



**Legislative
Council Staff**

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FISCAL NOTE

Drafting Number: LLS 18-0737 **Date:** March 23, 2018
Prime Sponsors: Rep. Roberts; McLachlan **Bill Status:** House Agriculture
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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

The bill requires that mining operators include additional information in annual reclamation plans submitted to the Department of Natural Resources (DNR) and that all reclamation bonds contain financial assurances sufficient to ensure water quality protection, treatment, and monitoring. State expenditures are increased in the DNR beginning in FY 2019-20.

Appropriation Summary: No appropriation is required. The DNR may seek spending authority via the annual budget setting process if and when costs are incurred.

Fiscal Note Status: This fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under HB 18-1301**

		FY 2018-19	FY 2019-20
Revenue	Cash Funds	-	up to \$100,000
Expenditures	Cash Funds	-	up to \$100,000
Transfers		-	-

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 (the division) in the 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

No fee change is anticipated for FY 2018-19; fees related to financial assurance may be set administratively by the DNR. Other for minerals permits have traditionally been increased statutorily every seven to ten years. When the division next considers a fee increase, any expenditure increase that arise as a result of this bill will be factored into the calculation of proposed fee amounts. Fee increases necessary to recover costs may occur beginning in FY 2019-20.

TABOR Refund

This bill potentially increases state revenue from permit fees, which will increase the amount of money required to be refunded under TABOR for FY 2019-20. A TABOR refund obligation is not expected for the current FY 2017-18.

Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

New state expenditures will only be incurred in the DNR as new permits are requested, and the division is required 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; however, there is no existing expertise in the division to review financial assurances for reclamation bonds. Depending on the size of the permit site and the complexity of the mining operation, properly reviewing financial assurances will require that the DNR contract with an outside consultant at a per-permit cost of between \$40,000 and \$100,000.

Although the cost per site can be estimated, there is less confidence in the frequency of these consultant reviews. Currently, the DNR does not anticipate issuing any new minerals permits in the next two fiscal years. Based on this assumption, new revenue and expenditures are not anticipated before FY 2019-20.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed. The bill applies to conduct occurring on or after that date.

State and Local Government Contacts

Judicial

Law

Natural Resources