

Fiscal Estimate Narratives

DNR 1/27/2013

LRB Number	13-1129/1	Introduction Number	AB-0001	Estimate Type	Original
Description Regulation of ferrous metallic mining and related activities, procedures for obtaining approvals from the Department of Natural Resources for the construction of utility facilities, making an appropriation, and providing penalties					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, the Department of Natural Resources (DNR) regulates mining for metallic minerals. The laws under which DNR regulates metallic mining apply to mining for ferrous minerals (iron) and mining for nonferrous minerals, such as copper or zinc. This bill creates new statutes for regulating iron mining and modifies the current laws regulating metallic mining so that they cover only mining for nonferrous minerals.

Given the variety of physical/geographical circumstances, the unknown number of applications and the complexity of regulatory assumptions surrounding any potential mining project that could be submitted for DNR review, the Department characterizes the fiscal impact of the bill as indeterminate. This analysis elaborates on a variety of the factors that led the Department to this conclusion.

Revenue Impacts

1. The bill creates a new appropriation - s. 20.370 (2) (gi) - for the regulation and administration of ferrous mines. This new appropriation differs from the existing mining regulation and administration appropriation - s. 20.370. (2)(gh) - by capping the amount of revenue a mining company could be required to pay the Department to recover costs for review of a mining permit application. The bill sets the cap at \$2 million, whereas existing law establishes no cap on the Department's ability to recover costs.

For example, if permit review costs for a proposed mine were less than \$2 million, as was the case with the Flambeau Mine in Rusk County, then the cap would pose no fiscal burden on the State. However, if these costs were more than the \$2 million, as has been the case in recently completed mine expansions in Minnesota, then those costs above \$2 million would have to be absorbed by the State. Cost absorption would most likely be through reallocation of staff away from other projects requiring permit review.

2. The bill also eliminates the ability of the Department to collect environmental permit fees authorized by other statutes during the mine permitting process. For example, if a proposed mine required an air construction permit, the proposed bill would not allow the Department to collect the fees authorized under s. 20.370 (2) (ci) to recover the costs of reviewing the permit as would be the case for any other situation. In this example, the air construction permit staff in DNR are program fee revenue supported; therefore, this provision means that staff time would need to be reallocated from other permit work to review an unfunded air construction permit needed by a mine.

Because of the uncertainties associated with determining actual costs in relation to the revenue cap in the new 20.370(2)(gi) appropriation or the reduced revenues associated with specific environmental permit fees that are no longer collected, revenue impacts under the bill are considered to be indeterminate.

Program Staffing/Implementation Impacts

Another difficulty in establishing the specific fiscal impact of the bill is related to determining its effect on the costs of mine permit review and long term monitoring and regulatory review. Proposals to mine ferrous minerals in the state will vary widely as to the extent (surface area and depth) and location of the mine. Therefore, it is very difficult to accurately predict the staffing and other fiscal impacts of the bill.

Ranges of potential costs to the Department for permit review associated with a mining proposal are provided below to further illustrate the categories of costs that might be associated with review of a mine permit:

A. DNR Pre-Application and Permitting Activity Costs

1. Project Management, Oversight, and Coordination: 0.5 - 2.0 FTE @ \$100,000/FTE/year

Mine Development - Overall management and oversight of the DNR mining permit development and coordination with the U.S. Corps of Engineers and other affected federal, tribal, state and local governments.

2. Permitting and Plan Review: 0.5 - 4.0 FTE @ \$100,000/FTE/year

Reclamation plan development, review and approval;

Plan review and approval for waste management facilities, wastewater treatment, storm water management, and water supply;

Environmental permitting for air, waste, wastewater, stormwater, high capacity well, water use, ch. 30 and wetland permitting needs;

3. Technical Review: 0.5 – 2.0 FTE @ \$100,000/FTE/year

Provide technical assistance to support review of specialized data needed to support ground water modeling, and surface water impacts.

4. Wetland Delineation: Under current law, a wetland delineation would be required for any mining project that fills or disturbs a wetland. The delineation verifies the wetland boundary and the amount of wetland that will be impacted.

The bill allows the applicant to provide wetland delineation information that has been conducted by a consultant or other third party, subject to Department review. If the Department were asked by the applicant to conduct the delineation, staffing requirements would vary depending on the scope and scale of project. An estimate of potential staffing costs for the delineation ranges from \$5,000 for a small project with few wetlands to \$100,000 or more for a large-scale project with many potential wetlands and varying land types.

B. Post-Mine Oversight & Inspection

Staffing needs for oversight and inspections once the mine has been developed will vary, depending upon the scale and method of the operation. A rough estimate of staff for a larger mining project would be three mining staff, listed as follows:

1. Natural Resources Program Manager--\$78,500/yr. for salary/ fringe
2. Field staff position--\$67,100/yr. for salary/fringe for either a hydrogeologist-advanced, waste mgmt. specialist-advanced, or a water resources mgmt.-specialist-advanced
3. Office technical staff--\$67,100/yr. for salary/fringe for either a hydrogeologist-advanced, waste mgmt. specialist-advanced, or a water resources mgmt.-specialist-advanced

In addition, an estimated two engineering staff would be needed once a mine is operational. Costs for each position are estimated at \$87,100/yr. for salary/fringe, for either an advanced level air management engineer, wastewater engineer, water resources engineer, or water supply engineer.

C. Contested Case Hearing

The Department estimates that it would incur \$240,000 in costs to participate in a contested case hearing on an iron mining project. These costs, which would be absorbed by the Department, include the following:

1. 20 staff @ 7 days each for preparation of testimony, review of other parties' testimony, discovery activities, hearing and post-hearing--140 days
 2. Project coordinator staff person @ 50% for the 150-day period--75 days
 3. Two other key staff at 30% time for the 150-day period--90 days
 4. Legal staff, one attorney at 75% and other attorneys making up another 25% for the 150-day period - 150 days
- Total staff time--455 days, or roughly 1.8 FTE (assuming 260 days/FTE)
1.8 FTE @ \$100,000/FTE = \$180,000

In addition, consultant expenses associated with the process are estimated at \$60,000 (6 consultants @ 10 days each @ \$1,000/day).

Summary:

DNR costs associated with this activity fall into three categories. Given the number of variables involved in developing these estimates of potential need, annual costs shown for item 1 are described in terms of ranges.

1. DNR pre-application and permitting activity costs could range from, \$155,000/year for a small mining proposal to \$900,000/year for a large mining proposal as described above for those four years.
2. If a mine is established, annual staffing costs for oversight and inspections are estimated at \$386,900 for three mining-related positions and two engineering positions.
3. One-time costs of \$240,000 are estimated for the Department to participate in a contested case hearing.

Long-Range Fiscal Implications