



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #551

### Water Resources Account Adjustments (DNR -- Water Quality)

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#### CURRENT LAW

The conservation fund is a segregated (SEG) trust fund used to finance many of the state's resource management programs administered by the Department of Natural Resources (DNR). The conservation fund is divided into accounts, including the water resources account.

#### GOVERNOR

No provision.

#### DISCUSSION POINTS

1. The conservation fund is defined under s. 25.29 of the Wisconsin Statutes. Conservation fund revenues may only be expended under the appropriation authority provided by the Legislature. The Department cannot transfer funds between appropriations. At the end of each fiscal year, unexpended amounts in most conservation fund appropriations lapse to the balance of the fund. However, certain appropriations are designated as continuing. Any uncommitted expenditure authority remains available in these appropriations in subsequent fiscal years.

2. The source of revenue to the water resources account, created in 1987 Act 27, is an annual transfer of motorboat fuel tax revenue into the account. The amount of the transfer each fiscal year is calculated by multiplying the motor fuel tax on 50 gallons of gasoline on April 1 of the previous fiscal year by the number of motorboats registered as of January 1 of the previous fiscal year and then multiplying this result by 1.4. In 2004-05, DNR is expecting \$12,186,600 to be transferred to the water resources account under this formula (598,262 motorboats x 50 gallons per motorboat x 29.1¢ per gallon x 1.4).

3. The water resources account is projected to have a negative available balance on June 30, 2007, under the bill, as shown in the following table. While the account would show a negative available balance of almost \$6.4 million at the end of the biennium, it is anticipated to have a sizable cash balance as a result of encumbered expenditure authority from previous years, several projects for which funds had been earmarked by the Legislature but not yet spent (due to the delay in the execution of these projects), and anticipated uncommitted balances in continuing appropriations.

**TABLE 1**

**Estimated Water Resources Account Condition Statement Under AB 100  
(In Millions)**

	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>
Opening Balance	\$18.85	\$17.11	\$15.55
Revenue	<u>12.29</u>	<u>12.67</u>	<u>13.26</u>
Total Available	\$31.14	\$29.78	\$28.81
Budgeted Expenditures	\$13.88	\$14.14	\$14.15
Compensation Reserves	<u>0.15</u>	<u>0.09</u>	<u>0.15</u>
Total Expenditures	\$14.03	\$14.23	\$14.30
Cash Balance	\$17.11	\$15.55	\$14.51
Encumbrances/Continuing Balances*	\$20.97	\$20.86	\$20.86
Available Balance	-\$3.86	-\$5.31	-\$6.35

\*Includes amounts encumbered (committed but not yet paid), as well as continuing balances from certain appropriations (such as recreational boating aids, lake management and protection, and boating access projects).

4. The water resources account supports a sum-sufficient debt service appropriation for bonding related to dam repair and removal projects. All bonding authority for the program has been issued, and certain debt service payments are projected to decline during the 2005-07 biennium. However, anticipated expenditures were not reestimated under the bill. Reestimating the appropriation to reflect anticipated expenditures would decrease the projected shortfall in the available balance to the account by \$128,500 over the biennium

5. Continuing appropriations within the account include appropriations that support funding for nonprofit conservation organizations, recreational boating program grants, lake protection and planning grant programs, boating access projects, Mississippi and St. Croix Rivers land acquisition, and an appropriation to maintain facilities. The Department indicates that the four

appropriations shown in the following table would have uncommitted balances that could be lapsed to the balance of the water resources account without compromising planned program expenditure levels.

**TABLE 2**

**Water Resources -- Continuing Appropriation Balances**

<u>Program</u>	Uncommitted Balance <u>on June 30, 2005</u>	AB 100 <u>Appropriated Expenditures</u>	
		<u>2005-06</u>	<u>2006-07</u>
Recreational Boating Aids Grant Program	\$1,400,000	\$4,027,000	\$3,122,000
Lake Protection and Planning Grants	150,000	3,675,400	4,175,400
State Boating Access Development	311,700	300,000	300,000
Mississippi/St. Croix Rivers Acquisition Program	<u>307,700</u>	<u>62,500</u>	<u>62,500</u>
	\$2,169,400	\$8,298,900	\$7,893,900

6. Under the recreational boating program, the Department provides grants to municipalities, counties, town sanitary districts, public inland lake protection and rehabilitation districts, qualified lake associations, the Milwaukee River Revitalization Council, and the Lower Wisconsin State Riverway Board for up to 50% of the costs of developing recreational boating facilities approved by the Waterways Commission. A grant may be used to support up to 60% of project costs if the sponsor conducts a boating safety enforcement and education program approved by DNR, and up to 80% of the costs of developing recreational boating facilities (and up to 90% if the sponsor conducts a boating safety program) if the project is deemed to be of regional or statewide importance by the Waterways Commission. Base funding for the program of \$4,547,000 in 2004-05 is reduced to \$4,027,000 in 2005-06 and \$3,122,000 in 2006-07 under the bill. The reduction in funding is used to increase funds available for several programs including grants relating to the control of aquatic invasive species under the lake management grant program. This provision is the subject of a separate issue paper. The recreational boating program is expected to end fiscal year 2004-05 with an uncommitted balance of approximately \$1.4 million. In addition, the water resources account maintains unencumbered continuing expenditure authority totaling over \$5.8 million for several earmarked projects that have not yet been undertaken, but for which funding has been legislatively reserved.

7. Lake protection grants may be awarded for a variety of purposes, including management projects that will improve or protect the quality of water in lakes, flowages, or natural lake ecosystems. A grant for a lake management project may be made for up to 75% of the cost of the project up to \$200,000 per grant. Counties, municipalities, non-profit conservation organizations, qualified lake associations, town sanitary districts, certain school districts, and public inland lake protection and rehabilitation districts are all eligible to apply for grants for lake management projects. Eligible activities include: (a) the purchase of land or conservation easements (if the purchase will substantially contribute to the protection or improvement of a lake or natural

lake ecosystem's water quality); (b) wetland restoration; (c) restoration of shoreline habitat; (d) development of local regulations or ordinances that will protect or improve the water quality of a lake or natural lake ecosystem; and (e) an activity that is approved by the DNR, and that is needed to implement a recommendation made as a result of a plan to improve or protect the quality of water in a lake or natural lake ecosystem. Lake protection grants may also include lake classification activities for: (a) lake classification project grants of up to \$50,000 per county for up to 75% of the costs for the development and implementation of lake classification and subsequent protection programs; and (b) lake classification technical assistance grants of up to \$200,000 to nonprofit corporations to provide educational and technical assistance to local units of government and lake management organizations that will participate in a lake classification project. Further, DNR may distribute grants for lake planning projects. Examples of eligible activities include data collection, mapping, water quality assessment, nonpoint source pollution evaluation, management strategy development and other projects that would provide baseline information on the status of lakes. Grants may support up to 75% of the project costs, with a maximum award of \$10,000. Under 2003 Act 33, funding for the lake protection grant program was increased by \$500,000 annually. In addition, the Department was directed to allot at least \$500,000 annually for grants to local units of government for up to 50% of the costs of projects to prevent or control aquatic invasive species, and for education and inspection programs at boat landings. The program is funded at \$3,175,400 in 2005-06 and \$3,675,400 in 2006-07 under the bill. Of the amount provided, \$1 million in 2005-06 and \$1.5 million in 2006-07 is identified for use in addressing aquatic invasive species. This provision is the subject of a separate issue paper. The lake management grant program is expected to end fiscal year 2004-05 with an uncommitted balance of approximately \$150,000.

8. The statewide boating access acquisition and development program purchases land and develops boating facilities to increase statewide access to public waterways. Examples of past projects include the design and development of boat launches (including associated facilities, such as restrooms, fish cleaning stations, and parking), public boat launch repairs, and pier development and replacement. The program is funded at \$300,000 annually under the bill (with \$200,000 available for projects statewide, and \$100,000 for projects in the southeastern portion of the state), and is expected to end fiscal year 2004-05 with an uncommitted balance of approximately \$311,700. Further, it should be noted that the statutory language defining the two appropriations is switched in statute, and should be corrected as a technical matter.

9. The Mississippi and St. Croix Rivers acquisition program provides funding for habitat and recreational projects and for environmental and resource management studies on the Mississippi and Lower St. Croix Rivers. Examples of past projects include bouy placement, beach enhancements, recreational boat use studies, and fishing pier placements. The program is funded at \$62,500 annually under the bill, and is expected to end fiscal year 2004-05 with an uncommitted balance of approximately \$307,700.

10. When consulted regarding the anticipated shortfall to the water resources account, DNR officials suggested that certain existing legislative earmarks from the recreational boating account could be deleted. The largest ongoing earmarks under the program include \$3.33 million remaining for Milwaukee Lakeshore State Park, which was approved under 1999 Act 9; \$1.8 million for the Black Point Estate, which was approved under 1997 Act 27; and \$700,000 for the

renovation and repair of the Portage Canal, which was approved under 2001 Act 16. The Department is required to reserve funds for these projects until either the project is completed or the legislative earmark is removed from State law. Of the \$5.83 million in earmarks, it is anticipated that the funding for Milwaukee Lakeshore State Park may be spent during the 2005-07 biennium, leaving \$2.5 million of funding for earmarked projects in the continuing balance.

11. Given the length of time that funding has been reserved, but not used, for the Portage Canal and the Black Point Estate, it may be argued that the earmarks could be deleted and the revenues lapsed to the balance of the water resources account as a means of increasing the anticipated ending balance. If at some time in the future either project appeared likely to require the previously earmarked funding, the Legislature could revisit the issue in the context of current demands on funding from the water resources account. Alternatively, it could be argued that while the projects have not yet been undertaken, deleting funding may create difficulties in the future if the project were pursued at a later date based on these previous commitments, and funding was not restored.

12. The Black Point Estate refers to a property in Walworth County that includes approximately 600 feet of frontage on Lake Geneva and a 13-bedroom Queen Anne style residence constructed in 1888. The owner has donated a significant collection of late-Victorian furniture, furnishings, and artwork to the state. The property had an equalized assessed value of approximately \$4.5 million for 2004. The 1997-99 budget provided \$1.6 million in general obligation bonding to adapt the property for public use, once donated. Further, \$1.8 million in water resources account SEG was set-aside to fund an endowment to a nonprofit organization for the operation and maintenance of the site. However, the donation of the remainder of the property has been delayed due to ongoing litigation. In 2004 the Dane County Circuit Court upheld the legislation authorizing the budgeted funds. The Wisconsin Court of Appeals is currently considering the case.

13. The Portage Canal was constructed in the late 1800's to provide a water passage between the Fox and Wisconsin Rivers. While funding for restoration work on the canal was provided under 2001 Act 16, work on the project could not begin until the City of Portage had completed a restoration plan for both the canal and the surrounding area. Because the canal is listed on the National Registry of Historic Landmarks, the restoration plan needed various approvals including from the State Historical Society. The City of Portage recently entered into a memorandum of understanding with the Federal Highway Administration, the Wisconsin State Historic Preservation Officer, the U.S. Army Corp of Engineers, the National Park Service, DNR, and the Wisconsin Department of Transportation to approve the City's plan for restoration work on the canal and surrounding area. City officials indicate that the funds provided by the recreational boating grant program would be used to restore wooden revetments shoring up the banks of the canal, as well as some stabilization and repair work to the lock structures separating the canal from the Fox River on one end and the Wisconsin River on the other. The City anticipates putting out requests for bids on the project soon, with canal renovation expected to begin in the spring of 2006.

14. Several additional options for addressing the anticipated negative balance to the water resources account may be considered. Reestimating the debt service appropriation would

increase the anticipated ending balance by an additional \$128,500. Lapsing the expected amount of uncommitted balances identified by DNR as available for this purpose in 2004-05 from the four continuing appropriations identified in Table 2 would generate an additional \$2.17 million.

15. Further, reductions in expenditure authority to appropriations supported by the water resources account could be considered. Under the bill, funding for recreational boating projects is reduced by \$1,945,000 over the biennium, with \$1.5 million of that funding provided to the lake management grant program for grants related to aquatic invasive species. As noted in the budget paper on that item, rather than being appropriated for other programs, the reduction could instead be used to balance the water resources account. If the Committee elected to lapse uncommitted 2004-05 balances, reestimate debt service, eliminate \$2.5 million in earmarks for the Black Point Estate and the Portage Canal, and reduce expenditures from the recreational boating grant program by \$1,945,000, the account would be anticipated to have an available balance of approximately \$280,000 on June 30, 2007.

16. Alternatively, expenditures funded by the water resources account (excluding debt service, which could instead be reestimated) could be reduced proportionally in order to balance the account. If the Committee wished to avoid deleting existing earmarks, for example, reductions of \$2.1 million to existing expenditure authority from the account would be required to attain a positive available balance as of June 30, 2007. This could be achieved as shown in the following table. The amounts shown in the two columns represent potential options for annual reductions, with the first column representing priorities put forward by DNR. It should be noted that while the first column reflects priorities that were submitted by DNR upon request, the actual amount of the total reduction is increased somewhat over the Department's original proposal. Alternatively, the second column reflects a more across-the-board reduction to all water resources account supported appropriations, excluding debt service payments (which are required), and the recreational boating grant program (the funding for which is addressed in a separate paper). As with DNR's proposal, reductions are not recommended for the state boating access development program in order to avoid compromising matching federal funds for this purpose. It should be noted that the across-the-board option, after removing the debt service and recreational boating grant program from the appropriations available for reduction, would require an expenditure reduction of over 12% in each year to the remaining appropriations.

**TABLE 3****Options for Annual Water Program Expenditure Reductions**

	<u>DNR Priorities</u>	<u>Across-the-Board</u>
Water Regulation and Zoning	\$12,400	\$71,200
Water Program Management	1,100	9,300
Lake and River Program Management	0	385,800
State Boat Access	0	0
Recreational Boating Aids Grant Program	464,600	0
Lake Protection Grant Program	547,800	389,500
Law Enforcement	0	26,100
Water Resources--Public Health	0	3,100
Aquatic and Terrestrial Resources Inventory	0	15,900
Grants to Nonprofit Conservation Organizations	0	27,600
River Protection Grant Program	0	35,900
Mississippi/St. Croix Rivers Acquisition Program	7,200	7,700
Facilities Maintenance	1,300	1,300
Administration	10,400	38,300
Customer Service and Licensing	3,700	8,100
Community Financial Assistance	3,800	26,700
Communication and Education	500	3,200
Customer Service Program Management	<u>2,200</u>	<u>5,300</u>
TOTAL	\$1,055,000	\$1,055,000

17. Providing these reductions over the two years of the biennium would mitigate their impact on program activities somewhat. However, reductions implemented for 2006-07 would then be built into the base for the following biennium, making the reductions ongoing. If these reductions were made as a one-time adjustment, the Department indicates that the full reduction could be taken in 2005-06, with program expenditure authority maintained at budgeted levels under the bill in 2006-07. Further, DNR has indicated that it would prefer this option in order to preserve 2006-07 expenditure authority for future budgets. However, it should be noted that providing the total reduction in 2005-06 would maintain a structural imbalance in the account that would then need to be addressed in 2007-09. If the entire reduction were taken in 2005-06, base expenditures would continue to exceed revenues to the account in 2006-07.

18. Under the bill, commitments from the water resources account exceed available revenues by almost \$6.4 million. When estimated revenues and available balances are insufficient to fund appropriated expenditure levels, DNR is required (under s. 20.9045 of the statutes) to inform the Department of Administration, and to submit recommended appropriation reductions sufficient to bring expenditure levels in line with available revenues. Therefore, DNR expenditures from the water resources account (and from appropriations within that account) may not exceed anticipated revenues, regardless of approved expenditure authority. If no action was taken to adjust expenditures, DNR and DOA would be required to maintain expenditures at a level that could be

supported by anticipated revenues.

## ALTERNATIVES

1. Lapse the following amounts, from the continuing, uncommitted, balance of the identified appropriations to the general balance of the water resources account of the conservation fund. (These amounts represent the estimated uncommitted balances in the appropriations at the end of 2004-05.) Further, correct statutory language referring to the two boating access appropriations to accurately reflect each appropriation's title.

<u>Appropriation</u>	<u>Lapse Amount</u>
Lake Protection, Planning, and Management	\$150,000
Mississippi and St. Croix. Rivers acquisition	307,700
Statewide Boating Access Acquisition and Development	311,700
Recreational Boating Aids	<u>1,400,000</u>
TOTAL	\$2,169,400

2. Reestimate the water resources account supported sum-sufficient debt service appropriation for bonding related to dam repair and removal projects to \$452,300 in 2005-06 and \$448,900 in 2006-07. (A reduction of \$62,800 and \$65,700 to the bill.)

<b>Alternative 2</b>	<b>SEG</b>
<b>2005-07 FUNDING</b> (Change to Bill)	- \$128,500

3. Delete Legislative earmarks for (a) \$1.8 million for the Black Point Estate; and (b) \$700,000 for the renovation and repair of the Portage Canal (\$2.5 million from the continuing balance of the recreational boating aids appropriation would become available to the general balance of the water resources account.)

4. Reduce expenditures from the water resources account by the following amount in each year of the biennium. (Reductions would be built into the base for the 2007-09 biennium).

DNR Priorities

Water Regulation and Zoning	\$12,400
General Water Program Operations	1,100
Recreational Boating Aids Grant Program	464,600
Lake Protection Grant Program	547,800
Mississippi/St. Croix Rivers Acquisition Program	7,200
Facilities Maintenance	1,300
Administration	10,400
Customer Service and Licensing	3,700
Community Financial Assistance	3,800
Communication and Education	500
Customer Service Program Management	<u>2,200</u>
TOTAL	\$1,055,000

<b>Alternative 4</b>	<b>SEG</b>
<b>2005-07 FUNDING</b> (Change to Bill)	- \$2,110,000

5. Reduce expenditures from the water resources account by the following amount in each year of the biennium. (Reductions would be built into the base for the 2007-09 biennium).

Across-the-Board

Water Regulation and Zoning	\$71,200
Water Program Management	9,300
Lake and River Program Management	385,800
Lake Protection Grant Program	389,500
Law Enforcement	26,100
Water Resources--Public Health	3,100
Aquatic and Terrestrial Resources Inventory	15,900
Grants to Nonprofit Conservation Organizations	27,600
River Protection Grant Program	35,900
Mississippi/St. Croix Rivers Acquisition Program	7,700
Facilities Maintenance	1,300
Administration	38,300
Customer Service and Licensing	8,100
Community Financial Assistance	26,700
Communication and Education	3,200
Customer Service Program Management	<u>5,300</u>
TOTAL	\$1,055,000

<b>Alternative 5</b>	<b>SEG</b>
<b>2005-07 FUNDING</b> (Change to Bill)	- \$2,110,000

6. In addition to Alternative 4 or 5, specify that the entire \$2,110,000 reduction be applied on a one-time basis in 2005-06 only. (Reductions would not be built into the base for subsequent biennia.)

7. Take no action. (The Department would be required to maintain expenditures at a level that could be supported by available revenues.)

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