



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #526

Contaminated Sediment Bonding (Natural Resources -- Environmental Quality)

[LFB 2019-21 Budget Summary: Page 302, #1]

CURRENT LAW

Since 2007, the Department of Natural Resources (DNR) has been authorized a total of \$32 million in general obligation bonds to pay a portion of the costs of removal of contaminated sediment from Lake Michigan or Lake Superior or their tributaries, if the project is in a water body that DNR has identified, under the federal Clean Water Act, as being impaired by contaminated sediment. Debt service costs to repay the bonds are paid from a sum-sufficient appropriation from the segregated (SEG) environmental management account of the environmental fund, and totaled \$1,418,300 in 2017-18.

GOVERNOR

Authorize bonding revenue (BR) of \$25,000,000 to increase, from \$32 million to \$57 million, the total amount of SEG-supported general obligation bonds authorized to pay for a portion of the costs of removal of contaminated sediment from certain water bodies.

DISCUSSION POINTS

1. Under 2007 Wisconsin Act 20 (the 2007-09 biennial budget act), DNR was authorized \$17 million in general obligation bonding authority for removal of contaminated sediment from Lake Michigan or Lake Superior or their tributaries if federal funds were provided for the project under the federal Great Lakes Legacy Act. In each of the three subsequent biennial budgets (2009-11 through 2013-15), an additional \$5 million in bonding authority was provided, to reach the current authorization of \$32 million. Under 2009 Wisconsin Act 28, eligibility for use of the bonding authority was expanded so that projects do not have to receive federal funding under the Great Lakes

Legacy Act for a portion of costs, but projects must be in Lake Superior or Lake Michigan or their tributaries, and DNR must have identified the waterway as being impaired by contaminated sediment.

2. DNR has focused use of the contaminated sediment bonding authority on five Great Lakes Areas of Concern under EPA designation. These include the Milwaukee Estuary, Sheboygan River, Lower Green Bay and Fox River, Lower Menominee River (in Marinette, shared with Michigan), and St. Louis River (in Superior, shared with Minnesota).

3. The administration's rationale for recommending \$25 million in bonding authority rather than some other amount is that it would be a sufficient amount to fund potential project costs in several areas of the state over multiple years, based on priorities identified by DNR.

4. Contaminated sediment cleanup projects funded from the current bonding authority are shown in Table 1. A total of \$28.1 million in state bonding expenditures or encumbrances have funded or are currently funding six projects in Milwaukee, Sheboygan, Marinette, and Portage. In the fall of 2015, DNR made a determination that the Portage Canal, which connects the Great Lakes Basin to the Wisconsin River and Mississippi River, is an eligible tributary of Lake Michigan because the Portage Canal flows to the Fox River, Green Bay, and Lake Michigan. DNR estimates the state bonding expenditures leveraged approximately \$171 million in other expenditures, including almost \$135 million in federal and local government funding, \$35 million by responsible parties, and \$1 million in state funds from environmental repair bonding authority.

TABLE 1

Contaminated Sediment Projects Funded from Existing Bonding Authority

| <u>Project</u> | <u>Bonding Expenditures Encumbrances/Commitments</u> |
|--|--|
| Milwaukee – Kinnickinnic River | \$7,617,953 |
| Milwaukee – Lincoln Park / Milwaukee River Phase I | 9,719,434 |
| Sheboygan Harbor | 3,319,998 |
| Milwaukee – Lincoln Park / Milwaukee River Phase II | 3,387,420 |
| Marinette – Menominee River, Ansul/Tyco site | 1,000,000 |
| Marinette - Menekaunee Harbor | 500,000 |
| Portage Canal Phase 1 | 533,814 |
| Superior -- St. Louis River, Howards Bay | <u>2,000,000</u> |
| Total | \$28,078,619 |
| Remaining Uncommitted Currently Authorized Authority | \$3,921,381 |

5. Table 2 shows the potential contaminated sediment projects that meet eligibility requirements under current law, listed in DNR's estimated chronological order of work. The timeline for each project varies, depending on the specific situation of each project, status of investigations of contamination, and status of negotiation or agreements with responsible parties and local and federal government funding partners. While there is uncertainty about the timing of work at several of these

sites, DNR anticipates committing all of the remaining \$3.9 million in existing bonding authority and recommended \$25 million under the bill for a portion of \$70.9 million in anticipated state costs for projects in Superior, Milwaukee, and Portage before the end of the 2019-21 biennium. Approval of the recommended \$25 million would be expected to move several of these projects forward during the biennium [Alternative 1]. DNR estimates \$70.9 million in state bonding expenditures for these projects will leverage \$165 million in other expenditures, including almost \$130 million in federal and local government funding, and \$35 million by responsible parties.

TABLE 2

Potential Sites for Cleanup with Contaminated Sediment Bonding Authority

| <u>Project</u> | <u>Potential Bonding Expenditures (state cost share)</u> |
|--|--|
| Portage Canal Phase 2 | \$2,000,000 |
| Milwaukee -- Milwaukee River Confined Disposal Facility | 10,600,000 |
| Milwaukee -- Milwaukee River downstream of Estabrook Dam | 43,200,000 |
| Milwaukee -- South Menomonee Canal | 1,200,000 |
| Milwaukee -- Milwaukee River Harbor, Kinnickinnic River, including Solvay Coke manufacturing gas plant site | 3,700,000 |
| Superior -- St. Louis River, Superior Slips | 5,100,000 |
| Superior -- St. Louis River, Munger Landing | 2,100,000 |
| Superior -- St. Louis River, Crawford Creek | <u>3,000,000</u> |
| Total | \$70,900,000 |

6. In general, when DNR has bonding authority in place and available for allocation to a project, it makes it easier to assemble project funding packages that include federal and local governments and private responsible parties or other entities who can contribute funding to a contaminated sediment project. The Department needs bonding authority in place before it can allocate it to a project. DNR commits or allocates funding for a project when the project study reaches a stage of feasibility, and negotiations with other potential funding partners result in development of a complete funding package.

7. Debt service costs for bonds issued under the contaminated sediment bonding authority are expected to total approximately \$1.9 million in 2018-19, \$2.0 million in 2019-20, and \$2.0 million in 2020-21. The \$25 million in new bonding authority under the bill would not be expected to result in an increase in debt service costs in the 2019-21 biennium, but would be anticipated to increase debt service costs in future biennia as bonds are gradually issued to pay for contaminated sediment cleanup projects. Debt service costs on \$25 million in general obligation bonds would be approximately \$2 million annually when all of the bonds are issued, assuming a 20-year term and an interest rate of 5%. As the amount authorized and spent for contaminated sediment cleanup increases, the amount spent from the environmental management account for debt service would generally increase. This would decrease funding available for other purposes of the account, such as other contaminated land cleanup and recycling programs.

8. Another option would be to provide a smaller increase in bonding authority than the amount provided in the bill. For example, \$12.5 million could be provided instead of \$25 million [Alternative 2]. This would provide a total of \$16.4 million in authority for use in the 2019-21 biennium (\$3.9 million existing and \$12.5 million new) that has not been allocated to projects yet. This might provide DNR with sufficient flexibility to commit to move forward on some of the projects shown in Table 2.

9. Other contaminated sediment removal projects have been accomplished in the state with separate general obligation authority for remedial action and contaminated sediment cleanup, with debt service paid from a separate environmental management account SEG appropriation. This has included projects in Superior, Marinette, Milwaukee, and the Fox River (excluding the Fox River PCB cleanup). There is approximately \$5.2 million in authorized, unallocated bonding from this source. DNR officials anticipate the Department will allocate all or almost all of it during the 2019-21 biennium for four projects (Refuse Hideaway landfill in Dane County, Kewaunee Marsh, N.W. Mauthe building in Outagamie County, and La Crosse Marsh). This bonding is used primarily for the state's share of cleanup of federal Superfund sites, and state-funded cleanups under the environmental repair and hazardous substances spills statutes. Since the separate contaminated sediment bonding authority was created in 2007, DNR has tried to separately manage the remedial action bonding authority for contaminated land cleanup projects, and the contaminated sediment bonding authority for projects in the Great Lakes and their tributaries. However, if the Committee chooses to not provide an increase in contaminated sediment bonding authority, DNR could choose to use the remedial action bonding authority for contaminated sediment projects if it allocates all of the existing contaminated sediment bonding authority and needs additional authority during the 2019-21 biennium.

10. If no action is taken to provide additional bonding authority, DNR would need to prioritize commitment of the currently authorized, unobligated authority for projects, or it could allocate remedial action bonding authority [Alternative 3]. Although uncertain, local governments and responsible parties might be able to provide part of the funding for priority projects.

ALTERNATIVES

1. Approve the Governor's recommendation to provide \$25,000,000 BR to increase from \$32 million to \$57 million the amount of SEG-supported general obligation bonding authority for contaminated sediment cleanup.

| ALT 1 | Change to | |
|-------|--------------|------|
| | Base | Bill |
| BR | \$25,000,000 | \$0 |

2. Provide \$12,500,000 BR for contaminated sediment cleanup (instead of \$25,000,000 under the bill) to increase from \$32 million to \$44.5 million the amount of SEG-supported general obligation bonding authority for contaminated sediment cleanup.

| ALT 2 | Change to | |
|--------------|------------------|----------------|
| | Base | Bill |
| BR | \$12,500,000 | - \$12,500,000 |

3. Take no action.

| ALT 3 | Change to | |
|--------------|------------------|----------------|
| | Base | Bill |
| BR | \$0 | - \$25,000,000 |

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