



**Fiscal Note Request SB0233, As Introduced**

(continued)

\$150,000 biennial appropriation due to uncertainty of legal expenses in any biennium. Although the fund switch recommendation should have been a new proposal, in the late efforts to meet general fund target reductions, this DP did not get converted.

4. A dedicated revenue form for the new legal contingency account is attached.

FISCAL IMPACT:

	<u>FY 2004</u> <u>Difference</u>	<u>FY 2005</u> <u>Difference</u>
<b>DEQ Law Enforcement DP-8013</b>		
<u>Expenditures:</u>		
Operating Expenses	\$65,000	\$65,000
<u>Funding:</u>		
General Fund	(\$65,000)	(\$65,000)
State Special (02)	\$65,000	\$65,000
<b>Centralized Management Legal Unit DP PL-44</b>		
<u>Expenditures: (biennial approp)</u>		
Operating Expenses	\$150,000	\$0
<u>Funding:</u>		
General Fund	(\$150,000)	\$0
State Special (02)	\$150,000	\$0
<u>Revenues:</u>		
General Fund (01)	(\$75,000)	(\$75,000)
State Special Revenue (02)		
Air Quality-Operating Fees (02201)	\$55,000	\$55,000
Alternative Energy Revolving Loan (02555)	(\$55,000)	(\$55,000)
Legal Defense and Bankruptcy Account (02291)	\$75,000	\$75,000
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	\$140,000	(\$10,000)
State Special Revenue (02)	(\$85,000)	(\$10,000)

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**DEDICATION OF REVENUE:**

- a) *Are there persons or entities that benefit from this dedicated revenue that do not pay?* (please explain)  
No, these legal costs must be paid by the state regardless of the funding source.
- b) *What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?*  
These costs represent legal contingency, should the DEQ be involved in one or more lawsuits or bankruptcy actions that require hiring of outside counsel or expert witness, involve intensive depositions or travel, or should the department lose litigation and be required to cover opposing parties' court costs under the Private Attorney General Doctrine. Given the litigious nature of environmental regulation, the DEQ must plan for this contingency in a given biennium. However, if the department were to request a general fund appropriation and should no such need arise, then general fund appropriation would have been overstated and committed unnecessarily. The mechanism outlined in SB 233 provides a funding source for this contingency without tying up potentially unneeded general fund appropriation; if these funds are not needed during the biennium, the money would then revert to the general fund at the end of the biennium.
- c) *Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended?*  Yes  No (if no, explain)
- d) *Does the need for this state special revenue provision still exist?*  Yes  No (Explain)
- e) *Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending?* (Please Explain)  
No, the legislature would still be able to scrutinize budgets, control expenditures, and establish priorities.
- f) *Does the dedicated revenue fulfill a continuing, legislatively recognized need?* (Please Explain)  
Yes. Environmental regulation is litigious, thus the Department frequently runs the risk of needing legal contingency funds, either for defense of lawsuits or for trying to collect money from a company in bankruptcy.
- g) *How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency?* (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)  
The department already administers various funds and this bill would not cause any accounting/auditing efficiencies or inefficiencies for DEQ.