



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #567

Environmental Repair Bonding Authority (DNR – Air, Waste, and Contaminated Land)

[LFB 2005-07 Budget Summary: Page 383, #6]

CURRENT LAW

DNR is authorized a cumulative total of \$41 million in general obligation bonding authority through the 2003-05 biennium to fund: (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. In addition, DNR is authorized a total of \$7 million for contaminated sediment cleanup in Lake Michigan or Lake Superior or a tributary of one of the two lakes under s. 283.83. The 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 to increase DNR's general obligation bonding authority for remedial action from \$41 million to \$44 million.

DISCUSSION POINTS

1. The general obligation bonding can be used for public purpose projects such as cleanup of contaminated groundwater, soils and sediments, and activities such as investigation, remedial design and 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 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.

3. DNR administers a state-funded response appropriation through the environmental management account, which includes expenditure authority of \$2,440,800 SEG in 2004-05, which would continue at that level in each of 2005-06 and 2006-07. DNR is investigating over 60 sites with the state-funded response appropriation and 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 up to \$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 release 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 but it cannot be used for the investigation, or long-term operation and maintenance of the remedy.

5. DNR anticipates that several million dollars of cleanup activity could require use of bonding over the next several years, but the amount of work would 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 April 1, 2005, DNR has expended or encumbered \$36.1 million of the \$41 million in available remedial action bonding authority. DNR has anticipated commitments of an additional \$6.3 million, which is more than the \$4.9 million in remaining bonding authority, for work at sites where investigative work has been completed and remedial design work is completed or underway, and implementation of the selected remedy may occur. This includes projects in Waukesha, Superior, Fond du Lac, Appleton, Siren (Burnett County), and several small projects

around the state. If the bonding authority is not increased, DNR would have to stop or slow work at some of these projects.

8. Beginning in 2001-02, payment of the debt service costs for the general obligation bonding authority for both remedial action and contaminated sediment remediation was converted from GPR to a SEG appropriation from the environmental management account of the environmental fund. In 2002-03, \$2,092,800 SEG was expended on general obligation bond debt service for remedial action and contaminated sediment remediation from the environmental fund appropriation. In 2003-04, \$1,601,400 SEG was expended for debt service, which was lower than estimated because of state debt restructuring initiatives to take advantage of lower interest rates and to reduce short-term liabilities. DOA recently reestimated the 2004-05 debt service payment to \$1,599,900. Debt service amounts are shown in the following table.

**General Obligation Bond Debt Service Costs for
Remedial Action and Contaminated Sediment Remediation**

<u>Year</u>	<u>Expenditure</u>
2002-03	\$2,092,800
2003-04	1,601,400
2004-05 estimated	1,599,900
2005-06 AB 100	3,520,800
2006-07 AB 100	3,769,200

9. 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, and have funds available to negotiate with responsible parties in cleanup actions.

10. DNR has found several cases where the Department has been able to convince responsible parties to undertake the cleanup themselves, rather than having the state do the cleanup and initiate cost recovery actions against the responsible party.

11. DNR officials indicate that remediation projects which use bonding authority can vary in cost from \$50,000 to \$4 million. There are several industrial and landfill sites where cleanup work is most likely to proceed if additional bonding authority becomes available. These include sites in Waukesha, Winnebago, Dane, Clark, St. Croix, Juneau and Vernon Counties.

12. 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 (such as those listed in the previous paragraph).

13. 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 2005-07 biennium. A portion of currently authorized bonding authority has not yet been issued, but is expected to be issued during 2005-07 and would begin incurring debt service costs as it is committed and issued. Any cost savings to the environmental management account associated with deleting the bonding authority from the bill would likely not be recognized until 2007-09 or future biennia.

ALTERNATIVES

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, increasing cumulative authority for this purpose to \$44 million.

2. Provide an additional \$1,500,000 in general obligation bonding authority to conduct remedial action at contaminated sites (instead of \$3 million), increasing cumulative authority for this purpose to \$42.5 million.

<u>Alternative 2</u>	<u>BR</u>
2005-07 REVENUE (Change to Bill)	- \$1,500,000

3. Maintain current law.

<u>Alternative 3</u>	<u>BR</u>
2005-07 REVENUE (Change to Bill)	- \$3,000,000

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