



Legislative Council Staff

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Final Fiscal Note

Drafting Number: LLS 22-0801 **Date:** July 18, 2022
Prime Sponsors: Sen. Fenberg; Scott **Bill Status:** Signed into Law
Rep. Weissman; Will **Fiscal Analyst:** Josh Abram | 303-866-3561
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Bill Topic: **ORPHANED OIL & GAS WELLS ENTERPRISE**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill creates the Orphaned Wells Mitigation Enterprise in the Department of Natural Resources to fund the plugging, reclaiming, and remediation of orphaned oil and gas wells by charging mitigation fees to oil and gas operators. The bill increases state revenue and expenditures beginning FY 2022-23, and are ongoing.

Appropriation Summary: No appropriation is required; the Orphaned Wells Mitigation Enterprise Cash Fund, is continuously appropriated to the Department of Natural Resources.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 22-198

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Funds	\$10.4 million	\$10.4 million
Expenditures	Cash Funds	\$10.4 million	\$10.4 million
Transfers		-	-
Other Budget Impacts		-	-

Summary of Legislation

The bill creates the Orphaned Wells Mitigation Enterprise in the Department of Natural Resources (DNR) to fund the plugging, reclaiming, and remediation of orphaned wells by charging mitigation fees to oil and gas operators. The bill creates the five member Orphaned Wells Mitigation Enterprise Board to administer the enterprise in consultation with the Colorado Oil and Gas Conservation Commission (COGCC). Enterprise board members may receive compensation from the DNR on a *per diem* basis for reasonable expenses.

The enterprise board may adopt procedures for conducting its affairs; purchasing and disposing of real and personal property; issuing revenue bonds, hiring staff and employing professional consultants and contractors; contracting with other state agencies; and, seeking, accepting, and spending gifts, grants, or donations from private or public sources.

By August 1, 2022, April 30, 2023, and April 30 each year thereafter, each operator must pay to the enterprise a mitigation fee for each well that has been spud (drilling operations began) but is not yet plugged and abandoned. Mitigation fees due by August 1, 2022, shall be paid in the following amounts:

- for operators with production that is equal to or less than a threshold to be determined by rules of the COGCC, \$125 for each well; and
- for operators with production that exceeds the threshold determined by COGCC, \$225 for each well.

Mitigation fees paid after August 1, 2022, may be increased or reduced by the enterprise board based on current circumstances and anticipated future expenditures from the fund.

The bill creates the Orphaned Wells Mitigation Enterprise Cash Fund to consist of mitigation fees, money received from the issuance of revenue bonds, gifts, grants, or donations, and any other money that the General Assembly may appropriate or transfer to the fund. The total amount of money credited to the fund as mitigation fees may not exceed \$100 million dollars in the first five fiscal years of the enterprise. The cash fund is continuously appropriated for use by the enterprise.

State Revenue

The new enterprise is funded with mitigation fees charged to oil and gas operators. For FY 2022-23 fee revenue is estimated to be at least \$10.4 million, based on the statutory fee amounts, calendar year 2020 oil and gas production data, the number of active wells, and production thresholds established in COGCC rules. Actual revenue will be determined based on calendar year 2021 production data, which is still being finalized by the COGCC.

The bill requires that mitigation fees be collected at the statutory rates by August 1, 2022, and that the amount of the mitigation fees thereafter be adjusted by the enterprise board. Mitigation fees due to the enterprise on April 1, 2023 (in FY 2022-23) have not been estimated, but will add to the total amount of revenue collected in the first fiscal year. Beginning in FY 2023-24, actual fee revenue will be based on the annual mitigation fees determined by the enterprise board, and based on 2022 oil and gas production data. This fee revenue is exempt from TABOR.

Voter approval of new state enterprises. Current law requires voter approval for a state enterprise with projected or actual revenue from fees and surcharges over \$100 million in its first five fiscal years. The new enterprise in this bill will begin operating in FY 2022-23. Through FY 2027-28, the enterprise is projected to collect under \$100 million in mitigation fees. While the bill specifies statutory amounts for FY 2022-23, actual fee amounts will be set by the enterprise board. Should fee revenue to the new enterprise approach the \$100 million threshold, it is assumed that the enterprise board will adjust mitigation fees so as not to exceed this amount.

State Expenditures

The bill increases state expenditures by \$110,023 in FY 2022-23 and \$103,823 in FY 2023-24 from the Orphaned Wells Mitigation Enterprise Cash Fund for administration of the enterprise. These costs are shown in Table 2 and explained below. Costs to plug, reclaim, and remediate orphaned oil and gas wells are not estimated. .

Table 2
Administrative Staff Expenses Under SB 22-198

	FY 2022-23	FY 2023-24
Orphaned Well Mitigation Enterprise - DNR		
Personal Services	\$84,834	\$84,834
Operating Expenses	\$1,350	\$1,350
Capital Outlay Costs	\$6,200	-
Employee Supplemental Insurance and Disability	\$17,639	\$17,639
Total Cost	\$110,023	\$103,823
Total FTE	1.0 FTE	1.0 FTE

The COGCC will add 1.0 FTE Budget and Policy Analyst III to oversee the enterprise. This includes collecting fee revenue, auditing annual fee submittals, managing the budget, and coordinating the procurement of services to plug, reclaim, and remediate orphaned oil and gas wells. Costs in future years will increase to fund services, provide compensation to the enterprise board and to oversee expanded enterprise operations. Standard operating, capital expenditures, and employee benefits are included.

Effective Date

The bill was signed into law by the Governor on June 2, 2022. The bill took effect July 1, 2022.

State and Local Government Contacts

Information Technology Law Natural Resources Personnel

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: leg.colorado.gov/fiscalnotes.