

REVISED FISCAL IMPACT

(replaces fiscal note dated March 10, 2008)

Drafting Number: LLS 08-0574	Date: April 16, 2008
Prime Sponsor(s): Rep. Kefalas; Fischer Sen. Johnson	Bill Status: Senate Local Government
	Fiscal Analyst: Marc Carey (303-866-4102)

TITLE: CONCERNING AN INCREASE IN THE REGULATORY AUTHORITY OF THE MINED LAND RECLAMATION BOARD OVER MINING, AND, IN CONNECTION THEREWITH, ENSURING THE PROTECTION OF GROUND WATER AND PUBLIC HEALTH, AND MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue		
Cash Funds		
Mined Land Reclamation Fund - Fees*	\$42,540	\$28,598
State Expenditures		
Cash Funds		
Mined Land Reclamation Fund	\$42,540	\$28,598
FTE Position Change	0.2 FTE	0.2 FTE
Effective Date: Upon signature of the Governor, or upon the bill becoming law without his signature. The bill applies to mining applications currently filed or filed on or after this date. It also applies to mining operations currently permitted or permitted on or after this date.		
Appropriation Summary for FY 2008-2009: See State Appropriations section.		
Local Government Impact: None.		

* These revenues are the reimbursements from prospective mining applicants.

Summary of Legislation

This reengrossed bill expands the regulatory authority of the Mined Land Reclamation Board over in situ leach mining activities. The bill clarifies that uranium mines are designated mining operations, and defines in situ leach mining for uranium. The bill specifies that, as a requirement for a reclamation permit for such operations, applicants must:

- certify that no past pattern exists of willful violations of the environmental protection requirements of Colorado's Mined Land Reclamation Act;
- submit a description of at least 5 such operations demonstrating the applicant's ability to conduct mining operations so as to protect groundwater outside of the permitted mining area; and
- notify all landowners within 3 miles of the affected land of its filing for a reclamation permit.

The bill requires that an application for in situ leach mining include a baseline site characterization and a plan for an on-going monitoring of the affected site and groundwater and surface water resource. Prior to submission of the application, the applicant or prospective applicant is required to confer with the Office of Mined Land Reclamation regarding these elements. The board or the office is authorized to retain an independent expert to oversee the characterization, and is required to define the scope of work for the expert. The applicant is required to cover the reasonable costs of the board, office and expert. The characterization is required to:

- thoroughly assess premining site and water resource conditions;
- detect any subsurface excursions of chemicals used in leach mining operations; and
- evaluate the effectiveness of postmining reclamation and groundwater reclamation plans.

The bill *requires* the board to deny the application for a reclamation permit if the applicant:

- fails to demonstrate that reclamation can and will be accomplished; and
- fails to demonstrate by substantial evidence that all affected groundwater will be reclaimed to either premining, baseline water quality or better as established in the site characterization, or a quality that reaches statewide radioactive materials standards.

The bill *authorizes* the board to deny an application if:

- uncertainty exists about the feasibility of reclamation;
- the existing or potential future uses of affected groundwater include domestic or agricultural uses;
- the applicant has previously violated reclamation laws and any violation remains unabated; or
- the applicant has demonstrated a pattern of willful violation of environmental protection requirements.

In any case, the board must decide on an in situ application within 240 days.

The bill requires uranium in situ leach mining operations to reclaim all affected groundwater to premining baseline water quality levels, or a quality that reaches statewide radioactive materials standards. Finally, the bill requires that in-situ leach uranium mine operators notify the office of any failure or imminent failure of mining structures designed to prevent or mitigate adverse impacts to groundwater, human health, wildlife, or the environment within 24 hours of discovering such failure.

State Expenditures

Department of Natural Resources, Division of Reclamation, Mining and Safety. The division will incur additional expenses of \$42,540 and 0.2 FTE in FY 2008-09 and \$28,598 and 0.2 FTE in FY 2009-10. Table 1 details these expenditures based on the following assumptions:

- 2 permit applications for in situ leach uranium mines will be received annually;
- an Environmental Protection Specialist II will perform required regulatory duties; rules must be developed related to in situ uranium leach mining; and
- ongoing tasks include application review, contractor selection, and evaluation of submitted evidence for successful operations elsewhere.

Cost Components	FY 2008-09	FY 2009-10
Personal Services	\$27,604	\$22,836
FTE	0.2	0.2
Travel Expenses	\$530	\$0
Legal Services	\$14,406	\$5,762
TOTAL	\$42,540	\$28,598

Department of Law. The department will provide 120 hours of one-time assistance with required rulemaking, and 80 hours of ongoing assistance in the selection of contractors to conduct preliminary site characterizations. Legal services are provided to state agencies by the Department of Law and billed at a rate of \$72.03 per hour.

State Appropriations

For FY 2008-09, the Department of Natural Resources requires a cash funds appropriation of \$42,540 from fees, and authorization for 0.2 FTE.

Departments Contacted

Law

Natural Resources

Public Health and Environment