Colorado Legislative Council Staff

HB17-1124

FISCAL NOTE

FISCAL IMPACT: ☒ State ☒ Local ☐ Statutory Public Entity ☒ Conditional ☐ No Fiscal Impact

Drafting Number:	LLS 17-0484	**Date:**	February 8, 2017
Prime Sponsor(s):	Rep. Buck Sen. Neville T.	**Bill Status:**	House SVMA
		Fiscal Analyst:	Josh Abram (303-866-3561)

BILL TOPIC: LOCAL GOV LIABLE FRACKING BAN OIL & GAS MORATORIUM

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue Cash Funds	Potential increase. See State Revenue section.	
State Expenditures	Workload increase. See State Expenditures section.	
Appropriation Required: None.		
Future Year Impacts: Conditional local government impact.		

Summary of Legislation

This bill provides for the compensation of a royalty owner when a local ordinance, resolution, or other policy prohibits the practice of hydraulic fracturing to recover oil and gas within a local government's jurisdiction, or places a moratorium on oil and gas activities. The local government is liable to the mineral interest owner for the value of the mineral interest not received due to the prohibition or moratorium. The bill also requires that a local government that enacts a moratorium on oil and gas activities compensate oil and gas operators, mineral lessees, and royalty owners for all costs, damages, and losses of fair market value associated with the moratorium.

Background

Oil and gas production in Colorado. Colorado has several regions with significant oil and gas production. The most active area is the Wattenberg Field, centered in Weld County. Other high activity areas include the Piceance Basin and Rangley Field in Northwestern Colorado, and the Ignacio Blanco in Southern Colorado.

State lands. The State Land Board (SLB) in the Department of Natural Resources receives royalty payments from oil and gas production on the state lands it holds and manages. Revenue from mineral interests, primarily oil and gas, account for over 80 percent of SLB revenue in recent fiscal years.

Local rules. Cities, towns, and counties may enact certain rules that attempt to restrict hydraulic fracturing. A local rule may regulate oil and gas exploration and recovery, or, in the case of a moratorium, it may suspend local approval of such activities while the issue is studied.

In 2016, the Colorado Supreme Court overturned local Front Range cities' limits on oil and gas development, including local limitations on oil and gas development passed in Fort Collins, Loveland, Longmont, and Lafayette. In these cases, the Supreme Court ruled that local limitations were preempted by state law.

Royalty values. Estimates of royalty values are based on numerous assumptions, including consideration of the feasibility of drilling, commodity prices, production rates, and royalty owner contributions to the costs of production. No estimate of royalty values is made in this fiscal note.

Assumptions

Under current law, state regulation of oil and gas development preempts local regulation. This fiscal note assumes that local ordinances or policies that prohibit the practice of hydraulic fracturing to recover oil and gas, or moratoriums on oil and gas activity within a local government's jurisdiction will be rare or non-existent unless and until the state's constitution is amended. Given this rarity, the bill's requirement that local governments compensate oil and gas operators, mineral lessees, and royalty owners as a result of local ordinance or policy is highly unlikely. For this reason, the remaining impacts are conditional; a local government could experience these impacts only if that government acts via ordinance or formal policy to limit the practice of hydraulic fracturing or places a moratorium on oil and gas activities.

State Revenue

The SLB receives royalty payments for oil and gas production on its lands. The bill will allow the SLB to seek reimbursements for lost royalty revenue should a local government adopt ordinance or policy to prohibit the practice of hydraulic fracturing, which has a conditional revenue impact for the SLB. No significant SLB revenue has been affected by previous prohibitions in local jurisdictions.

State Expenditures

Judicial Department. Beginning in FY 2017-18, the bill potentially increases workload in trial courts of judicial districts where a local government prohibits hydraulic fracturing. This increase is conditional; workload only increases if a local government decides to restrict the practice of hydraulic fracturing to recover oil and gas in a local jurisdiction. Any increase in workload is not expected to require new appropriations.

Local Government Impact

The bill potentially increases expenditures and workload for any local government that prohibits hydraulic fracturing in the future, or places a moratorium on oil and gas activities. This increase includes paying the amount of lost royalties as a result of the prohibition, the fair market value of the unsevered minerals, and other costs and damages incurred by oil and gas operators, mineral leases, and other royalty holders. Local governments will also have increased work and related legal expenses to adjudicate these cases. The workload of municipal courts may also increase in some limited cases. This fiscal note assumes that local governments are unlikely to enact future bans of hydraulic fracturing; this fiscal note makes no estimate of the value of minerals or royalties potentially affected.

Effective Date

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Colorado Counties	Colorado Municipal League
Local Affairs	Natural Resources
Public Health & Environment	Public Safety
Special District Association	