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Joint Committee on Finance

Paper #605

Bonding for Great Lakes Contaminated Sediment Removal (Natural Resources -- Waste, Remediation, and Air)

[LFB 2023-25 Budget Summary: Page 460, #12]

CURRENT LAW

Since 2007, the Department of Natural Resources (DNR) has been authorized \$40 million in contaminated sediment bonding authority to pay a portion of the costs of removal of contaminated sediment from Lake Michigan, 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. Of these amounts, DNR has expended or committed \$36.3 million as of March, 2023, on projects in which the state was responsible for cleanup, or a viable responsible party could not be identified. 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 \$2,193,600 in 2021-22.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would increase DNR's bonding authority by \$15,000,000 for removing contaminated sediments in Lake Michigan, Lake Superior, and their tributaries. Funding under the provision would support a portion of approximately \$40.3 million in additional priority state funding obligations identified for remediation in the Portage Canal, Milwaukee Estuary, Sheboygan River, St. Louis River, and Lake Superior. DNR reports that most of the remaining existing bonding authority would also be designated for these areas.

2. 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. In each of the 2019-21 and 2021-23 biennial budgets, an additional \$4 million was provided to reach the current total authorization of \$40 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.

3. DNR has focused use of the contaminated sediment bonding authority on five Great Lakes Areas of Concern (AOCs) under designation by the U.S. Environmental Protection Agency (EPA). 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). A general goal of listing AOCs is to implement practices to remediate the identified contamination and abate current pollution sources. Such management practices are intended to restore beneficial uses of the waterways by the public, as well as for fish and wildlife populations. The Lower Menominee River AOC was delisted in 2020, and was the first AOC in Wisconsin to be delisted.

4. Table 1 shows the contaminated sediment cleanup projects as of May 1, 2023, that were funded, are currently being funded, or are committed from the current bonding authority, totaling \$36.3 million. DNR estimates that \$36.3 million in state bonding expenditures for these projects would combine with at least \$270.9 million in other expenditures, including \$183.1 million in federal, other state, and local government funding, and \$57.9 million by responsible parties.

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
Milwaukee – Lincoln Park / Milwaukee River Phase II	3,387,420
Sheboygan Harbor	3,319,998
Marinette – Menominee River (Ansul/Tyco)	1,000,000
Marinette – Menekaunee Harbor	500,000
Portage Canal – Phase 1	533,814
Portage Canal – Phase 2	319,080
St. Louis River AOC -- Howard's Bay*	1,400,000
St. Louis River AOC -- Munger Landing*	330,120
Milwaukee AOC Planning and Dredged Material Management Facility (DMMF)*	7,500,000
Superior Slips Feasibility*	<u>630,000</u>
Total	\$36,257,819
Remaining Uncommitted Current Authority	\$3,742,181

* All or part of the funding shown is committed but not yet encumbered.

5. Table 2 shows the potential contaminated sediment projects that meet eligibility requirements under current law. 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 funding partners. The table presents projects in the order of readiness to begin, according to DNR. The Milwaukee DMMF project is most ready to begin, and the Portage Canal Phases 3 and 4 are least ready to begin.

6. While there is uncertainty about the timing of work at several of these sites, DNR anticipates committing all of the \$15 million under the provision for the anticipated state costs for the St. Louis and Milwaukee Areas of Concern. Approval of the \$15 million would be expected to move these projects forward during the 2023-25 biennium [Alternative 1].

TABLE 2

Potential Sites for Cleanup with Additional Contaminated Sediment Bonding Authority

<u>Project</u>	<u>Potential Bonding Expenditures (state cost share)</u>
Milwaukee -- DMMF Contingency	\$3,000,000
St. Louis River -- Superior Slips Construction	6,000,000
St. Louis River -- Superior Slips Design	1,100,000
St. Louis River -- Pickle Pond	1,500,000
Sheboygan River Characterization	175,000
St. Louis River -- Crawford Creek	3,000,000
Sheboygan River Dredging	1,500,000
Milwaukee River Floodplains	2,000,000
Milwaukee -- Bay View Grand Trunk Wetland	1,000,000
Portage Canal – Phases 3 and 4	<u>21,000,000</u>
Total	\$40,275,000

7. Generally, when DNR has bonding authority in place and available for allocation to a project, it is easier to assemble project funding packages that include federal and local governments, private responsible parties, or other entities that can contribute funding to a 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 results in development of a complete funding package.

8. Debt service costs for bonds issued under the contaminated sediment bonding authority are budgeted at \$1.9 million in 2023-24 and \$2.0 million in 2024-25 under Committee action to date. The \$15 million in new bonding authority under the provision would not be expected to result in an increase in debt service costs in the 2023-25 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 \$15 million in general obligation bonds would be approximately \$1.2 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, absent any other retirement of existing debt, or restructuring or refinancing of outstanding issues. This would decrease funding available for other purposes of the account, such as other contaminated land cleanup and recycling programs.

9. Another option would be to provide a smaller increase in bonding authority than the amount under the provision. For example, \$7.5 million, half the recommended amount, could be provided instead of \$15 million [Alternative 2]. This would provide a total of \$11.2 million in authority for use in the 2023-25 biennium (\$3.7 million existing and \$7.5 million new) that has not been allocated to projects yet. The Committee could also provide \$4 million in additional bonding authority, as was provided under 2019 Wisconsin Act 9 and 2021 Wisconsin Act 58 [Alternative 3].

10. In addition to, or instead of, any of Alternatives 1 through 3, the Committee could provide funding from environmental management SEG [Alternatives 4a through 4c]. This alternative would provide cash funding and therefore not obligate the account to debt service on additional bonding authority. Funding would be provided in a continuing appropriation in 2023-24.

11. 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. Although uncertain, local governments and responsible parties might be able to provide part of the funding for priority projects.

ALTERNATIVES

1. Provide bonding authority of \$15,000,000 for removing contaminated sediments in Lake Michigan, Lake Superior, and their tributaries.

ALT 1	Change to Base
BR	\$15,000,000

2. Provide bonding authority of \$7,500,000 for removing contaminated sediments in Lake Michigan, Lake Superior, and their tributaries.

ALT 2	Change to Base
BR	\$7,500,000

3. Provide \$4,000,000 for removal of contaminated sediment in Lake Michigan, Lake Superior, and their tributaries. (This would equal the amount provided under 2021 Act 58, the biennial budget act.)

ALT 3	Change to Base
BR	\$4,000,000

4. Create a continuing appropriation from the environmental management account of the segregated environmental fund for removal of contaminated sediment from the Great Lakes or tributaries. (This alternative can be moved in addition to any of Alternatives 1 through 3.) Specify one of the following one-time funding amounts in 2023-24:

a. \$15,000,000

ALT 4a	Change to Base
SEG	\$15,000,000

b. \$7,500,000

ALT 4b	Change to Base
SEG	\$7,500,000

c. \$4,000,000

ALT 4c	Change to Base
SEG	\$4,000,000

5. Take no action.

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