

The State Land Office (SLO) notes, the HJC committee report states the amendment adds the word “farenheit” after the words “two hundred fifty degrees” on page 1, line 7, but this is an error. Item #2 in the committee report should read on page 2, line 7.

Synopsis of HENRC Amendment

The House Energy and Natural Resources Committee amendment to House Bill 85 adds language limiting the Commissioner of Public Land’s authority in setting royalty rates for the use of geothermal resources, as defined in the bill, to be no greater nor no less than the rates imposed by the federal Bureau of Land Management.

Synopsis of Original Bill

House Bill 85 (HB 85) amends the Geothermal Resources Act in several significant ways. First, it replaces a “net proceeds” lease payment from geothermal product with a “gross proceeds” lease payment. This change simplifies the statutory payment scheme and conforms to changes made to federal lease rates for geothermal resource leasing. Second, HB 85 clarifies a distinction already made to the statute between uses of the earth’s hot water below 250 degrees and above 250 degrees, as well as excluding the use of heat above 250 degrees when that heat is being used in a heat-exchange. This change is consistent with statutory changes made since the Geothermal Resources Act was first enacted and is designed to keep the state out of monitoring and billing for on-site uses of geothermal energy. Third, HB 85 allows the SLO to create regulations for sustainable development as well as encourages that geothermal resources be developed as renewable energy with appropriate protections for the given geothermal resources field being developed, allowing those who develop or have developed use of geothermal resources some protection from new development which could deplete the resource and thereby harm the earlier investment.

FISCAL IMPLICATIONS

According to the SLO, the revenue impact of the amendment to HB 85 could be neutral as long as the federal rates reflect fair market value. The SLO notes, the Commissioner of Public Lands (commissioner) is mandated by the state constitution to charge “true value” (equated with fair market value) for the use or sale of state trust lands or the natural resources thereof (including geothermal). Therefore, so long as the federal Bureau of Land Management’s rates for geothermal resources is within the range of fair market value there are no significant problems with the amendment to HB 85; however if the Bureau of Land Management’s rates for geothermal resources were to exceed or be set below fair market value the commissioner would not be constitutionally able to follow the statutory mandate for royalty rates. It should be noted that at present the rates set by the Bureau of Land Management are within the bounds of fair market value.

There are no immediate fiscal implications for recurring funds because the SLO notes there are no current geothermal plants in New Mexico. According to the SLO, one plant is in the development stage in Hidalgo County with a power purchase agreement in place with PNM for delivery of electricity to the grid. This plant will likely generate revenues through federal leases, but if successful could lead to development on adjacent state lands. If built, this generating plant would need connecting transmission lines northward to the main transmission lines near Lordsburg and the SLO has made a rough estimate of the rights-of-way revenues for crossing

state lands at \$20 to \$30 thousand. In addition, if the initial plant is successful, this company or another could lease adjacent state lands and we have estimated the initial lease sale revenues in FY14 at \$10 to \$20 thousand. The SLO observes the real advantage for the state, however, would be the recurring funds if hot waters were extracted from state leased lands, as well as construction and maintenance jobs in Hidalgo County. The SLO declined to estimate those potential revenues since the geothermal resource has not yet been accurately estimated. The fiscal implication for not simplifying our state rate structure is that geothermal development would occur exclusively on federal and private fee lands and avoid development on state lands.

SIGNIFICANT ISSUES

HB 85 bill will facilitate the SLO entering into leasing agreements with companies wishing to develop geothermal resources in New Mexico. This bill will also allow development and innovation in the heat-exchange or geo-exchange industry for the on-site heating or cooling of individual buildings by exempting that activity in certain circumstances from the mandatory payment of fees under this Act. HB 85 will encourage the SLO to set rules and regulations consistent with the goal of preserving geothermal resources for long-term return to the state trust funds. HB 85 also aligns the state's billing procedures with those of the federal government; therefore, state lands will be more attractive to include in the development plans of geothermal companies because those companies will not have to maintain two different types of accounts.

PERFORMANCE IMPLICATIONS

The SLO notes the simplification of the billing procedures will save the SLO audit resources which would otherwise have been diverted to geothermal from oil and gas division audits or from other equally important revenue streams.

ADMINISTRATIVE IMPLICATIONS

With the simplification of a “gross proceeds” lease as opposed to “net proceeds” lease as HB 85 provides, the SLO will not have to have to expend as many resources in auditing a geothermal company's books for appropriate deductions. Additionally, the simplifications and clarifications of this act will make administration of the act through rules and regulations more workable and straightforward.

AMENDMENTS

Modify the amendment to HB 85 to state the Commissioner must set rates no higher or lower than Bureau of Land Management's “unless said rate does not comport with fair market value, under which circumstance the Commissioner should set rates at fair market value.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Failure to enact these changes would leave the SLO with a cumbersome lease process potentially causing developers to avoid state lands. Because the geothermal industry is fairly new this could have unforeseen consequences, up to and including the indirect draining of the state's resources without remuneration.

MTM/svb:blm