


Colorado Legislative Council Staff Fiscal Note
FINAL
FISCAL NOTE

Drafting Number: LLS 09-0152
Prime Sponsor(s): Rep. Gardner C.
 Sen. Kopp

Date: May 12, 2009
Bill Status: Postponed Indefinitely
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TITLE: CONCERNING LIMITATIONS ON THE CONDITIONS IMPOSED BY THE COLORADO OIL AND GAS CONSERVATION COMMISSION ON OIL AND GAS OPERATIONS TO IMPLEMENT RECOMMENDATIONS MADE BY STATE ENTITIES OTHER THAN THE COMMISSION.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
State Expenditures		
Cash Funds		
Oil and Gas Conservation and Environmental Response Fund	\$ 84,880	\$ 69,780
FTE Position Change	1.0 FTE	1.0 FTE
Effective Date: The bill was postponed indefinitely by the House Agriculture, Livestock, and Natural Resources Committee on February 20, 2009.		
Appropriation Summary for FY 2009-2010: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

HB07-1298 established the Colorado Habitat Stewardship Act of 2007. The act directed the Oil and Gas Conservation Commission (OGCC), in consultation with the Colorado Wildlife Commission, to minimize adverse impacts to wildlife from oil and gas development. The OGCC developed rules regarding oil and gas development standards based on the bill's requirements.

This bill changes the act as follows:

- ▶ oil and gas operators are no longer required to consult with the Division of Wildlife (DOW) in the Department of Natural Resources to determine whether wildlife mitigation requirements are reasonably practicable;
- ▶ "reasonably practicable" is defined as technically and economically feasible;
- ▶ the OGCC will determine whether wildlife mitigation requirements are reasonably practicable and will conduct a cost-benefit analysis upon appeal;
- ▶ applicants may request a variance if an appeal is filed – the OGCC must grant or deny the variance within 5 days;

- ▶ the OGCC cannot restrict surface occupancy on private land without consent of the owner;
- ▶ the OGCC must establish presumptive best management practices; and
- ▶ executive directors from the Department of Natural Resources and the Department of Public Health and Environment are excluded from participating in appeals.

State Expenditures

Total state expenditures are estimated to be \$84,880 and 1.0 FTE in FY 2009-10 and \$69,780 and 1.0 FTE in FY 2010-11. Expenditures are within the OGCC in the Department of Natural Resources. Table 1 and the discussion that follows describe the cost components of HB09-1255.

Table 1. Expenditures under HB09-1255		
Cost Components	FY 2009-10	FY 2010-11
Personal Services	\$51,680	\$51,680
<i>FTE</i>	<i>1.0</i>	<i>1.0</i>
Operating Expenses and Capital Outlay	6,178	950
Contracted Services	14,750	13,650
Hearings	12,272	3,500
TOTAL	\$84,880	\$69,780

Department of Natural Resources – Oil and Gas Conservation Commission. Under this legislation, it is assumed that rules promulgated by the OGCC still apply and the OGCC will attempt to maintain designated restricted surface occupancy areas as such. The following costs are anticipated under this bill:

- ▶ *Mitigation Appeals (\$23,077)* – Of the 6,000 permits impacted by this bill, 40 percent are anticipated to appeal (2,400). Assuming 10 well-sites per area, the OGCC will perform 240 cost-benefit analyses over two fiscal years. The OGCC requires a Program Assistant (0.5 FTE) to shepherd cost-benefit analyses through the process. The cost-benefit analyses will be provided through contract services. Although analysis costs have not been estimated at this time, they could be substantial.
- ▶ *Mitigation Variances (\$34,781)* – A Wildlife Biologist (0.5 FTE) will review variances each year. Of the 240 mitigation appeals, it is expected that nearly all will request a variance.
- ▶ *Consent for restricted surface occupancy areas (\$14,750)* – Contract services will be used to determine which property owners have land in restricted surface occupancy areas. The contractor will then attempt to contact

landowners to receive permission to restrict surface occupancy for oil and gas operations. Costs are estimated based on contact with 100 landowners – 80 over the phone and 20 in person.

- ▶ *Hearing Costs (\$12,272)* – The OGCC will have to hold public hearings to promulgate rules regarding the establishment of best management practices. Additionally, the OGCC will have 7 administrative hearings to provide variances to mitigation measures. Hearing costs include commissioner compensation and travel compensation.
- ▶ *Wildlife mitigation (\$0)* – Although landowners are no longer required to meet with the DOW, the OGCC will consult with wildlife biologists to determine whether wildlife mitigation requirements are reasonably practicable.

Department of Public Health and Environment. The director of the Department of Public Health and Environment sits on the OGCC. The requirements of this bill are anticipated to require 10 days of time for the director, both in attending meetings and preparing for them. This cost will be accomplished within existing appropriations.

Expenditures Not Included

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. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Expenditures Not Included under HB09-1255*		
Cost Components	FY 2009-10	FY 2010-11
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$6,846	\$6,846
Supplemental Employee Retirement Payments	1,505	1,922
TOTAL	\$8,351	\$8,768

*More information is available at: http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf

Departmental Differences

The Department of Natural Resources estimated costs of \$213,343 and 1.5 FTE in FY 2009-10 and \$150,655 and 1.5 FTE in FY 2010-11. This fiscal note differs in the following ways:

- ▶ *Mitigation Appeals (\$46,153 and 1.0 FTE)* – Both fiscal note and the department's analysis are based on 240 appeals. However, the department assumed all appeals would be processed in the first year. Additionally, the

department analysis assumed another 240 appeals will be made each year. This fiscal note addresses 240 appeals over two fiscal years and anticipates a reduction in future appeals. The personnel costs are reduced from 1.0 FTE to 0.5 FTE.

- ▶ *Mitigation Variances (\$37,870)* – The department fiscal impact is in line with this fiscal note.
- ▶ *Consent for restricted surface occupancy areas (\$98,750)* – The primary difference between the department's estimate and this fiscal note is that the department anticipates receiving consent from 20 landowners over the phone and making 80 trips (at \$1,200 each) to attempt to get consent in person. This fiscal note assumes that only 20 trips will be necessary. The remainder will be addressed over the phone.
- ▶ *Hearing Costs (\$30,570)* – Department costs included rental of meeting space and audio-visual equipment. This fiscal note assumes that costs will be greatly reduced by adding the work of this bill to existing hearing agendas.

State Appropriations

For FY 2009-10, the Department of Natural Resources requires a cash funds appropriation of \$84,880 and 1.0 FTE from the Oil and Gas Conservation and Environmental Response Fund.

Departments Contacted

Natural Resources

Public Health and Environment