

the OCD's online application processing system, online case management system and case file system, and for other technological upgrades and hearing administration costs. Disbursements from the fund are made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources. The money remaining in the fund at the end of a fiscal year does not revert to the general fund.

FISCAL IMPLICATIONS

Generation of income from fees for applications, permits, and general filings would provide an additional source of revenue for OCD's employee salaries.

EMNRD provided the following on how it calculated the fiscal impact:

By multiplying the number of past year applications by the proposed fees, OCD predicts it will collect approximately \$1,900,000 in FY20 and FY21. Projected revenue will be tied directly to activity in the oil patch and will be difficult to predict long term. The cost to accomplish the modernization to the OCD IT and business systems is estimated to be between \$4 million to \$8 million depending on project and service scope. It is important the funds do not revert because of the nature of the projects. They are expensive and often cannot be completed in a single year. It is important that the OCD can budget for projects according to the remaining fund balance.

This bill provides for a continuing appropriation to a new fund. LFC has concerns with including continuing appropriation language in the statutory provisions, as earmarking reduces the ability of the Legislature to establish spending priorities. However, this particular issue could be resolved with an amendment – see the technical issues section below.

SIGNIFICANT ISSUES

The difference between the original bill and the substitute bill is the original bill allowed the OCD to establish by rule a schedule of fees sufficient to cover the costs to review, implement and enforce the terms and conditions of a granted order, application, or permit pursuant to the Oil and Gas Act whereas the substitute provides a specific fee amount for each category of application. The substitute also creates a new non-reverting fund to receive those fees for OCD.

EMNRD provided the following comments:

SB 553/SFCS establishes fees on specific administrative applications under the Oil and Gas Act to supplement, and not replace, the general fund budget of the OCD. Currently, OCD does not charge fees for applications.

Since FY16, the OCD general fund budget has been reduced by 44 percent. Currently, the OCD relies on its general fund appropriation to pay for operating costs. These costs are increasing every year due to the over 400 percent increase in oil and gas production in N.M. since 2015. OCD does not have the budget to upgrade IT and business systems during an unprecedented oil and gas boom within New Mexico. SB 553 will help OCD to update its long-outdated IT and business systems and defray administrative hearings costs.

SB 553/SFCS allows OCD to develop and modernize OCD's online application processing system, online case management system and case file system, and for other technological upgrades and hearing administration costs. If OCD can move to all online applications, it would lead to greater consistency, efficiency, transparency and a faster processing. For example, when an oil and gas operators want to drill a new well, they must file an application for a permit to drill (or APD). Currently, APDs are still processed using paper applications submitted to the widespread OCD district offices. If the processing can be done from a centralized office due to online services, it becomes more consistent, efficient, transparent and a faster to process.

Other states and the BLM charge similar, and sometimes greater, fees. For example, Texas charges from \$500 to \$750 for an Application for Permit to Drill (APD's). Oklahoma charges \$400 for an APD and \$600 if expedited. Wyoming charges \$500 for an APD. The BLM charges \$10,050. SB553/SFCS allows for \$500 per APD in New Mexico.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB553/SFCS is related to Senate Bill 361 which limits the use of the oil and gas reclamation fund to provide for division employees' salaries.

TECHNICAL ISSUES

As noted above under fiscal implications, this bill provides for a continuing appropriation. This issue could be resolved by amending page 3, line 20 by striking "appropriated" and inserting in lieu thereof "subject to appropriation by the legislature".

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

OCD would not receive new funding from fees to modernize its IT and business systems.

AHO/sb/gb