

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA



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GOVERNOR

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MEMORANDUM

TO: Jon Bennion, Assistant Attorney General
Montana Department of Justice

FROM: Dan Villa, Director *Sassano for Dvilla*
Office of Budget and Program Planning

RE: Fiscal note for initiative "Requiring that new hardrock mines in Montana have a reclamation plan that provides that the mine will not require perpetual treatment of water polluted by acid mine drainage or other contaminants such as arsenic, lead or mercury"

DATE: April 10, 2018

In accordance with section 13-27-312, MCA, we are submitting a fiscal note for initiative to require that new hardrock mines in Montana have a reclamation plan that provides that the mine will not require perpetual treatment of water polluted by acid mine drainage or other contaminants such as arsenic, lead or mercury.

Please contact Amy Sassano if you have questions regarding the fiscal note.

c: Dana Corson, Director
Elections & Voter Services
Secretary of State



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2019 Biennium

Bill #	BI-14	Title:	Regulating Mining Waste in Montana
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- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>
Expenditures:				
General Fund	\$115,360	\$115,360	\$117,633	\$118,767
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u><u>(\$115,360)</u></u>	<u><u>(\$115,360)</u></u>	<u><u>(\$117,633)</u></u>	<u><u>(\$118,767)</u></u>

Description of fiscal impact:

Ballot Initiative #14 requires new hard rock mines in Montana to submit a reclamation plan that provides clear and convincing evidence that the mine will not require perpetual water treatment for acid mine drainage or named contaminants.

An additional 0.50 FTE environmental scientist and a 0.50 FTE program attorney at DEQ will be required to review to the new "clear and convincing" standard. The 0.50 FTE DEQ program attorney will also be required for anticipated litigation when applying the new review standard.

FISCAL ANALYSIS

Assumptions:

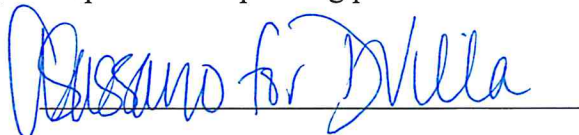
1. New mines permitted on or after Nov 6, 2018 with a plan for perpetual water treatment must be denied.
2. New mines permitted on or after Nov 6, 2018 with no initial plan for perpetual water treatment are not subject to denial under this initiative, but any operating permit or reclamation plan amendment thereafter including perpetual water treatment must be denied.
3. No existing mine permits (permitted prior to Nov 6, 2018) are subject to revocation under this initiative.
4. Amendments to existing mine permits (permitted prior to Nov 6, 2018) are not subject to denial under this initiative.

5. “Perpetual water treatment” in any permit application or amendment application is interpreted to mean water is required to be treated forever to meet water quality standards.
6. Water treatment means to achieve water quality standards for all regulated contaminants. DEQ will evaluate and consider acid mine drainage and other regulated contaminants that may exceed water quality standards, not only the three contaminants listed in the initiative (arsenic, lead, and mercury).
7. No new mine applications are in process as of 04/9/2018 that propose perpetual water treatment.
8. Mines covered under this initiative in the above assumptions would be subject to the new review standard of “clear and convincing evidence.”

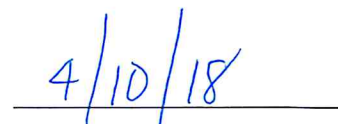
	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>
<u>Fiscal Impact:</u>				
FTE	1.00	1.00	1.00	1.00
<u>Expenditures:</u>				
Personal Services	\$93,032	\$93,032	\$94,865	\$95,780
Operating Expenses	\$22,328	\$22,328	\$22,768	\$22,987
TOTAL Expenditures	<u>\$115,360</u>	<u>\$115,360</u>	<u>\$117,633</u>	<u>\$118,767</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$115,360	\$115,360	\$117,633	\$118,767
TOTAL Funding of Exp.	<u>\$115,360</u>	<u>\$115,360</u>	<u>\$117,633</u>	<u>\$118,767</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$115,360)	(\$115,360)	(\$117,633)	(\$118,767)

Technical Notes:

1. The definition of perpetual in §13(b) must be more clearly defined and moved to the definitions section.
2. 82-4-351(2), MCA permit denial basis of “preponderance of the evidence” and 82-4-351(3), MCA application denial basis of “clear and convincing evidence,” are logically different standards but in the same “denial of a permit” section.
3. The initiative’s reference to the presence of, and treatment for contaminants, and associated necessity of water treatment is not clear.
4. The initiative unnecessarily references operating permit and reclamation plan separately. The reclamation plan is part of the operating permit.



Budget Director



Date