

**STATE
REVISED FISCAL IMPACT**

(replaces fiscal note dated March 12, 2012)

Drafting Number: LLS 12-0626
Prime Sponsor(s): Sen. Carroll
 Rep. Wilson

Date: May 3, 2012
Bill Status: Senate Appropriations
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TITLE: CONCERNING ADDITIONAL PROTECTIONS FOR WATER RELATING TO HYDRAULIC FRACTURING.

| Fiscal Impact Summary | FY 2012-2013 | FY 2013-2014 |
|--|--------------|--------------|
| State Revenue | | |
| State Expenditures | | |
| Cash Funds | | |
| Oil and Gas Conservation and Environmental Response Fund | \$338,178 | \$509,366 |
| FTE Position Change | 3.3 FTE | 6.7 FTE |
| Effective Date: Upon signature of the Governor, or upon becoming law without his signature. | | |
| Appropriation Summary for FY 2012-2013: See State Appropriations section. | | |
| Local Government Impact: None identified. | | |

Summary of Legislation

As amended by the Senate Judiciary Committee, this bill requires the Colorado Oil and Gas Conservation Commission (COGCC) to adopt rules that require oil and gas operators to use practices that are designed to prevent or reduce adverse impacts to the public and environment when using hydraulic fracturing. The rules must require collection of water samples from all active water wells located within one-half mile of an oil and gas well that will be hydraulically fractured. Water samples must also be collected at least once after the completion of hydraulic fracturing. Operators are to submit the samples in a water quality report to the COGCC for posting on the COGCC web site. The bill requires that operators provide financial assurances sufficient to cover remediation of all foreseeable damages. The bill specifies that rulemaking be completed within existing resources and that no new personnel or consultants are required.

Background

Hydraulic fracturing, commonly referred to as fracking, is the process of creating small cracks, or fractures, in underground geological formations to allow oil or natural gas to flow into the well bore, thereby increasing production. To fracture the formation, special fracturing fluids are injected down the well bore and into the formation. These fluids typically consist of water, sand, and

chemical additives. The pressure created by injecting the fluid opens the fractures. Sand is carried into the fractures by the fluid and keeps the fractures open to increase the flow of oil or natural gas to the well bore. Most of the hydrocarbon bearing formations in Colorado have low porosity and permeability. These formations would not produce economic quantities of hydrocarbons without hydraulic fracturing. Fracture treatment of oil and gas wells in Colorado began in the 1970s and has evolved since then.

State Expenditures

This bill is expected to require state expenditures of \$338,178 and 3.3 FTE in FY 2012-13 and \$509,366 and 6.7 FTE in FY 2013-14. Expenditures are shown in Table 1 and explained below.

| Cost Components | FY 2012-13 | FY 2013-14 |
|---------------------------------------|-------------------|-------------------|
| Personal Services | \$304,252 | \$485,600 |
| FTE | 3.3 | 6.7 |
| Operating Expenses and Capital Outlay | 16,959 | 23,766 |
| Computer Programming | 5,920 | |
| Legal Services | 5,451 | |
| Commissioner Travel and Per Diem | 4,001 | |
| Hearing Notices | 1,595 | |
| TOTAL | \$338,178 | \$509,366 |

Rulemaking. The COGCC is expected to conduct a three-day hearing to address all of the issues outlined in the bill. This will require expenses for hearing notices to be posted in multiple newspapers and commissioner travel and per diem. Legal services hours (72 hours x \$75.71) will be required to support the rulemaking process. In order to develop targeted goals for the reduction in the toxicity of hydraulic fracturing fluids, the COGCC will require a consulting toxicologist to assist during the rulemaking process. This is estimated to require \$40,000. The fiscal note also includes \$50,000 for consultants to perform a cost/benefit analysis as required by law, if requested by a stakeholder to the rulemaking process.

Water Quality Reporting. Currently, operators voluntarily submit to the COGCC pre- and post-fracturing samples from the two water wells closest to an oil and gas well. This bill requires operators to sample all wells within a half mile of a hydraulically fractured oil and gas well. This is estimated to be an average of eight water wells per oil and gas well for a total of 28,000 new wells each year. As part of the permitting process, COGCC staff will provide lists of water wells that require sampling to the operator. To address the increased time required in the permitting process, the COGCC requires an additional 4.3 FTE. Because the FY 2012-13 Long Bill includes 1.0 FTE

for the COGCC to manage well samples submitted, the fiscal note only shows an increase of 3.3 FTE for FY 2012-13. For FY 2013-14, an additional 3.4 FTE are required for water quality reporting for a total of 6.7 FTE. In order to make the water quality data available online in a searchable format, the COGCC requires 80 hours of contract computer programming at a rate of \$74 per hour.

State Appropriations

The fiscal note concludes that the COGCC requires an appropriation of \$338,178 and 3.3 FTE from the Oil and Gas Conversation and Environmental Response Fund. The bill specifies that the COGCC is required to implement the provisions of the bill within existing appropriations. Notwithstanding this clause, legislative rules require that fiscal notes staff analyze the workload and cost impacts that are expected to result from the bill. To the extent that workload increases as estimated in the fiscal note and funding is not provided in the bill, the COGCC may be required to seek additional funding through the annual budget process, or suspend or delay other functions.

Departments Contacted

Judicial
Natural Resources

Law
Public Health and Environment

Local Affairs