expenditures. A second alternative would be to reduce the recycling surcharge to 2.1% for corporations and 0.1659% for sole proprietorships, partnerships, LLCs taxed as partnerships, and S corporations beginning with tax year 2004. This would reduce total recycling surcharge revenues by \$1.5 million in 2003-04 and \$3.4 million in 2004-05 and annually thereafter. Further, this alternative could be adopted in conjunction with a reduction in the recycling tipping fee (Alternatives B5 and B7).

12. Another alternative for reducing ongoing recycling fund revenues would be to reduce the recycling tipping fee. For example, the \$3 per ton fee could be reduced by \$1 to \$2 per ton for waste disposed on or after January 1, 2004, which would result in a decrease of \$1.8 million in recycling fund revenue in 2003-04 (from one quarter of the fee reduction) and \$7.3 million annually beginning in 2004-05. Alternatively, the \$3.00 per ton fee could be reduced by \$0.50 to \$2.50 per ton, for a revenue decrease of \$0.9 million in 2003-04 and \$3.6 million annually beginning in 2004-05. The 50¢ reduction could be adopted in conjunction with a reduction in the recycling surcharge (Alternatives B5 and B7).

13. Under the bill, DNR staff would be reduced from 18.5 positions in 2002-03 by 2.0 to 16.5 in 2004-05. In 2004-05 DNR would have 10 staff (instead of 12 currently) in the waste management program of the Air and Waste Division, one enforcement position, 0.5 position for accounting, purchasing and other financial management recycling-related responsibilities, two recycling grants administrative positions, two positions in the information and education program and one position in the cooperative environmental assistance program.

14. While the bill deletes 2.0 positions in 2004-05, it deletes twelve months of funding in both years of the biennium. DNR officials indicate the Department would not have sufficient funds in the appropriation or another source to keep the positions filled until the end of 2003-04. The bill could be amended to either delete the position authority in 2003-04 or restore funding in 2003-04 for the positions.

ALTERNATIVES

A. DNR Staff

1. Approve the Governor’s recommendation to: (a) reduce funding for DNR recycling administration by \$158,100 SEG annually and delete 2.0 positions in 2004-05 in the waste management program; and (b) transfer \$158,000 in 2003-04 and \$158,100 in 2004-05 from the recycling fund to the general fund.

2. Approve the Governor’s recommendation, as modified to delete the 2.0 positions in 2003-04 instead of 2004-05.

3. Approve the Governor’s recommendation to: (a) delete the 2.0 positions and \$158,100 SEG in 2004-05; and (b) transfer \$158,000 in 2003-04 and \$158,100 in 2004-05 from the recycling fund to the general fund. In addition, restore \$158,100 SEG in 2003-04 for the 2.0 recycling positions.

<u>Alternative A3</u>	<u>SEG</u>
2003-05 FUNDING (Change to Bill)	\$158,100

4. Delete provision.

<u>Alternative A4</u>	<u>GPR</u>	<u>SEG</u>
2003-05 REVENUE (Change to Bill)	- \$316,100	\$0
2003-05 FUNDING (Change to Bill)	\$0	\$316,200
2004-05 POSITIONS (Change to Bill)	0.00	2.00

B. Transfer from Recycling Fund to General Fund

1. Approve the Governor’s recommendation to transfer \$3,000,000 in 2003-04 from the recycling fund to the general fund.

2. Approve Alternative B1. Further, transfer an additional \$4,000,000 in 2003-04 and \$8,000,000 in 2004-05 from the recycling fund to the general fund.

<u>Alternative B2</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	\$12,000,000

3. Approve Alternative B1. Further, transfer an additional \$4,000,000 in 2003-04 and \$6,000,000 in 2004-05 from the recycling fund to the general fund.

<u>Alternative B3</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	\$10,000,000

4. Approve Alternative B1. In addition, decrease, beginning with tax year 2004, the recycling surcharge to 1.3% of gross tax liability for corporations and 0.127% of net income for proprietorships, partnerships, LLC's taxed as partnerships and S corporations,

<u>Alternative B4</u>	<u>SEG</u>
2003-05 REVENUE (Change to Bill)	- \$10,100,000

5. Approve Alternative B1. In addition, decrease beginning with tax year 2004 the recycling surcharge to 2.1% of gross tax liability for corporations and 0.1659% of net income for sole proprietorships, partnerships, LLCs taxed as partnerships, and S Corporations.

<u>Alternative B5</u>	<u>SEG</u>
2003-05 REVENUE (Change to Bill)	- \$4,900,000

6. Approve Alternative B1. In addition, decrease the recycling tipping fee for waste disposed of in Wisconsin landfills on or after January 1, 2004, from \$3 by \$1, to \$2 per ton. (Recycling fund revenues would decrease by approximately \$1.83 million in 2003-04 and \$7.29 million in 2004-05.)

<u>Alternative B6</u>	<u>SEG</u>
2003-05 REVENUE (Change to Bill)	- \$9,120,000

7. Approve Alternative B1. In addition, decrease the recycling tipping fee for waste disposed of in Wisconsin landfills on or after January 1, 2004, from \$3.00 by \$0.50, to \$2.50 per ton. (Recycling fund revenues would decrease by approximately \$0.92 million in 2003-04 and \$3.64 million in 2004-05.)

<u>Alternative B7</u>	<u>SEG</u>
2003-05 REVENUE (Change to Bill)	- \$4,560,000

8. Delete provision.

<u>Alternative B8</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	- \$3,000,000

C. Recycling Grants

1. Approve the Governor's recommendation to decrease by \$5,000,000 SEG annually the appropriation for municipal and county recycling grants to maintain total grants at the current level of \$24,500,000 annually.

2. Delete provision. Recycling grants of \$29,500,000 would be provided in each of 2003-04 (calendar year 2004) and 2004-05 (calendar year 2005), for an annual increase of \$5,000,000 above the \$24,500,000 provided in each of calendar years 2000 through 2003. [If any of Alternatives B2 through B7 are approved, there would be insufficient revenue for this alternative.]

<u>Alternative C2</u>	<u>SEG</u>
2003-05 FUNDING (Change to Bill)	\$10,000,000

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