SB 18-063

Legislative
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FINAL FISCAL NOTE

Drafting Number:	LLS 18-0640	**Date:**	July 11, 2018
Prime Sponsors:	Sen. Jones Rep. Benavidez	**Bill Status:**	Postponed Indefinitely
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Bill Topic: OIL GAS HIGHER FIN ASSURANCE RECLAMATION REQMNTS

Summary of Fiscal Impact:

- ☒ State Revenue
- ☒ State Expenditure
- ☐ State Transfer
- ☒ TABOR Refund
- ☐ Local Government
- ☐ Statutory Public Entity

The bill requires that oil and gas operators provide financial assurances and reclamation plans for all new oil and gas development. The bill increases state expenditures and revenue in the Department of Natural Resources beginning FY 2018-19. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Appropriation Summary: For FY 2018-19, the bill requires a cash fund appropriation of $1,242,837 and 11.6 FTE.

Fiscal Note Status: This fiscal note reflect the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 18-063

		FY 2018-19	FY 2019-20
Revenue	Cash Funds	$90,000	$90,000
	Total	**$90,000**	**$90,000**
Expenditures	Cash Funds	$1,242,837	$1,223,690
	Centrally Appropriated	$251,951	$278,296
	Total	**$1,494,788**	**$1,501,986**
	Total FTE	11.6	14.00
Transfers		-	-

Summary of Legislation

The bill requires an oil and gas operator to provide financial assurance to the state that it is capable of fulfilling every obligation of the Oil and Gas Conservation Act. The Colorado Oil and Gas Conservation Commission (COGCC) in the Department of Natural Resources (DNR) must conduct an up-front financial viability analysis of an operator, and may only accept an assurance that clearly demonstrates the ability to finance every reasonably foreseeable eventuality related to compliance. The COGCC must set a fee by rule to recover the commission's cost to conduct the up-front financial viability analysis.

Every operator that applies for a permit or permit amendment must submit and execute a proposed reclamation plan on all affected land. The bill sets general requirements for the reclamation plan and its implementation, which must conform to the affected land's intended post production uses. The COGCC must approve the reclamation plans after conferring with county commissioners and, if applicable, supervisors of a conservation district that contains the land.

On the yearly anniversary of the permit date, operators must submit a report and map to the COGCC showing existing disturbances, reclamation accomplished to date and during the preceding year, and new disturbances and planned reclamation for the upcoming year.

Background

Under current law, oil and gas operators are required to provide financial surety (bond or other mechanism) for the eventual plugging of an oil and gas well. A portion of the oil and gas conservation levy is used to fund the plugging and reclamation of wells for which no operator can be found, or to supplement the available bond. These wells are referred to as “orphan” wells.

The orphaned wells program administered by the COGCC is responsible for ensuring that orphaned oil and gas sites are properly plugged, reclaimed, and abandoned in accordance with commission rules. The program is funded by an appropriation of $445,000 from the Oil and Gas Conservation and Environmental Respond Fund, which primarily consists of revenue from the oil and gas conservation levy.

Based on the COGCC's current financial assurance requirements, the cost of reclamation can exceed the amount in bonding required by an operator. Oil and gas operators are required to post an individual bond of $10,000 for a shallow well, and $20,0000 for a deep well. Operators may also post a blanket bond of $60,000 for up to 100 wells, or $100,000 bond for 100 or more wells.

State Revenue

State revenue is estimated to increase by at least $90,000 in both FY 2018-19 and FY 2019-20. The bill requires that the COGCC establish an application fee for approval of an operator's financial assurance in an amount sufficient to recover the cost to conduct an up-front financial viability analysis. New expenditures for this provision are estimated at approximately $90,000 annually, based on the personnel cost and operating expenses of a financial professional to conduct the up-front analysis.

Fee impact on oil and gas operators. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fee calculations will be set administratively by the COGCC based on cash fund balance, estimated program costs, and the estimated number of applications subject to the fee. Currently, there are approximately 90 operators for whom an up-front financial analysis will be conducted. The DNR will analyze one half these operators in FY 2018-19 and the other half in FY 2019-20. Table 2 identifies the estimated fee impact of this provision.

Table 2
Fee Impact on Oil and Gas Operators

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2018-19	Financial Viability Analysis	$2,000.00	45	$90,000
			FY 2018-19 Total	**$90,000**
FY 2019-20	Financial Viability Analysis	$2,000.00	45	$90,000
			FY 2019-20 Total	**$90,000**

TABOR Refund

The bill increases state revenue subject to TABOR by $90,000 in both FY 2018-19 and FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

State Expenditures

For FY 2018-19, the bill increases state expenditures by about $1.5 million and 11.2 FTE. For FY 2019-20, state expenditures increase by about $1.5 million and 13.5 FTE. These costs are detailed in Table 3 and discussed below. New expenditures in FY 2018-19 are prorated to reflect the bill's August 9, 2018 effective date and assume all costs begin September 1, 2018.

Table 3
Expenditures Under SB 18-063

	FY 2018-19	FY 2019-20
Department of Natural Resource		
Personal Services	$968,387	$1,037,573
Operating Expenses and Capital Outlay Costs	$76,482	$12,825
Financial Consultant	$40,000	$16,000
Training / Equipment / Travel	$78,048	$61,388
Legal Services	$79,920	$95,904
Centrally Appropriated Costs*	$251,951	$278,296
FTE – Personal Services	11.2	13.5
FTE – Legal Services	0.4	0.5
Total Cost	**$1,494,788**	**$1,501,986**
Total FTE	**11.6**	**14.0**

** Centrally appropriated costs are not included in the bill's appropriation.*

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, and an indirect rate of 4.94 percent for the DNR are estimated to be $251,951 in FY 2018-19 and $278,296 in FY 2019-20.

Financial viability analysis. The DNR will require 2.0 FTE financial assurance specialists to determine the appropriate requirements for an estimated 600 new oil and gas applications yearly, and to conduct the associated administrative work to annually update records and verify financial instruments as reclamation is reported. An additional 1.0 FTE is required to conduct the up-front financial viability analysis of oil and gas operators, and 1.0 FTE environmental specialist and a leased vehicle is needed to conduct site evaluations and verifications related to any permit application disputes. The DNR will contract with a consultant to establish the risk and cost of the different types of oil and gas operations, and to establish a standard of review for use by COGCC staff.

Reclamation plans. The DNR will require 6.0 environmental FTE to review and approve reclamation plans and 2.5 enforcement FTE to track compliance and follow up with enforcement action when necessary. New personnel will review and approve plans for an estimated 600 new applications yearly, review and verify maps and reports submitted on the permit anniversary date, issue notices of alleged violations and administrative orders, and enforce compliance.

Data management. The DNR requires 1.0 FTE data analyst to create and maintain the data management and reporting tools necessary to process the application data associated with financial assurances, reclamation plans, annual reporting requirements, operator notification, and inspections and enforcement.

Effective Date

The bill was postponed indefinitely by the Senate State, Veterans & Military Affairs Committee on February 1, 2018.

State Appropriations

For FY 2018-19, the bill requires a cash funds appropriation to the Department of Natural Resources of $1,242,837 from the Oil and Gas Conservation and Environmental Response Fund.

State and Local Government Contacts

Law   Natural Resources