



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #598

Environmental Cleanup Bonding Authority (DNR -- Air, Waste, and Contaminated Land)

Bill Agency

[LFB 2007-09 Budget Summary: Page 430, #6]

CURRENT LAW

The Department of Natural Resources (DNR) is currently authorized a cumulative total of \$44 million in general obligation bonding authority for: (a) state-funded cleanup under the environmental repair statute (s. 292.31) or hazardous substances spills statute (s. 292.11) when construction is involved and no responsible party is known, willing or able to take the necessary action; and (b) the state's cost-share at federal Superfund or leaking underground storage tank trust fund sites. Debt service is paid from the segregated environmental management account of the environmental fund.

GOVERNOR

Provide an additional \$3,000,000 in general obligation bonding authority to conduct remedial action at contaminated sites. The bill would increase DNR's general obligation bonding authority for remedial action from \$44 million to \$47 million.

DISCUSSION POINTS

1. General obligation bonding can be used for public purpose projects such as cleanup of contaminated groundwater, soils and sediments, and activities such as investigation and remedial design associated with a cleanup of a specific site when the responsible party is unknown, unable or unwilling to fund the cleanup. Bonding authority cannot be used for general preliminary

investigations or certain cleanups funded by responsible parties.

2. State statutes require DNR to undertake cleanups of contaminated sites where human health and the environment are threatened and no responsible party is able or willing to do the cleanup. If DNR is able to later identify responsible parties who are able to pay part or all of the cleanup costs, the Department can recover costs from the responsible party. The cost recoveries are deposited in the environmental management account. DNR cost recoveries (excluding the Fox River cleanup which is separately budgeted) over the past four years have averaged \$850,000 annually (though they ranged from a low of \$150,000 to a high of \$2.1 million).

3. DNR administers a state-funded response appropriation through the environmental management account, which is budgeted at over \$2.4 million annually. DNR is investigating or doing active cleanup work at 50 to 60 sites with the state-funded response appropriation. The Department estimates that, while responsible parties may be identified and pay for some of the cleanups, at least a few sites will require significant remediation at state expense, with total costs of up to approximately \$1 million per site. DNR officials also anticipate they will use up to approximately \$800,000 per year from the state-funded response appropriation for needed state operation and maintenance at Superfund sites where the cleanup remedy has been constructed. (For example, when a cap is put on a landfill, there may need to be equipment running for several years to capture vapors that would otherwise be released to the environment.)

4. The state-funded response appropriation can be used for investigations, cleanups and operation and maintenance of the remedy. The bonding authority can be used for a cleanup activity that involves construction of a remedy, including associated professional services. Bonding has traditionally not been used for professional services contracts such as an investigation.

5. DNR believes that at least \$3 million of cleanup activity could require the commitment of bonding over the next several years. The amount of work beyond this level may be constrained by the amount of staff time available to develop a scope of work, contract with service providers and environmental consultants to complete remediation activities at contaminated sites, and monitor work performed under the cleanup contracts.

6. DNR anticipates that the types of sites where bonding might be used for cleanup activities include privately-owned landfills, municipal landfills, dry cleaning solvent spills where there is no responsible party able to take action under the dry cleaner environmental response program, industrial or manufacturing facilities with no viable responsible party, environmental accidents or emergencies, sites with petroleum contamination and no viable responsible party, contaminated sites discovered through brownfields or voluntary party cleanup activities, and Superfund sites where the state must pay a portion of the cleanup.

7. As of March 1, 2007, DNR has expended or encumbered \$41.4 million of the \$44 million in available remedial action bonding authority. DNR has anticipated commitments of an additional \$850,000 in bonding authority, for work at sites in Winnebago and Vernon Counties where investigative work has been completed and remedial design work is completed or underway,

and for operation and maintenance of remedial actions at six Superfund sites in Brown, Burnett, Dane, La Crosse, and Outagamie Counties. These activities might begin this summer. The remainder of currently authorized bonding authority has not yet been committed, but is expected to be committed over the next year.

8. While it is difficult to predict cleanup costs, DNR officials indicate that remediation projects which use bonding authority can vary considerably in cost. DNR has identified 12 sites where work is most likely to proceed in the 2007-09 biennium, and for which total cleanup costs might roughly be expected to total \$6 million to \$12 million. This includes projects in Dane, Dodge, Marathon, Milwaukee, Monroe, Outagamie, Ozaukee, St. Croix, Waukesha, and Vilas Counties. If the bonding authority is not increased, DNR would have to postpone work at more of these projects.

9. DNR indicates that there are several other large sites where cleanup work exceeding \$1 million per project could proceed if bonding authority is available (probably after the sites described above). These include sites such as the Delafield landfill in Waukesha County, Portage Canal in Columbia County, Kewaunee marsh in Kewaunee County, and New Richmond landfill in St. Croix County. However, DNR indicates that it is unlikely the \$3 million of bonding authority in the bill would allow cleanups to begin at any of these sites.

10. Beginning in 2001-02, payment of the debt service costs for the general obligation bonding authority for remedial action was converted from GPR to a SEG sum sufficient appropriation from the environmental management account of the environmental fund. Debt service amounts for 2003-04 through 2008-09 are shown in the following table.

**General Obligation Bond Debt Service Costs for
Contaminated Land Remediation**

<u>Year</u>	<u>Expenditure</u>
2003-04	\$1,601,400
2004-05	2,182,000
2005-06	3,008,900
2006-07 estimated	3,700,000
2007-08 SB 40	3,747,600
2008-09 SB 40	4,086,000

11. The environmental repair bonding authority under the bill would not be expected to significantly increase debt service costs during the 2007-09 biennium, but is anticipated to increase debt service costs in future biennia as bonds are issued to pay for cleanup projects. Debt service costs on \$3 million in general obligation bonds would be approximately \$240,000 annually (assuming a 20 year term).

12. As the amount of bonding issued for environmental repair increases, the amount spent for debt service increases. This places an increasing demand on limited revenues to the environmental management account. Separate budget papers describe funding sufficiency issues related to the vehicle environmental impact fee and environmental repair tipping fee revenues to the account.

13. DNR officials anticipate that the \$3 million in bonding authority under the bill, along with current levels of the state-funded appropriation, would allow the Department to maintain current projects and undertake one or two significant remediation projects per year at contaminated sites. Further, it may allow DNR to have funds available to negotiate with responsible parties in other cleanup actions.

14. DNR has found several cases where the availability of bonding authority has helped the Department convince responsible parties to undertake the cleanup themselves, rather than having the state do the cleanup with bonding authority and initiate cost recovery actions against the responsible party to recover the state's cleanup costs. When DNR pays for cleanup and recovers its costs from a responsible party, the cost recovery is deposited in the environmental management account, and used for any of the appropriations in the account, including debt service on the bonds.

15. There are several industrial and landfill sites where cleanup work is most likely to proceed if additional bonding authority becomes available. If \$1.5 million in bonding authority would be provided instead of the recommended \$3.0 million, it is likely that DNR would be able to proceed at existing projects where bonding has been committed. However, DNR may not be able to proceed with cleanup work at additional industrial and landfill sites.

16. If the \$3 million in environmental repair bonding authority is not provided, the Department would likely have to defer cleanup actions at a few contaminated sites and may not have funds available during negotiations with responsible parties. In addition, it is probable that debt service costs would not decrease in the 2007-09 biennium. Any cost savings to the environmental management account associated with deleting the bonding authority from the bill would likely not be recognized until 2009-11 and future biennia.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to provide an additional \$3,000,000 in general obligation bonding authority to conduct remedial action at contaminated sites.

ALT 1	Change to Bill Revenue	Change to Base Revenue
BR	\$0	\$3,000,000

2. Provide an additional \$1,500,000 in general obligation bonding authority to conduct

remedial action at contaminated sites (instead of \$3 million).

ALT 2	Change to Bill Revenue	Change to Base Revenue
BR	- \$1,500,000	\$1,500,000

3. Maintain current law.

ALT 3	Change to Bill Revenue	Change to Base Revenue
BR	- \$3,000,000	\$0

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