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FISCAL NOTE

Drafting Number: LLS 19-0135
Prime Sponsors:

Date: September 20, 2018
Bill Status: Water Resources Review Committee Bill Draft
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Bill Topic: PROTECT WATER QUALITY ADVERSE MINING IMPACTS

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

This bill makes changes to how water quality treatment is addressed in mine reclamation plans and operations. It will increase future state expenditures which may require an increase in revenue.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the draft bill requested by the Water Resources Review Committee.

Summary of Legislation

Under current law, mining operators must adopt and execute a reclamation plan for the land affected by mining operations. On the yearly anniversary date of the reclamation permit, operators must submit a report and a map to the Division of Reclamation, Mining, and Safety in the Department of Natural Resources (DNR). This bill requires that the annual report describe the affected land and the surrounding area, including changes over the preceding year regarding any disturbances to the prevailing hydrological balance, and changes over the preceding year regarding any disturbances to the quality and quantity of water in surface and groundwater systems.

The bill requires that a reclamation plan for a new or amended permit demonstrate by substantial evidence an end date for necessary water quality treatments to ensure compliance with applicable water quality standards. The Mined Land Reclamation Board may approve a reclamation plan that lacks this end date demonstration only if the new or amended permit includes an environmental protection and reclamation plan adequate to ensure compliance with applicable water quality standards.

Under current law, mining operators are allowed to submit an audited financial statement as proof that the operator has sufficient funds to perform reclamation in lieu of a bond or other financial assurance. This bill eliminates this option and requires that all reclamation bonds include financial assurances in an amount sufficient to protect water resources, including costs for any necessary water quality protection, treatment, and monitoring costs.

State Revenue

The Division of Reclamation, Mining, and Safety sets permit fees administratively based on division expenditures. Because the bill is expected to eventually increase division expenditures, revenue will likely increase in the next fee setting process.

State Expenditures

The bill will increase workload in the Division of Reclamation, Mining and Safety to review the additional information required in annual reports and as new permits are requested, to verify and approve the additional features of reclamation plans, and verify that reclamation bonds have sufficient financial assurances. Amended reclamation plans and annual reports can be reviewed and approved by division staff without additional appropriations.

There may be some instances where the division will need to contract with an outside consultant for support in evaluating water treatment plans and financial assurances for reclamation bonds but such expenditures are not expected during the next two fiscal years. The cost for consultant services will depend on the size and complexity of the permit site and could run into the tens of thousands of dollars. If the expenditures for outside consultants require additional appropriations, the division will request additional funding through the annual budget process.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Law

Natural Resources

Public Health and Environment