

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/13/14

**SPONSOR** Roybal Caballero      **LAST UPDATED** \_\_\_\_\_      **HM** 76

**SHORT TITLE** Post Oil & Gas Info On EMNRD Website      **SB** \_\_\_\_\_

**ANALYST** Cerny

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$440.4	Indeterminate	Indeterminate	Nonrecurring And Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From

State Land Office (SLO)

Energy, Minerals and Natural Resources Department (ENMRD)

No Response

New Mexico Environment Department (NMED)

### SUMMARY

Synopsis of Bill

House Memorial 76 requests that the Oil Conservation Division (OCD) of the Energy, Minerals and Natural Resources Department (EMNRD) conspicuously post certain information relating to the oil and gas industry on the division's website.

The memorial stipulates that the following information for the years 2008-2013 and every year thereafter be provided:

1. the number of stripper, active, temporary and inactive oil and gas wells;
2. the number of oil conservation division oil and gas well inspectors;
3. information on violations under the Oil and Gas Act;
4. the cash balance in the oil and gas reclamation fund at the beginning of each fiscal year; and
5. the amount, purpose and type of expenditures from the oil and gas reclamation fund.

## **House Memorial 76 – Page 2**

The memorial stipulates the ways in which information regarding the violations must be presented:

1. First, with a general categorization of violations and an indication of those that threaten or contaminate ground water;
2. Second, within each category, the number of violations and the amount in fines collected;
3. Third, within each category, a list of the oil and gas facilities fined for a violation, the county in which the violation occurred, date of the violation, date compliance was achieved, and an indication of whether the violation was filed or settled in court
4. Fourth, the specific actions the OCD made in response to each violation that threatened or contaminated ground water.

HM 76 also resolves that, by November 1, 2014, the OCD present the information for years 2008 through 2013, with recommendations that could help the OCD's efforts address public concerns about the impact of drilling on ground water, to the governor and to three appropriate legislative interim committees that deal with natural resources, hazardous materials and legal issues.

Finally, HM 76 directs distribution of the memorial to OCD, the governor, the president pro tempore of the senate and the speaker of the house.

### **FISCAL IMPLICATIONS**

House Memorial 76 carries no appropriation.

OCD analysis states that there will be costs associated with compiling and posting the data requested by the memorial, as follows:

In order to research data from 2008-2013 in existing OCD data systems to ensure data is complete and accurate, OCD will need to contract with 2 full time data quality assurance consultants for a period of 1 year (2080 hours) at \$85/hour = \$381,888 (including NM GRT).

OCD would have to create queries and reports for historical and future violation data to be posted to OCD's website: 3 months (520 hours) of contract web development services at \$90/hour = \$50,544 (including NM GRT)

OCD would have to program and create links to historical and current reports for rec fund activity and financial statements for posting to OCD website: 200 hours OCD internal resources at \$40/hr = \$8000

The total of these estimated costs amounts to \$440,432. The OCD director states these estimates are based on the going rates for such services in her division.

It is not known what portion of this expense might be required for ongoing maintenance of the webpages and systems necessitated by the memorial.

### **SIGNIFICANT ISSUES**

The intent of HM 76 is to provide information currently compiled by the Oil Conservation Division at EMNRD and to make it publicly available online in a format that may be readily

### House Memorial 76 – Page 3

understood by members of the public who may have concerns about the potential negative impact of oil and gas drilling on the environment and public health.

The ENMRD has a well-developed website that provides access to reports of each department, and within it, of each bureau. OCD's website does provide much of the information requested by this memorial, however it is not presented in a user-friendly fashion, which is what HM 76 attempts to achieve, nor it is compiled in one easy-to-find location.

OCD analysis states that

- It already posts some of the information requested, either on the OCD web site or on the Sunshine Portal. The public is able to access information on active wells and temporarily abandoned wells on the OCD web site, along with other statistics such as inactive wells and land ownership. Production for any well is currently easily obtained from the OCD web site.
- The number of OCD inspectors is publicly available on the Sunshine Portal, but not compiled into a single report. The number of inspectors is also available on OCD's web site by Districts.
- Spill reports are available currently online and list almost all the information requested. In addition, OCD records facilities' compliance and violations in RBDMS. RBDMS is an electronic database that sends information to OCD online, but the database is not available to the public. No violations have had to be filed or settled in court during the time frame listed in the Memorial.
- The annual report on use of the Oil and Gas Reclamation Fund is assembled each fiscal year and delivered to the Governor, the House Appropriations and Finance Committee, the Senate Finance Committee, and the Secretary of the Department. Cash balances are also posted to the Sunshine Portal for public scrutiny.

The EMNRD annual report referenced may be found online here:

<http://www.emnrd.state.nm.us/ADMIN/documents/Final%202013%20Annual%20Report%2022%20Jan%2014.pdf>

The State Land Office and EMNRD, according to SLO analysis, "have a good working relationship with respect to the sharing of data and other relevant information regarding oil and gas activities. Given the importance of the oil and gas industry to New Mexico, publicly posting information on the OCD website about oil and gas activities may assist the public in providing helpful data with respect to drilling operations and enforcement and remediation efforts"

### PERFORMANCE IMPLICATIONS

According to the EMNRD analysis:

- complying with HM 76 during the initial data gathering stage and in the ongoing data maintenance obligations will be difficult to accomplish without adding new staff and/or pulling existing staff, including inspectors, away from their current duties. For example, OCD personnel would have to continually compile RBDMS information from inspection

reports so that it could be posted on OCD's website in a location and format to be useful to persons seeking general information, as opposed to information about specific wells.

- Further, if OCD were required to re-file electronically the information from 2008-2013, it would require significant investment of person hours which need to be spent addressing current operations.
- Requiring OCD to make recommendations regarding public concerns would require significant input from the public as to what are the concerns. This would necessitate stakeholder meetings throughout the state with multiple OCD staff members. Currently the state does not have the budget to support this increase in travel expenditure.

LFC analysis shows that the vacancy rate for unfilled positions at EMNRD is 5.9 percent (*Report of the LFC to the 51<sup>st</sup> Legislature, Second Session, January 2014, Volume III, p. 125*). However, according to the OCD division director, no vacant positions in her division are for technology personnel such as would be required by this bill.

#### **ADMINISTRATIVE IMPLICATIONS**

OCD staff would have to receive training as to the new location to electronically file information.

#### **TECHNICAL ISSUES**

The definition of "temporary well" is unclear because the OCD does not use that term.

The request for information on violations could be clarified as many violations do not require significant action by the OCD or by the operator. Violations may range from lack of legible signs on well sites to spills that may or may not threaten ground water.

Paragraph C(3) of the proposed memorial refers to matters "...settled in court..." The meaning of this phrase is not clear: does it mean that the court ruled on the issues or accepted a settlement between the parties, or both?

CAC/ds