



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

---

May 13, 2003

Joint Committee on Finance

Paper #574

### **Environmental Repair Bonding Authority and Debt Service (Natural Resources – Air, Waste, and Contaminated Land)**

[LFB 2003-05 Budget Summary: Page 334, #3 and #4]

---

#### **CURRENT LAW**

DNR has been authorized a cumulative total of \$41 million in general obligation bonding authority through the 2001-03 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 has been 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.

In 2001 Act 16, 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 SEG from the environmental management account of the environmental fund. In 2001-02, \$1,722,200 SEG and no GPR was expended on general obligation bond debt service for remedial action and contaminated sediment cleanup. In 2002-03, debt service from an environmental fund SEG sum certain appropriation is authorized at \$2,700,000, and a GPR sum sufficient debt service appropriation exists to pay any debt service costs that exceed the \$2,700,000 SEG appropriation. In 2002-03, debt service costs are estimated at \$2,649,800 SEG and no GPR expenditures are expected.

## **GOVERNOR**

Provide \$6,000,000 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 \$47 million.

Provide an additional \$503,700 in 2003-04 and \$1,071,600 in 2004-05 to reestimate debt service payments for environmental repair general obligation bonds to \$3,203,700 in 2003-04 and \$3,771,600 in 2004-05. In addition to reestimating debt service, convert the environmental fund SEG debt service appropriation from sum certain to sum sufficient and repeal the GPR sum sufficient debt service appropriation. Under the bill, all costs for environmental repair and contaminated sediment cleanup debt service would be paid from environmental fund SEG.

## **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, 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. Under the current law provision of up to \$2,700,000 SEG annually for debt service, GPR debt service costs would be estimated at \$503,700 in 2003-04 and \$1,071,600 in 2004-05. Thus, conversion of the SEG appropriation from sum certain to sum sufficient under the bill would reduce GPR costs by \$503,700 in 2003-04 and \$1,071,600 in 2004-05.

3. As of late March, 2003, DNR has expended or encumbered \$34.4 million of the \$41 million in available remedial action bonding authority. DNR has committed or is expecting to commit the \$6.6 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 is expected to occur within the next year.

4. 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 and the cost recoveries are deposited in the environmental management account for appropriation for contaminated land cleanups or administration.

5. In addition to the use of bonding authority for remedial actions, under the bill DNR would have \$3,321,300 SEG annually from the environmental management account for state-funded response at sites that could be used for the same purposes as the bonding authorization. In addition, the SEG funding is used for emergency response to hazardous substances spills, response and cleanup of abandoned containers of hazardous substances where the responsible party cannot be

identified, provision of temporary emergency water supplies to persons whose water supplies have been contaminated by sites subject to state cleanup requirements, state-funded cleanups at abandoned privately-owned landfills, and DNR-lead cleanups resulting from responsible party payment of court settlements. The amount available for state-funded response was reduced during the 2001-03 biennium, when \$1,808,800 was transferred from the state-funded response appropriation to the general fund.

6. DNR is currently developing contracts for remedial action activities to be performed at industrial sites in Fond du Lac and Elkhorn, and at landfills in Delafield and Waukesha. Cost estimates for these projects exceed current bonding authorization. DNR officials are aware of project needs over the next few years that total over \$5 million, including costs for the state match at existing Superfund sites, and cleanup at sites in Ashland, Douglas, Winnebago, and Clark Counties. DNR is also investigating over 40 sites and estimates that, while responsible parties may be identified and pay for some of the cleanups, approximately four sites will require significant remediation at state expense, with total costs up to \$4 million. Finally, DNR prefers to retain a \$3 million bonding authority reserve as a negotiating tool with responsible parties. 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.

7. If the \$6 million increase in bonding authority is not provided, it is probable that debt service costs would not decrease in the 2003-05 biennium. A portion of currently authorized bonding authority has not yet been issued, but is expected to be issued during 2003-05 and would begin incurring debt service costs as it is committed and issued. DNR officials anticipate that the \$6 million in bonding authority under the bill, along with current levels of the state-funded appropriation, would allow the Department to maintain the State's provision of approximately \$1.6 million for a state match for federal Superfund sites, undertake one or two significant remediation projects per year at contaminated sites, and have funds available to negotiate with responsible parties in cleanup actions. If the \$6 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.

8. Debt service for the remedial action bonding authority also covers the existing \$7 million in general obligation bonding authority for contaminated sediment cleanup. As of late March, 2003, \$4.7 million of the \$7 million in authorized bonding has been expended or encumbered. These funds have been or are being used for contaminated sediment cleanups and removal of PCBs (polychlorinated byphenyls) for the North Avenue dam removal project in the Milwaukee River and several smaller deposits of contaminated sediments on the Fox River. DNR plans to use the \$2.3 million balance of the contaminated sediment bonding authority as the state share for federal Great Lakes cleanup funds.

9. Under the bill, debt service costs for the general obligation bonding authority for remedial action and contaminated sediment cleanup would use 13.3% of the estimated \$52.5 million in environmental management account revenues during the 2003-05 biennium (including 14.2% of

estimated revenues of \$26.6 million in 2004-05). If the vehicle environmental impact fee is not continued after December 31, 2003, and if no alternative revenues are provided, these debt service costs would comprise 34.3% of the \$11.0 million in remaining environmental management account revenues in 2004-05.

10. If the provision to convert all general obligation bonding debt service costs for remedial action and contaminated sediment from GPR to SEG is not approved, GPR costs would increase above the levels in the bill.

**ALTERNATIVES**

1. Approve the Governor’s recommendation to: (a) provide an additional \$6,000,000 in general obligation bonding authority to conduct remedial action at contaminated sites, increasing cumulative authority for this purpose to \$47,000,000; (b) provide an additional \$503,700 in 2003-04 and \$1,071,600 in 2004-05 to reestimate debt service payments for general obligation bonds for remedial action and contaminated sediment cleanup to \$3,203,700 in 2003-04 and \$3,771,600 in 2004-05; and (c) convert the environmental fund SEG debt service appropriation from sum certain to sum sufficient and repeal the GPR sum sufficient debt service appropriation.

2. Modify the Governor's recommendation to provide an additional \$3,000,000 instead of \$6,000,000 in general obligation bonding authority. Approve the Governor’s recommendation to convert the environmental fund SEG debt service appropriation from sum certain to sum sufficient and repeal the GPR sum sufficient debt service appropriation.

<b>Alternative 2</b>	<b>BR</b>
<b>2003-05 REVENUE</b> (Change to Bill)	- \$3,000,000

3. Delete the \$6,000,000 in additional general obligation bonding authority for remedial action. Approve the Governor’s recommendation to convert the environmental fund SEG debt service appropriation from sum certain to sum sufficient and repeal the GPR sum sufficient debt service appropriation.

<b>Alternative 3</b>	<b>BR</b>
<b>2003-05 REVENUE</b> (Change to Bill)	- \$6,000,000

4. Delete provision.

<u>Alternative 4</u>	<u>BR</u>	<u>GPR</u>	<u>SEG</u>
<b>2003-05 REVENUE</b> (Change to Bill)	- \$6,000,000	\$0	\$0
<b>2003-05 FUNDING</b> (Change to Bill)	\$0	\$1,575,300	- \$1,575,300

Prepared by: Kendra Bonderud