

LFC Requester:	Helen Gaussoin
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1-17-24
Bill No: HB31

Sponsor: Rep. Debra Sariñana
Short Title: ADDITIONAL PENALTIES AND RULES FOR ENVIRONMENTAL OIL SPILLS

Agency Name and Code State Land Office - 539
Number: _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
No Fiscal Impact	No Fiscal Impact	No Fiscal Impact		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	No Fiscal Impact	No Fiscal Impact	No Fiscal Impact			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Amends the Oil and Gas Act to impose additional penalties for the release of oil, produced water, or other nondomestic liquid wastes into the environment and directs the Oil Conservation Division to adopt new rules protective of public health.

First, provides that a person who causes or contributes to oil, produced water, or other nondomestic liquid wastes to be released into the environment be liable for the following civil penalties: \$2,000 for releases of less than 5 barrels; \$10,000 for releases of 5 to 25 barrels; and \$25,000 for releases of more than 25 barrels, plus \$2,000 per barrel over 25 barrels. These penalties are to be assessed notwithstanding the lower limitations on civil penalties currently found in Section 70-2-31.

Second, amends Section 70-2-12 to require, rather than allow, the Oil Conservation Division to create rules and orders on the specified subject matter in the section. Adds a requirement that the Oil Conservation Division make rules and orders to protect public health, worker safety and the environment, specifically requiring rules and orders:

- 1) requiring the identification of the composition of produced water that has been released into the environment;
- 2) concerning the management of produced water, specifically prohibiting the introduction of produced water into water in quantities which would, with reasonable probability, harm human health, plant life, or animal life, or interfere with public welfare or the use of property;
- 3) requiring the tracking and reporting of the movement, transportation, and location of produced water; and
- 4) requiring notification of a release of oil, produced water, or nondomestic liquid wastes to 1) all persons occupying structures within 2 miles of the release and 2) all Indian nations, tribes, and pueblos within 10 miles of the release

Third, appropriates \$750,000 from the general fund for use in FY2025 to hire Oil Conservation Division employees.

FISCAL IMPLICATIONS

Given that the intent of this bill is in large part to reduce spills related to oil and gas operations, the State Land Office would likely see some reduction in damage to state trust lands and a possible reduction in the workload of staff that work on spill remediation.

SIGNIFICANT ISSUES

The State Land Office support efforts to strengthen penalties related to spills and to empower the Oil Conservation Division with the authority to promulgate rules and orders to protect public health, worker safety and the environment. These efforts would be consistent with the State Land Office's recent actions to focus on the environmental and health impacts related to oil and gas operations, such as the creation of a new Environmental Compliance Office and the Oil and Gas Accountability and Enforcement Program.

PERFORMANCE IMPLICATIONS

In general, releases of less than five barrels are not reported nor tracked by the Oil Conservation Division. However, all releases are required to be remediated, no matter how small. A penalty for small spills could encourage more clean-up at the time of the release, rather than deferring remediation to final site closure, which is often the case now for small spills.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to HB30 (2024) which requires the use of produced water, rather than fresh water, for oil and gas operations at depths lower than fresh water zones and imposes a reporting requirement on operators as to their use of fresh water and/or produced water for their drilling operations. HB30 and HB31 contain the same amendments to the definitions section of the Oil and Gas Act. HB30 and HB31 do not appear to conflict.

Related to HB32 (2024) which requires oil and gas operations within children's health protection zones, which are defined as areas extending one mile from the property lines of a school, to cease by 2028, with related requirements going into effect in the preceding years. Among these requirements are requirements concerning water quality sampling in children's health protection zones, which do not appear to conflict with the requirements of HB31. Both HB32 and HB31 makes changes to the definitions section of 70-2-33. Each bill alphabetizes the definitions and adds new definitions. The new definitions in HB31 and HB32 are different, but do not conflict.

Related to HB0133 (2024) which makes various changes to the Oil and Gas Act, most of which are not related to HB31. HB0133 increases the generally applicable limitations to civil penalties under the Act found in Section 70-231. Because the civil penalties provided for in HB31 are to be imposed notwithstanding the limitations found in 70-2-31, HB31 and HB0133 do not conflict on this point.

TECHNICAL ISSUES

In Section 1, Subpart A, the bill states, in part "a person shall not cause or contribute to a spill..." There are, from time to time, instances where a rancher's cow causes damage to oil and gas

infrastructure and tanks and, thus, the bill expands the scope of “persons,” potentially, who may be fined under the Oil and Gas Act to include ranchers and others that may not be contemplated.

The definition of water pollution, in part, states “unreasonably interfere with the public welfare or the use of the property.” It is unknown whether the sponsor intends to include, in the term “water pollution” introduction of water that may benefit the use of the property, despite the fact that the use would interfere with the current use of the property.

The definition of “fresh water” includes “(2) water in lakes and playas, regardless of quality, unless the water exceeds ten thousand milligrams per liter of total dissolved solids and it can be shown that degradation of the particular water body will not adversely affect hydrologically connected fresh ground water:...” This definition would seem to allow degradation of naturally occurring saline lakes or playas, or lakes and playas that may already be degraded, if they can be shown to be unconnected hydrologically to fresh ground water. Also, proving hydrologic connectivity often requires multi-year isotopic studies and ground water monitoring. Also, if such lake or playa water is excluded from the definition of fresh water, the new definition does not explain what this water is, or how it may be used. Note that “surface waters” are included in the definition of fresh water regardless of connectivity or water quality. It would be ecologically appropriate to include water in lakes and playas as fresh water regardless of water quality and regardless of connectivity.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS