

**FINAL
FISCAL NOTE**

Drafting Number: LLS 13-0274

Date: July 22, 2013

Prime Sponsor(s): Rep. Foote
Sen. Jones

Bill Status: Deemed Lost

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

TITLE: CONCERNING INCREASED PENALTIES FOR VIOLATIONS BY OIL AND GAS OPERATORS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
Cash Funds		
Oil and Gas Conservation and Environmental Response Fund	at least \$157,125	at least \$299,943
State Expenditures		
Cash Funds		
Oil and Gas Conservation and Environmental Response Fund	\$157,125	\$299,943
FTE Position Change	1.5 FTE	3.1 FTE
Effective Date: The Senate rejected the minimum penalty provision and the bill was deemed lost on May 8, 2013.		
Appropriation Summary for FY 2013-2014: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

This bill increases the penalties for violations of the Oil and Gas Conservation Act. The maximum daily fine is increased from \$1,000 to \$15,000 for each act of violation per day that the violation continues. The \$10,000 maximum cap on violations that do not result in a significant adverse impact is repealed. The first conference committee amended the bill to include a minimum penalty of \$2,500 per day for a violation that results in a significant adverse impact on public health, safety, or welfare, including the environment and wildlife resources.

Background

Between 2008 and 2011, the Colorado Oil and Gas Conservation Commission (COGCC) levied fines in 7 cases for significant adverse environmental impact. The average fine was \$247,750 based on a rate of \$1,000 per day. Some enforcement actions are resolved quickly through operator compliance, some after protracted negotiation, some proceed to administrative hearing, and possibly to a contested COGCC hearing.

State Revenue

Because this bill increases the penalties that may be assessed by the COGCC, an increase in revenue from penalties is expected. Because the type, duration, and resolution of violations cannot be projected, the amount of increased revenue cannot be determined but is expected to *at least cover expenditures of \$157,125 in FY 2013-14 and \$299,943 in FY 2014-15*. Should fine revenue or the Oil and Gas Conservation and Environmental Response Fund balance not be sufficient to fund the expenditures under the bill, the fiscal note assumes that the mill levy will be increased to cover the costs. The mill levy is a charge on the market value at the well of produced oil and gas. It is set by the COGCC by rule and is currently set at 0.7 mills. One tenth of one mill equals about \$1.1 million and the rate is statutorily limited to 1.7 mills.

State Expenditures

This bill is expected to increase expenditures for the COGCC by \$157,125 and 1.5 FTE in FY 2013-14, and \$299,943 and 3.1 FTE in FY 2014-15 from the Oil and Gas Conservation and Environmental Response Fund.

Department of Natural Resources, COGCC. The COGCC will hold a 1-day rulemaking hearing to establish a new fine schedule to be used for enforcement actions on future violations. The fiscal note assumes that higher minimum fines will result in an increase in the number of cases proceeding to a contested hearing before the COGCC. For FY 2013-14, 4 additional contested hearings are expected, increasing to 8 in FY 2014-15. The COGCC will add 0.9 FTE of a hearings officer to address these cases in FY 2013-14, and 1.9 FTE in FY 2014-15. The Department of Law will provide 980 hours of legal services in FY 2013-14 and 1,877 in FY 2014-15 to support the enforcement actions and contested hearings. This number of legal services hours requires an addition of 0.6 FTE in FY 2013-14 and 1.2 FTE in FY 2014-15 in the Department of Law. Expenditures are detailed in Table 1 below.

Table 1. Expenditures Under HB13-1267		
Cost Components	FY 2013-14	FY 2014-15
Personal Services	\$66,290	\$139,946
FTE	1.5	3.1
Operating Expenses and Capital Outlay	5,653	6,603
Board Meeting Expenses (Rulemaking)	5,289	
Board Meeting Expenses (Contested Cases)	4,188	8,376
Legal Services	75,705	145,018
TOTAL	\$157,125	\$299,943

Judicial Branch. If the increase in penalties results in an increase in cases appealed to district court, the workload in the branch may increase. Such cases are expected to be minimal and can be addressed with current appropriations.

State Appropriations

For FY 2013-14, the COGCC requires an appropriation of \$157,125 and 0.9 FTE from the Oil and Gas Conservation and Environmental Response Fund. The Department of Law requires \$75,705 and 0.6 FTE in reappropriated funds.

Departments Contacted

Judicial

Law

Natural Resources