



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #569

Dry Cleaner Environmental Response Program (DNR -- Air, Waste, and Contaminated Land)

[LFB 2005-07 Budget Summary: Page 384, #9]

CURRENT LAW

The dry cleaner environmental response program was created in 1997 Act 27, effective October 14, 1997, to provide financial assistance awards for reimbursement of certain eligible costs of investigation and remedial action of contamination from dry cleaning solvents at current and certain former dry cleaning facilities. DNR administers the financial assistance and remediation components of the program. The Department of Revenue collects revenues to fund the program that include: (a) a dry cleaning fee paid by every operator of a dry cleaning facility equal to 1.8% of the gross receipts from dry cleaning; and (b) a dry cleaning products fee imposed on persons who sell a dry cleaning solvent to a dry cleaning facility equal to \$5.00 per gallon of perchloroethylene sold and \$0.75 per gallon of dry cleaning product other than perchloroethylene sold. Revenues received under the program totaled \$7,500,500 in 1997-98 through 2003-04 (including \$1,043,100 in 2003-04), and are anticipated to generate approximately \$1.1 million annually in 2004-05 and subsequent years. Revenues are deposited in the segregated dry cleaner environmental response fund. DNR is appropriated \$1,050,000 SEG in 2003-04 and \$1,050,000 SEG in 2004-05 in a biennial appropriation from the fund for financial assistance awards under the program. DNR expended \$508,000 SEG from the financial assistance appropriation in 2003-04 and has \$1,592,000 SEG available for expenditure in 2004-05. In 2004-05, DNR is appropriated \$189,000 SEG with 3.0 SEG positions to administer cleanup and financial assistance requirements. The Department of Revenue is authorized \$53,200 SEG with 1.0 SEG position in 2004-05 for administration of the revenues collected under the program.

GOVERNOR

Provide an additional \$1,000,000 in 2005-06 for financial assistance under the dry cleaner environmental response program. The bill would increase from \$2.1 million to \$3.1 million the amount available during the 2005-07 biennium for reimbursement of eligible costs of investigation and remedial action of contamination from dry cleaning solvents at current and certain former dry cleaning facilities.

DISCUSSION POINTS

1. DNR paid the first dry cleaner environmental response financial assistance awards in 2000-01. DNR has paid a cumulative total of \$4,888,000 for 96 claims for 47 eligible dry cleaner facility sites, including \$1,466,200 in 2004-05 as of April 25, 2005. As of that date, there was \$125,800 in remaining expenditure authority for financial assistance in 2004-05. DNR is reviewing approximately \$370,000 in dry cleaner environmental response claims, and anticipates that additional claims will be received before the end of 2004-05. DNR has informed some of the claimants with submitted applications that funds might not be available for payment of their claim until after June 30, 2005. DNR is reserving \$100,000 of the remaining expenditure authority until late in 2004-05 because of the requirement that 9.7% of the financial assistance appropriation in each year is set aside for immediate action activities. Immediate actions are remedial actions taken within a short time after a discharge of a dry cleaning product occurs, to halt the discharge, contain or remove the discharged dry cleaning product, or remove contaminated soil or water to minimize the harmful effects of the discharge. DNR anticipates it will receive a claim for approximately \$10,000 for reimbursement of immediate action activities late in 2004-05.

2. Department officials anticipate that payment of at least \$250,000 in claims received to date will be deferred until 2005-06, and any additional claims received before the end of June will also be deferred until 2005-06. While DNR had anticipated that the level of claims might exceed the available funds in 2004-05, the need to potentially defer claims was not known until December, 2004. DNR chose not to submit a s. 13.10 request to the Joint Committee on Finance for additional dry cleaner financial assistance funds in 2004-05.

3. Owners or operators of dry cleaning facilities have until August 30, 2008, to submit a notification to DNR of the potential for submitting a claim under the program. The notification must be done before conducting a site investigation or remedial action activity to cleanup an eligible contamination from dry cleaning products associated with their facility. It is possible that the level of activity under the program will increase between now and August 30, 2008, as site owners identify sites and notify DNR so the sites will retain eligibility.

4. DNR estimates that during the five years of 2003-04 through 2007-08, approximately 15 eligible sites will be identified per year, and will incur up to an average of \$140,000 per site during the five years after identification. DNR further estimates that, based on known sites and anticipated remedial action at newly-identified sites, claims submitted under the program might approach \$3 million per year in 2005-06 through 2007-08, and may reach a

cumulative total in future payments of almost \$20 million over the next eight to ten years. A more conservative estimate would equal approximately \$2.1 million per year during each of 2005-06 and 2006-07 (\$4.2 million during the biennium). Demand is expected to continue at that level through approximately 2009-10, then to gradually decline as cleanup of contamination is completed during the five years after the August 30, 2008, deadline to submit a notice of intent to submit a claim to DNR.

5. The amount of claims submitted under the dry cleaner environmental response program during the 2005-07 biennium may exceed the \$3,100,000 provided in the 2005-07 biennium under the bill by \$1 million or more. However, it is difficult to predict the total number of contaminated dry cleaner sites that will be identified or amount of claims that will be submitted, and the timing of submittal of claims.

6. The dry cleaner environmental response fund is expected to have a balance of approximately \$2.1 million on July 1, 2005. A balance of over \$2.5 million developed in the first few years of the program because collection of \$1.1 million in annual revenues began in 1997-98 and the program did not begin paying awards until 2000-01, after establishing administrative rules and procedures for the program. In addition, the year-end balance has remained above \$2 million because claims have been submitted for less than the appropriated amount in the four years that payments were made prior to 2004-05.

7. The estimated fund balance under the bill on June 30, 2007, is shown in the following table. It is anticipated there will be sufficient revenue to pay the \$1,000,000 in additional funds provided for financial assistance in 2005-06 under the bill. In addition, there will be a balance of almost \$600,000 on June 30, 2007.

Dry Cleaner Environmental Response Fund Condition -- AB 100

	2003-04 <u>Actual</u>	2004-05 <u>Estimated</u>	2005-06 <u>AB 100</u>	2006-07 <u>AB 100</u>
Opening Balance, July 1	\$2,573,500	\$2,852,500	\$2,104,500	\$858,300
Revenue	<u>1,043,100</u>	<u>1,100,000</u>	<u>1,080,000</u>	<u>1,075,000</u>
Total Revenue Available	\$3,616,600	\$3,952,500	\$3,184,500	\$1,933,300
Expenditures				
Financial Assistance Awards	\$508,000	\$1,592,000	\$2,050,000	\$1,050,000
Administration	<u>256,100</u>	<u>256,000</u>	<u>276,200</u>	<u>283,800</u>
Total Expenditures	\$764,100	\$1,848,000	\$2,326,200	\$1,333,800
Closing Balance	\$2,852,500	\$2,104,500	\$858,300	\$599,500

8. An additional \$550,000 could be appropriated in 2005-06 to increase funds for claims from \$3,100,000 under the bill to \$3,650,000, and to retain a small fund balance in the event that revenues are less than anticipated. While it is not certain that the additional funds would fund

all of the potential claim demand during the biennium, it would allow the appropriation of all expected revenues for dry cleaner claims during the two years. Providing the additional funds in the first year in the biennial appropriation would retain an ongoing base funding level for claims of \$1,050,000 in 2006-07 to remain more consistent with the expected revenues in future biennia.

9. If program costs continue to exceed estimated annual revenues of \$1.1 million, ongoing revenues and expenditures for the program would need to be reviewed in subsequent biennia.

10. If the claims appropriation is maintained at the current level (\$2.1 million for the biennium), or the level under the bill (\$3.1 million), and if incoming claims exceed available expenditure authority, DNR could request appropriation of available revenues under a s. 13.10 (quarterly meeting) request to the Joint Committee on Finance.

ALTERNATIVES

1. Approve the Governor's recommendation to provide \$1,000,000 in additional dry cleaner environmental response financial assistance in 2005-06, to provide a total of \$3,100,000 during the 2005-07 biennium.

2. Approve \$1,550,000 in additional dry cleaner environmental response financial assistance in 2005-06, to provide a total of \$3,650,000 during the 2005-07 biennium.

<u>Alternative 2</u>	<u>SEG</u>
2005-07 FUNDING (Change to Bill)	\$550,000

3. Maintain current law. A total of \$2,100,000 in base funding would be provided for dry cleaner environmental response financial assistance during the 2005-07 biennium.

<u>Alternative 3</u>	<u>SEG</u>
2005-07 FUNDING (Change to Bill)	-\$1,000,000

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