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FISCAL IMPACT REPORT

ORIGINAL DATE 2-14-07

SPONSOR Cisneros LAST UPDATED 3-11-07 HB _____

SHORT TITLE Mine Safety Rule Enforcement SB 819/aSJC

ANALYST Woods

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB682

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of SJC Amendment

Senate Judiciary Committee amendment to Senate Bill 819 reflects the following language:

1. On page 3, between lines 20 and 21, insert the following new paragraph:

"(4) if a mine is found to be unsafe during an inspection, give written notice that the mine is unsafe to the owner, operator or manager of the mine with an explanation for the notice;"

2. Renumber the succeeding paragraphs accordingly.

3. On page 7, line 3, after "shall", insert "issue an order closing all or any portion of the mine to regular operations and".

4. On page 12, line 21, after "represent" insert "and balance management and non-management employees at".

5. On page 13, line 13, after the closing bracket insert "Voting members of the board shall receive compensation pursuant to the Per Diem and Mileage Act."
6. On page 14, line 14, strike "may" and insert in lieu thereof "shall".
7. On page 19, line 12, strike "may" and insert in lieu thereof "shall".

The amendment carries no appropriation language. The Energy, Minerals and Natural Resources Department supports the amendment noting that the language has been agreed upon with representatives of industry, management, and labor, and, further, that the amendment improves the legislation.

Synopsis of Original Bill

Senate Bill 819 seeks to change to the state's mine safety laws in an effort to bring these laws in line with the current role of the State Mine Inspector and the Mining Safety Board. The changes fall into the following categories:

- repeal outdated statutes that have been superseded by federal mine safety laws;
- rewrite the laws governing the certification of mine personnel. Certain levels of coal mine officials (e.g., foremen) must be certified by the Inspector. These changes move most of the qualifications to rules and create a process for disciplining officials and appealing the Inspector's actions to the Safety Board.
- clarify the role of the Inspector and the Mining Safety Board. The duties of the Inspector are rewritten to reflect the current reality. The Mining Safety Board is given a clearer role in rulemaking and appeals of Inspector decisions.

State Mine Inspector's duties are clarified in Sections 2 through 6 (Sections 69-5-7, -9, -10 -14, -17). The Inspector will conduct training programs, provide compliance assistance, certify mine personnel, conduct inspections, and respond to emergencies. Other statutes with outdated or duplicative duties are repealed (Sections 69-5-8, -11, -13, -15).

Definitions pertaining to mine safety are combined in Section 8 (Section 69-8-2) and now include several definitions from federal law to avoid conflicts. Unneeded or duplicative definitions are repealed (Sections 69-4-1 to -10).

The name and composition of the Mining Safety Board are changed (Section 9 – 69-8-3) to reflect the new role of the Board and the need for active membership. The process for adopting mine safety rules is clarified (Section 10 – 69-8-4) to give the Board the rulemaking authority and provide for a clear public rulemaking process. Other rulemaking provisions are unnecessary and are repealed (Sections 69-8-5 through 10 and 69-8-14). The Board is also given a role in reviewing the decisions of the Inspector through certification appeals (Section 11) and variance appeals (Section 12).

The process for certifying mine personnel is rewritten to reflect that currently only mine foremen and mine examiners are certified (Sections 14 and 15: 69-14 -1 and -2), that the mining safety board can adopt rules to establish certification requirements and procedures (Section 16: 69-14-

3) and that the Inspector may, under certain limited circumstances, take action against a certificate holder (Section 17: Section 69-14-4).

Numerous sections which include duties now superseded by federal mine safety laws and provisions for outdated mining practices are repealed (Section 18).

There is no appropriation attached to this legislation.

SIGNIFICANT ISSUES

EMNRD indicates that the State Mine Inspector's duties are clarified in Sections 2 through 6 (Sections 69-5-7, -9, -10 -14, -17). The Inspector will conduct training programs, provide compliance assistance, certify mine personnel, conduct inspections, and respond to emergencies. Other statutes with outdated or duplicative duties are repealed (Sections 69-5-8, -11, -13, -15). Definitions pertaining to mine safety are combined in Section 8 (Section 69-8-2) and now include several definitions from federal law to avoid conflicts. Unneeded or duplicative definitions are repealed (Sections 69-4-1 to -10).

EMNRD adds that the name and composition of the Mining Safety Board are changed (Section 9 – 69-8-3) to reflect the new role of the Board and the need for active membership. The process for adopting mine safety rules is clarified (Section 10 – 69-8-4) to give the Board the rulemaking authority and provide for a clear public rulemaking process. Other rulemaking provisions are unnecessary and are repealed (Sections 69-8-5 through 10 and 69-8-14). The Board is also given a role in reviewing the decisions of the Inspector through certification appeals (Section 11) and variance appeals (Section 12).

Further, that the process for certifying mine personnel is rewritten to reflect that currently only mine foremen and mine examiners are certified (Sections 14 and 15: 69-14 -1 and -2), that the mining safety board can adopt rules to establish certification requirements and procedures (Section 16: 69-14-3) and that the Inspector may, under certain limited circumstances, take action against a certificate holder (Section 17: Section 69-14-4); and numerous sections which include duties now superseded by federal mine safety laws and provisions for outdated mining practices are repealed (Section 18).

As background, EMNRD notes that many mine safety laws date to the 1930s and were partially repealed and rewritten in the 1980s when the State Mine Inspector's regulatory authority was superseded by the federal Mine Safety and Health Administration and the Inspector's office was transferred to New Mexico Tech. While the role of the Inspector shifted from a regulatory entity to primarily a training organization, many laws still included outdated duties of the Inspector. In recent years, these outdated statutes have been the source of some confusion over the role of the Inspector. From EMNRD's perspective, this legislation will:

- Provide clearer legislative guidance to the State Mine Inspector and the Mining Safety Board on their duties;
- Avoid conflict and duplicative regulation between the State Mine Inspector and the federal mine safety and health administration;

- Provide limited oversight by the Mining Safety Board over the actions of the State Mine Inspector;
- Provide the mining industry and workers with a clearer list of the Inspector’s duties.

PERFORMANCE IMPLICATIONS

ENMRD concludes that, “This bill can focus the work of the State Mine Inspector and the Mining Safety Board and avoid potential conflict and duplication.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates HB 682.

OTHER SUBSTANTIVE ISSUES

EMNRD advises that the State Mine Inspector and the EMNRD Mining and Minerals Division Director have worked together extensively in drafting this legislation with the intent to clarify roles and reduce duplication.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

EMNRD indicates that the outdated laws that this bill would otherwise update or repeal, will “continue to be a source of confusion.”

BFW/nt