

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 09-0927

Date: May 8, 2009

Prime Sponsor(s): Rep. Curry
Sen. Isgar

Bill Status: Postponed Indefinitely

Fiscal Analyst: Marc Carey (303-866-4102)

TITLE: CONCERNING THE ADDITION OF THE DIVISION OF WATER RESOURCES IN THE DEPARTMENT OF NATURAL RESOURCES TO THE LIST OF ENTITIES ELIGIBLE TO RECEIVE FIRST TIER FUNDING FROM THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND, AND, IN CONNECTION THEREWITH, MODIFYING APPROPRIATIONS MADE TO THE DIVISION OF WATER RESOURCES IN THE GENERAL APPROPRIATION ACTS FOR THE 2008-09 AND 2009-10 FISCAL YEARS.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010	FY 2010-2011
State Revenue			
State Expenditures			
General Fund	(\$500,000)	(\$2,248,609)	(\$2,060,210)
Cash Funds			
Severance Tax Trust Fund - Operational Acct	537,757	2,493,730	2,493,730
FTE Position Change			
Effective Date: The bill was postponed indefinitely by the Senate Agriculture and Natural Resources Committee on April 29, 2009.			
Appropriation Summary for FY 2009-2010: See State Appropriations section.			
Local Government Impact: None.			

Summary of Legislation

This bill changes permissible appropriations from the Operational Account of the Severance Tax Trust Fund to the Department of Natural Resources (DNR) as follows:

- reduces the share of the account that may be used to fund programs within the Division of Reclamation, Mining and Safety (DRMS) from 25 to 20 percent; and
- allows appropriations of up to 5 percent for programs within the Division of Water Resources (DWR).

The bill also refinances the personal services, operating and indirect cost assessment portions of the DWR's budget so that it is paid using money from the Operational Account of the Severance Tax Trust Fund. Under current law, these expenses are covered with General Fund.

Background

Severance Tax Trust Fund - Operational Account. The Operational Account receives 25 percent of severance tax receipts. Moneys in the account have traditionally been used to fund the Oil and Gas Conservation Commission, the Geological Survey, Minerals and Geology, and the Water Conservation Board within the Department of Natural Resources: SB 08-13 also provided funding for the Division of Wildlife and the Division of Outdoor Parks and Recreation from this account. These programs are collectively referred to as tier 1 programs. In the last several years, the account has also funded various other programs, including water efficiency grants, low income energy assistance, species conservation and invasive species mitigation, among others. These programs are collectively known as tier 2 programs.

Statutory Reserve Requirements. HB 08-1398 established a reserve requirement for the Operational Account equal to the current year appropriations for the tier 1 programs in the DNR plus 15 percent of the tier 2 program appropriations. If the severance tax forecast prepared by the Legislative Council Staff in December or March indicates that there is insufficient revenue to fully fund tier 2 programs and maintain this reserve requirement, funding for tier 2 programs from this account are reduced proportionally. If the actual revenue received in the Operational Account at the end of the fiscal year is sufficient to make the transfers and meet the reserve requirement, the State Treasurer will make proportional distributions back to those accounts in the following fiscal year.

State Expenditures

Department of Natural Resources, Division of Water Resources. The bill increases cash fund expenditures from the Operational Account of the Severance Tax Trust Fund by \$537,757 in FY 2008-09, by \$2,493,730 in FY 2009-10 and by \$2,493,730 in FY 2010-11. The bill correspondingly reduces General Fund expenditures by \$500,000 in FY 2008-09, \$2,248,609 in FY 2009-10 and \$2,060,210 in FY 2010-11. The differences of \$37,757 in FY 2008-09, \$245,121 in FY 2009-10 and \$433,520 in FY 2010-11 are attributable to a pay date shift and increases in indirect costs that result from the funding shift from General Fund to cash funds.

In addition, the inclusion of DWR as a tier 1 program funded by the Operational Account affects available funding for the account's tier 2 programs as well as the reserve requirement. Because this bill increases aggregate funding for tier 1 programs, per the provisions of HB 08-1398, the required reserve increases in FY 2009-10 and FY 2010-11 by the amount appropriated for the DWR. To generate this reserve increase, aggregate funding for tier 2 programs decreases by \$5.5 million in FY 2009-10 but then only declines by \$2.4 million in FY 2010-11. This assumes a proportional reduction of funding for tier 2 programs of 45.1 percent in FY 2009-10, compared to the 38.3 percent that would occur without the inclusion of the DWR as a tier 1 program. Table 1 summarizes spending from the Operational Account of the Severance Tax Trust Fund under both current law and HB 09-1308.

Table 1. Effect of HB 09 - 1308 on the Operational Account of the Severance Tax Trust Fund			
	FY 2008-09 (Appropriated)	FY 2009-10 (Request)	FY 2010-11 (Estimated)
Spending Under Current Law			
Funds Available for Appropriation	\$103,087,101	\$54,179,321	\$53,341,888
<u>Total Obligations</u>	<u>87,262,490</u>	<u>60,119,482</u>	<u>58,832,048</u>
Tier 1 Programs	14,404,981	14,609,638	15,374,551
Tier 2 Programs	49,865,589	24,960,046	22,592,786
Reserve Requirement	22,244,710	20,549,798	20,864,711
<u>Other Obligations</u>	<u>747,210</u>	<u>0</u>	<u>0</u>
Unobligated Balance	15,824,611	(5,940,161)	(5,490,161)
Total Obligations Under HB 09-1308			
Funds Available for Appropriation	\$103,087,101	\$53,641,564	\$55,835,618
<u>Total Obligations</u>	<u>\$87,800,247</u>	<u>\$59,581,725</u>	<u>\$61,325,778</u>
Tier 1 Programs	14,942,738	17,103,368	17,868,281
Tier 2 Programs	49,865,589	19,434,829	20,099,056
Reserve Requirement	22,244,710	23,043,528	23,358,441
<u>Other Obligations</u>	<u>747,210</u>	<u>0</u>	<u>0</u>
Unobligated Balance	15,286,854	(5,940,161)	(5,490,161)

The above numbers reflect the latest estimates for the Operational Account. In both FY 2009-10 and FY 2010-11, total obligations exceed estimated funds available for appropriation by the same amount since both the available funds and total spending are affected. This fiscal note does not account for other efforts to balance the Operational Account which may move concurrently through the legislative process.

State Appropriations

For FY 2008-09, the Department of Natural Resources will require a cash funds appropriation of \$537,757 from the Operational Account of the Severance Tax Trust Fund for allocation to the Division of Water Resources. The department will also require a General Fund appropriation reduction of \$500,000.

For FY 2009-10, the Department of Natural Resources will require a cash funds appropriation of \$2,493,730 from the Operational Account of the Severance Tax Trust Fund for allocation to the Division of Water Resources. The department will also require a General Fund appropriation reduction of \$2,248,609.

Departments Contacted

Natural Resources