

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 12-0587

Date: June 5, 2012

Prime Sponsor(s): Rep. Wilson

Bill Status: Postponed Indefinitely

Fiscal Analyst: Clare Pramuk (303-866-2677)

TITLE: CONCERNING RESTRICTIONS ON THE USE OF OPEN PITS IN CONNECTION WITH 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	Option 1. \$13,619 Option 2. 34,092	Option 1. \$12,500 Option 2. 95,589
FTE Position Change	0.2 FTE	1.0 FTE
Effective Date: The bill was postponed indefinitely by the House Local Government Committee on February 6, 2012.		
Appropriation Summary for FY 2012-2013: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

Beginning July 1, 2014, this bill prohibits oil and gas operators from placing hydraulic fracturing fluid in an open pit and requires the use of a closed-loop system for hydraulic fracturing treatments. The Oil and Gas Conservation Commission (OGCC) may approve the use of open pits if it determines there is no risk to occupied structures, water sources, or tributary groundwater from the use, storage, or disposal of hydraulic fracturing fluids. Operators may also use open pits if the fracturing fluids are clean enough to discharge directly into state waters without a discharge of pollutants permit.

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

Once the bill is effective, the OGCC will need to develop rules to decide whether open pit permits can be approved at the staff level or by the OGCC which will determine the fiscal impact of the bill. The fiscal note presents the fiscal impact for two options. *In option 1, the lower cost alternative, OGCC staff are given the authority to make these decisions, which is expected to increase expenditures by \$13,619 in FY 2012-13 and \$12,500 in FY 2013-14. In option 2, the OGCC will make these decisions and each open pit application will require a hearing, which is expected to increase expenditures by \$34,092 and 0.2 FTE in FY 2012-13 and \$95,589 and 1.0 FTE in FY 2013-14.* Both options are funded from the Oil and Gas Conservation and Environmental Response Fund in the Department of Natural Resources. Both options assume 125 permits will be processed annually. These costs are shown in Table 1 and explained below.

Base Costs. Under either option, the OGCC will have expenses for rulemaking, publishing hearing notices and legal expenses. These are expected to be \$1,430 for board meetings, \$1,595 for hearing notices, and \$3,634 in legal services.

Option 1. The fiscal note assumes that staff will require an additional two hours of processing time per pit application. This can be addressed with temporary staffing beginning in June 2013. The Office of Information Technology (OIT) will update the pit application form which is estimated to take 80 hours at \$74 per hour for a total cost of \$5,920.

Option 2. The amount of time required for processing a pit application will increase considerably under the second option. The increase will include four hours of environmental review and GIS updating. The hearing officer will then need to review the matter, prepare a recommendation and public notice, and plan, coordinate and hold a pre-hearing conference and hearing. The computer programming costs increase to \$8,880 to account for the added complexity of the reviews.

Table 1. Expenditures Under HB12-1173		
Cost Components	FY 2012-13	FY 2013-14
OPTION 1 - Decision-making at Staff Level		
Personal Services	\$1,040	\$12,500
FTE		
Operating Expenses and Capital Outlay	3,025	
Computer Programming	5,920	
Legal Services	3,634	
TOTAL OPTION 1	\$13,619	\$12,500

Table 1. Expenditures Under HB12-1173 (Cont.)		
Cost Components	FY 2012-13	FY 2013-14
Option 2 - Decision-making at OGCC Level		
Personal Services	\$13,692	\$94,639
FTE	0.2	1.0
Operating Expenses and Capital Outlay	7,886	950
Computer Programming	8,880	
Legal Services	3,634	
TOTAL OPTION 2	\$34,092	\$95,589

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. (Option 2) Expenditures Not Included Under HB12-1173*		
Cost Components	FY 2012-13	FY 2013-14
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$1,026	\$6,160
Supplemental Employee Retirement Payments	619	4,274
TOTAL	\$1,645	\$10,434

**More information is available at: <http://colorado.gov/fiscalnotes>*

State Appropriations

To enable the OGCC to implement either option, the Department of Natural Resources requires an appropriation of \$34,092 and 0.2 FTE from the Oil and Gas Conservation and Environmental Response Fund in FY 2012-13. Of this amount, the Department of Law requires \$3,634 in reappropriated funds. The Office of Information Technology requires an appropriation of \$8,880 in reappropriated funds.

Departments Contacted

Local Affairs

Natural Resources

Public Health and Environment