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FISCAL IMPACT REPORT

ORIGINAL DATE 03/06/15

SPONSOR SCONC LAST UPDATED 03/12/15 HB _____

SHORT TITLE Financial Assurance for Abandoned Oil Wells SB 442/SCONCS/aSJC

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates CS/HB383.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)
 State Land Office (SLO)
 Attorney General's Office (AGO)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment to the Senate Conservation Committee Substitute for Senate Bill 442 incorporates OCD's recommended amendment, which provides that blanket plugging financial assurance for temporarily abandoned status wells shall be set by rule at amounts greater than \$50 thousand.

Synopsis of Original Bill

The Senate Conservation Committee substitute for Senate Bill 442 amends the Oil and Gas Act to require operators to provide additional financial assurance for wells that have been placed on inactive, or temporarily abandoned, status by either providing a one-well financial assurance or, at their election, offering to increase any existing blanket plugging financial assurance.

This bill contains an emergency clause.

FISCAL IMPLICATIONS

No fiscal impact on the State is anticipated.

SIGNIFICANT ISSUES

Oil Conservation Division (OCD) of ENMRD explains the existing statutory and regulatory framework applicable to financial assurance provided by operators of active and abandoned wells:

An operator is required to furnish financial assurance in the form of an irrevocable letter of credit or cash or surety bond to the State of New Mexico to assure that a well or wells be plugged and abandoned and the location be restored in compliance with OCD rules. Prior to drilling the well, the operator may post a single well financial assurance, or a blanket financial assurance that covers multiple wells. OCD rules provide a formula for a single well bond, while statute caps the blanket financial assurance at \$50 thousand. See Section 70-2-14, NMSA 1978.

In addition to the initial bond, an operator is currently required to furnish financial assurance for wells that are in a temporarily abandoned (TA) status and have not produced for a period of two years. While the current Section 70-2-14 allows the agency to require a separate bond for each TA well, the OCC rules mandate such financial assurance, 19.10.8.9(C) NMAC. HB 383 will incorporate the mandatory requirement for one-well bonds into the Act but also allow the option of blanket financial assurance for TA wells.

OCD explains the reason for these controls, and the effect of this bill on them:

Inactive wells pose greater threats to the environment and water supply if not properly maintained, and also run a greater risk of abandonment by insolvent entities. OCD rules therefore place greater obligations on inactive wells, including requiring the operator to demonstrate that the wells are mechanically sound by testing them at least every 5 years and the requirement for increased financial assurance. Increased amounts for blanket bonds in CS/HB 383 are consistent with this practice.

Inactive wells are often capable of further production, but have been taken out of production for various reasons including drops in commodity prices. Large companies that hold a significant number of wells may be moving any number of wells in and out of production at times. Having the option of a large blanket bond will allow the companies the flexibility to change the status of wells without constantly having to add or release individual well bonds. To achieve maximum flexibility, companies may post the highest amount of blanket bond, which will also benefit the agency.

As to the particulars of the provisions of CS/SB 442, OCD points out this disconnect, which is addressed in its suggested amendment below:

CS/SB 442 provides for increased blanket bonds for TA wells. Since OCD rules establish \$50,000 as the current amount for a blanket bond (19.10.8.9 (D) NMAC), the TA blanket bonds would need to be greater than \$50,000. However, earlier in Section 70-2-14 (and in Section 70-2-12(B)(1)), \$50,000 is established as the maximum amount

for a blanket bond.

SLO also supports clearer language increasing blanket plugging financial assurance amounts (such as in the original bill), which would serve to better protect the Trust Lands under its jurisdictions from having abandoned wells on them.

While the original bill set statutory limits, authorizing OCD to set amounts by regulation (as in the proposed amendment) may provide greater flexibility by allowing adjustment over time without requiring legislative action to amend the statute.

ADMINISTRATIVE IMPLICATIONS

OCD comments that this bill may reduce its administrative burden somewhat when blanket bonds replace numerous individual bonds, although there will be some increased burden initially to establish the program and make necessary rule changes.

DUPLICATION

CS/HB 383 duplicates this bill.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

OCD reports that it (and the Oil Conservation Commission) will continue to address the dangers posed by unplugged, inactive wells through its existing regulatory structure that requires single well bonds.

AMENDMENTS

OCD suggests inserting this language at page 2, line 9:

After “(\$50,000)”, insert: “except for blanket plugging financial assurance for temporarily abandoned status wells which shall be set by rule at amounts greater than fifty thousand dollars (\$50,000),”

MD/bb/aml/je/aml