



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #272

Present Value Subsidy Limit – Land Recycling Loan Program (Environmental Improvement Fund)

[LFB 2013-15 Budget Summary: Page 154, #2 (part)]

CURRENT LAW

The land recycling loan program within the clean water fund provides financial assistance to local governments for the investigation and remediation of contaminated (brownfields) properties. Eligible projects include investigation and remediation of contamination at sites or facilities owned by the local government if the contamination has affected, or threatens to affect, groundwater or surface water. The land recycling loan program is funded with up to \$20 million, which comes from reallocation of repayments of clean water fund program loans made with the proceeds of federal grants to the clean water fund. There is \$1,000 in present value subsidy for the land recycling loan program for the 2009-11 biennium and \$1,000 for subsequent biennia. Land recycling loans are made with a 0% interest rate.

No funds were available for the land recycling loan program in 2009-10 through 2012-13 because 2009 Act 28 (the 2009-11 biennial budget act) authorized DNR and DOA to transfer up to \$6.2 million in anticipated unallocated funds, as a loan from the land recycling loan program to the dry cleaner environmental response program administered by DNR. The dry cleaner environmental response program provides reimbursement to owners for a portion of the costs of cleaning up discharges of dry cleaning solvents.

GOVERNOR

Maintain the current law authorization of \$1,000 in present value subsidy limit for the land recycling program for the 2013-15 biennium.

DISCUSSION POINTS

1. The current law authorization of \$1,000 in present value subsidy limit for the land recycling loan program would not be sufficient to fund any projects during 2013-15.

2. When the 2009 Act 28 provision to authorize a loan from the land recycling loan program (LRLP) to the dry cleaner environmental response fund (DERF) was enacted, the maximum \$6.2 million loan was based on the estimated amount needed for land recycling loan projects pending at the time. The intent was to make all remaining unallocated funds from the LRLP available for a loan to the DERF.

3. A total of nine land recycling loan program financial assistance agreements were entered into, with final disbursements completed in 2010 for \$13,500,343, which was less than the originally estimated loan amounts. Final disbursements for the nine agreements ranged from \$481,686 to \$4,484,713.

4. As of April 1, 2013, \$4,955,700 has been transferred from the LRLP to the DERF. Amounts are transferred quarterly, based on the estimated amount of dry cleaner environmental response claims DNR expects to receive during the quarter. It is anticipated that the maximum \$6.2 million will be transferred from the LRLP to the DERF near the end of the 2013-15 biennium or early in 2015-17.

5. After the maximum \$6.2 million is transferred, the remaining unallocated LRLP funds will total \$299,657, but will not be available for future land recycling loans unless the statutes are amended to establish a present value subsidy limit. Since land recycling loans are made at a 0% interest rate, a present value subsidy limit of \$300,000 could be established for the LRLP. However, it is uncertain whether a project could be found which would meet program eligibility requirements and need less than \$300,000. On the other hand, the LFLP loan could be a component in financing a larger project.

6. Alternatively, the remaining unallocated LRLP funds could be made available for transfer to the DERF by amending the statutory maximum loan amount from the LRLP to DERF from \$6,200,000 to \$6,500,000. The transferred funds could be used to pay claims under the dry cleaner environmental response program.

7. In addition to the loan from the LRLP, the dry cleaner environmental response program is funded from revenues that include: (a) a dry cleaning facility license fee paid by owners of dry cleaning facilities, equal to 2.8% of gross receipts from dry cleaning; and (b) a dry cleaning solvents fee paid by persons who sell dry cleaning solvents to dry cleaners, equal to \$5.00 per gallon of perchloroethylene, or \$0.75 per gallon of other dry cleaning products. The fees generate approximately \$1 million annually and have a statutory sunset of June 30, 2032. These fees are used to pay claims and will be used eventually to begin to repay the loan from the LRLP.

8. As of April 1, 2013, DNR has paid \$16,930,300 for partial or full cleanup at 148 eligible dry cleaner facilities. DNR received 230 notices of the potential for submitting a claim under the program by the August 30, 2008, deadline for establishing eligibility. DNR anticipates

the potential cumulative cost of the program will be approximately \$35.2 million. It is probable that sites will continue to be cleaned up under the program for the next 10 to 20 years.

9. The DERF is required to make a loan repayment to the LRLP of at least \$1,000 per year, under conditions of approval placed by the U.S. Environmental Protection Agency (EPA) on the memorandum of understanding entered into between DOA and DNR to transfer funds from LRLP to DERF. It is anticipated the loan will not be fully repaid for many years, due to current and anticipated demand for claims. It is possible that the loan repayments will not be satisfied when the dry cleaner fees end in 2032.

10. In December, 2011, the Governor's Dry Cleaner Environmental Response Council submitted a statutorily-required five-year report to the Governor and Legislature with recommendations for changes to the dry cleaner environmental response program, including a recommendation to forgive the loan from the land recycling loan program to the DERF. However, since the loan was made from the reallocation of repayments of clean water fund program loans made with the proceeds of federal grants to the clean water fund, it is subject to EPA regulations for the clean water fund. It is unlikely EPA would permit forgiveness of the loan because it would not meet EPA requirements for the type of projects financed, and would not meet the requirement that the state maintain the balance of loan repayments as a perpetually revolving loan fund.

ALTERNATIVES

1. Approve the Governor's recommendation to maintain the current "present value subsidy limit" of \$1,000 for the land recycling loan program.

2. Maintain the current \$1,000 present value subsidy limit for the land recycling loan program. In addition, increase the maximum amount that can be loaned from the land recycling loan program to the dry cleaner environmental response fund from \$6,200,000 to \$6,500,000 (an increase of \$300,000).

3. Provide a present value subsidy limit of \$300,000 for the land recycling loan program for 2013-15, and \$1,000 for subsequent biennia.

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