

LFC Requestor: Self Assigned

2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: House

Category: Bill

Number: 0032

Type: Introduced

Date (of THIS analysis): 1/17/2024

Sponsor(s): Debra Sariñana, Harold Pope, Kathleen Cates & Antionette Sedillo Lopez

Short Title: Oil & Gas Children’s Health Protection Zones

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 24	FY 25		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 24	FY 25	FY 26		
\$0	0	0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 24	FY 25	FY 26	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$118.227	\$114.627	\$232.854	Recurring	General

HB32 would incur expenses for integrated environmental and health data collection and analysis by programs within the environmental health epidemiology bureau, including, but not limited to, health impact assessment of water quality, air

quality, and provision of health-related data associated with exposures on the NMTracking data portal. (<https://NMTracking.doh.nm.gov>).

PS&EB - Pay band at midpoint , plus 36% benefits:	
Epidemiologist A Pay band 75 - \$37.34 X 2080 X 1.36 =	\$105,627
Office setup	
Arc GIS capable Computer \$3,600 per FTE (FY25 1 st year cost only)	\$3,600
Arc GIS secondary license (\$500) plus Spatial analyst license (\$500)	\$1,000
IT costs	\$1,500
Portion of IT contract for hosting data on NMTracking/NM IBIS data portal	\$1,500
Office space: \$5,000 annually	\$5,000
TOTAL	\$118,227

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: HB133

Companion to: None

Relates to: HB31

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Bill 32 (HB32) proposes to restrict oil and gas operations in “children’s health protection zones” and require the cessation of oil and gas operations in those zones after January 1, 2028. In addition, the bill proposes to require oil and gas operators operating in children’s health protection zones to develop an inventory and map of schools, as defined; to develop and implement a leak response and detection plan and alarm response protocol; to conduct water quality sampling and testing; and provide penalties.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

There is a growing body of evidence that oil and gas operations in proximity to communities can impact human health within those communities, compared to those without oil and gas extraction (see discussion under “Health Impacts.”) If passed, HB32 would most significantly impact stakeholders and customers in regions where oil and gas extraction takes place and may result in reduced exposure to pollutants associated with oil and gas extraction. The bill would also provide protection to the environment within the children’s health protection zones.

HB32 creates requirements for oil and gas operations owners/producers to create an inventory of locations (schools, playgrounds, etc. as defined in the bill) and to map those locations. This would be needed to conduct enforcement of the proposed legislation. This bill defines the “children’s health protection zone” as an area extending five thousand two hundred and eighty feet from the property line of a school.

Several states have oil and gas drilling distance legislation. Drilling in California requires a minimum of 3,200 feet between oil fields and communities. Their legislation represents distance from communities and are not school specific. “What They’re Saying: Environmental and Health Advocates Support California’s Move to Prevent New Oil Drilling Near Communities, Expand Health Protections.” *California Governor*.

Texas laws put the determination in each city’s jurisdiction. Currently 29 cities ban drilling which assures distance from retirement homes, day cares, schools, and community centers. Texas Administrative Code (state.tx.us)

Colorado has changed the 300 ft requirement to 1,000 feet but had determined that 2,000 ft is a better distance to avoid contamination. (Oil And Gas Facilities Distance From School Property | Colorado General Assembly)

HB32 primarily places the burden of enforcement and administration on the Energy, Minerals and Natural Resources Department. Violations by operators in children’s protection zone are set not to exceed \$30,000 per day to a maximum of \$200,000. The penalties may not be sufficient for reclamation and remediation.

HB32 will require a leak detection and response plan and an alarm response protocol to be developed by the operator and be submitted for approval by the division. The leak reporting notification is required only if the leak is continuous for more than forty-eight hours which is a considerable time that can result in a large contamination.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes No

The proposed bill could impact the Environmental Health Capacity Program, the Asthma Control Program, and other programs within the Environmental Health Epidemiology Bureau. Expert opinion on potential health impacts within the children’s health protection zones and the associated collection, analysis, and interpretation of health impact data could be required.

- Is this proposal related to the NMDOH Strategic Plan? Yes No

Goal 1: We expand equitable access to services for all New Mexicans

Goal 2: We ensure safety in New Mexico healthcare environments

Goal 3: We improve health status for all New Mexicans

Goal 4: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?

Yes No N/A

- If there is an appropriation, is it included in the LFC Budget Request?

Yes No N/A

- Does this bill have a fiscal impact on NMDOH? Yes No

There would be the need for an additional FTE epidemiologist advanced pay band 75 PS&EB at \$105,627 to perform needed data collection, analysis, mapping, and interpretation, plus computer with enhanced processing capacity (\$36,000) and ArcGIS software (\$1,000). Information technology costs would be \$1,500 and contractual costs to place the additional data on the NMTracking portal would be approximately \$1,500. Office space costs are \$5,000 in Albuquerque Homestead.

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

The administrative impact on NMDOH would depend on both the number of hours required for consultation and how frequently it would need to occur.

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

HB32 conflicts with HB133 which provides a different zone titled "setback." Similarly, HB130 defines "setbacks from human and environmental receptors" and specifies a distance of two thousand two hundred and fifty feet from a community college, public, private or charter school and other public and private institutional locations. This distance is three thousand thirty feet less than the children's protection zone specified in HB32, thereby being less protective of human health.

HB32 relates to HB31 which proposes to protect public health, worker safety and the environment by requiring to track and report the movement, transportation and location of produced water, recycled produced water and treated produced water throughout their production, treatment, reuse and disposition in oil and gas operations and to compile the reported tracking information and make it publicly available.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

Section 1Q (page 7) defines 'school,' and Section 11B (page 31) also defines "school" with almost identical diction. It would seem that the definition on page 7 would suffice.

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No

- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

None

8. DISPARITIES ISSUES

One health impact on oil and gas facility proximity is air quality. Poor air quality is associated with asthma, The burden of childhood asthma is disproportionately distributed among NM counties. For instance, in 2016, the highest age adjusted asthma hospitalization rates were among NM residents living in Lea County with 12.6 hospitalizations per 10,000 population and Guadalupe County with 12.0 hospitalizations per 10,000. Disparity also exists in asthma ED visit rates among NM counties. In 2016, the highest age adjusted asthma ED visits rates were in Eddy County with 82.4 visits per 10,000 population. ([The Burden of Asthma: Hospitalization and Emergency Department Visits in New Mexico, 2016](#)). The southeast (Lea and Eddy counties) and northwest (San Juan, Sandoval and Rio Arriba counties) are the main regions where oil and gas drilling take place.

Children are more affected with symptoms such as breathing difficulties and cancers, and these effects are being seen at a much higher rate in Hispanics and African Americans. Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities | NAACP.

The impact of HB32 could positively impact private wells owners, a potentially underserved population in NM, by providing water quality data that may not be readily available otherwise. Limited support exists to help well owners understand and protect essential drinking water supplies. As of 2021, using NMDOH best estimates, about 20% of private wells in the state had water quality tested. Well users with no information on their drinking water quality are at higher risk of potential harmful exposures; this would include well contamination by oil and gas extraction. Between 2015 and 2021 about 13% of calls to the environmental health epidemiology bureau were drinking water-related with 9% about private well drinking water and 4% about other drinking water (NMDOH Environmental Health Capacity Program internal documentation).

Analysis by the NM Environmental Public Health Tracking Program using the CDC Social Vulnerability Index identified the small areas in the northwest (McKinley and San Juan Counties) and southern NM (Doña Ana County) as having poor health care access, high poverty levels, and crowded or mobile housing. Furthermore, two counties which encompass much of the Navajo reservation in NM, are majority American Indian Alaska Native (AIAN) population - San Juan (39%) and McKinley (75%) (internal documentation). San Juan County is a major producer of oil and gas.

9. HEALTH IMPACT(S)

Oil and gas drilling has potential to contaminate both the air and water as well as mineral changes in soil. There is growing evidence of health impacts in communities near oil extraction compared to other populations and potential for multiple pathways of exposure to oil-related chemicals. [Impact of upstream oil extraction and environmental public health: a review of the evidence](#). Evidence was found for VOCs near oil/gas drilling sites

at levels above federal guidelines; soil contamination from polycyclic aromatic hydrocarbons radium and other radioactivity, TPHs, heavy metals and other contaminants; and water persistent pollution from oil/gas wastewater spills despite remediation efforts.

Multiple studies conducted in Los Angeles have demonstrated the negative health impacts of urban oil and gas drilling. A study published August 2023 in [Nature](https://www.nature.com/articles/s41370-023-00589-z) found that for every 100-meter increase in distance from an oil and gas drilling site, diastolic blood pressure was reduced by a statistically significant degree (0.73 mmHg, CI -1.26, -0.21 mmHg) (<https://www.nature.com/articles/s41370-023-00589-z>). An earlier study showed that living nearer an oil and gas drilling site is associated with an increased burden of asthma (<https://www.mdpi.com/1660-4601/15/1/138>). Finally, oil and gas drilling sites introduce measurable concentrations of methane, benzene, toluene, ethylbenzene, xylenes, styrene, ethane, and propane among other known-toxic airborne VOCs (<https://pubmed.ncbi.nlm.nih.gov/34037015/>). Further, idling an oil and gas drilling site can lead to immediate and significant improvements in atmospheric VOC concentrations (ibid).

10. ALTERNATIVES

None

11 WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB32 is not enacted then oil and gas operations would not be restricted in children's health protection zones and oil and gas operations would not be required to cease in those zones after January 1, 2028. In addition, oil and gas operators operating in children's health protection zones would not be required to develop an inventory and map of schools, as defined; and would not be required to develop and implement a leak response and detection plan and alarm response protocol; nor to conduct water quality sampling and testing.

12. AMENDMENTS

None