



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0405	Title:	Increase natural resource development for low-cost energy
Primary Sponsor:	Lange, Michael	Status:	As Introduced

- | | | |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$200,153	\$188,598	\$193,314	\$198,148
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance	<u>(\$200,153)</u>	<u>(\$188,598)</u>	<u>(\$193,314)</u>	<u>(\$198,148)</u>

Description of Fiscal Impact:

HB 405 revises laws related to energy; creates the Montana Clean Energy Development and Economic Security Act; provides legislative findings; defines terms; provides exemptions and exceptions; clarifies judicial review; and authorizes the governor to implement certain measures to facilitate and expedite the completion of clean energy projects.

FISCAL ANALYSIS

Assumptions:

Governor's Office (GOV)

1. One FTE Policy Advisor level position will be required to fulfill the additional duties called for in the bill.
2. There will be significant administrative help required to assist the position. There is no available administrative support in the Governor's Office to support additional activities.
3. A new employee package is included in the fiscal impact, as well as a new computer package. The remainder of the operating expenses are for travel, printing, supplies, phone, and temporary service administrative support.
4. A 2.5% inflation factor was applied for FY 2010 and FY 2011.

Department of Environmental Quality (DEQ)

5. One FTE would be needed to conduct base-line information assessments of Montana's energy resources. These assessments would include but are not limited to an inventory of coal and coal bed natural gas resources; an inventory of wind resources; an inventory of available water resources; an inventory of cultural resources; an inventory of biological resources; an inventory and analysis of potential transmission and pipeline corridors; an inventory and analysis of local government infrastructure needs; and any other study, analysis, or inventory that would expedite the state permitting process.
6. This 1.00 FTE would be an environmental policy analyst; the salary, benefits and associated operating costs would total \$98,271 in FY 2008, \$94,732 in FY 2009, \$97,101 in FY 2010, and \$99,529 in FY 2011.
7. The tasks of this position would be to collect existing and new data on Montana's resources, clean up this data, compile the cleaned data into a database inventory, and put that inventory on the internet.
8. To develop the baseline inventory of Montana's energy resources, computer support would be needed with database expertise and web publishing. The support needed would be minimal and is estimated to cost just over \$5,000 per fiscal year (\$5,125 in FY 2010 and \$5,253 in FY 2011).
9. To collect the needed data, about one month of travel would be needed in FY 2008 by the policy analyst to visit all the necessary energy-related sites within the state. This would involve 20 nights of hotel accommodations at \$60 per night (\$1,200) and 20 days of meals at \$23 per day (\$460). The DEQ would use its own vehicles for this travel. The total travel cost would be \$1,200 + \$460= \$1,660 for FY 2008 only.

Montana Historical Society (MHS)

10. Section 8(2)(c) of HB405 provides that the Governor may require relevant state agencies to conduct base-line information assessments. Included in these is (iv) "an inventory of cultural resources." For cultural resources (including the identification and protection of historic sites and archaeological sites), the relevant state agency in state law is understood to be the agency under which state land and property is managed – for example DNRC/Trust Land, Fish, Wildlife & Parks, Montana Department of Transportation, Department of Administration, etc.
11. These responsible state agencies consult with the State Historic Preservation Office (SHPO) in this effort. Presently, under the State Antiquities Act (MCA 22-3-424; ARM 10.121.905), the SHPO, upon request provides agencies with base-line information on known cultural resources and cultural resource studies in the area of potential effects of proposed projects. SHPO also makes recommendations on the likelihood that unknown/unrecorded resources may exist and a professional opinion on whether the agency should perform or have performed additional professional cultural resource field survey to determine the existence of such resources.
12. Under HB405 the number of mediated requests by SHPO will likely increase from state and federal agencies, professional consultants, and project applicants for base-line known cultural resource inventory information in project areas. Currently an average of 800 requests is processed each year by SHPO. An additional 0.25 FTE will be required to handle the anticipated workload.

Judicial Branch

13. The Judicial Branch is unable to estimate the workload or fiscal impacts of this bill.
14. Section 5 of the bill provides for judicial review for persons aggrieved by actions taken pursuant to sections 1 through 5. Competent jurisdiction is the county where the proposed activity is proposed to occur.
15. Judicial review established in section 5 may increase District Court workload but the Judicial Branch is unable to estimate the impact on judicial workload or the fiscal impact. The cumulative impact of such legislation may over a period of time require additional judicial resources since the court dockets are already full throughout the state.

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
Governor's Office				
FTE	1.00	1.00	1.00	1.00
<u>Expenditures:</u>				
Personal Services	\$76,796	\$76,832	\$78,753	\$80,722
Operating Expenses	\$21,475	\$17,900	\$18,348	\$18,807
TOTAL Expenditures	\$98,271	\$94,732	\$97,101	\$99,529
<u>Funding of Expenditures:</u>				
General Fund (01)	\$98,271	\$94,732	\$97,101	\$99,529
Department of Environmental Quality				
FTE	1.00	1.00	1.00	1.00
<u>Expenditures:</u>				
Personal Services	\$62,431	\$62,431	\$63,992	\$65,592
Operating Expenses	\$27,363	\$22,122	\$22,675	\$23,242
TOTAL Expenditures	\$89,794	\$84,553	\$86,667	\$88,834
<u>Funding of Expenditures:</u>				
General Fund (01)	\$89,794	\$84,553	\$86,667	\$88,834
Montana Historical Society				
FTE	0.25	0.25	0.25	0.25
<u>Expenditures:</u>				
Personal Services	\$9,313	\$9,313	\$9,546	\$9,785
Operating Expenses	\$2,775	\$0	\$0	\$0
TOTAL Expenditures	\$12,088	\$9,313	\$9,546	\$9,785
<u>Funding of Expenditures:</u>				
General Fund (01)	\$12,088	\$9,313	\$9,546	\$9,785
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$200,153)	(\$188,598)	(\$193,314)	(\$198,148)

Technical Notes:

1. New section 8(2)(c) authorizes the Governor to require state agencies to gather base-line information assessments of Montana’s energy resources. Existing permitting statutes recognize a permit applicant's responsibility to gather and provide the state with base-line information and assessments as part of their permitting request. HB 405 does not clarify if, when, or how the permit applicant's responsibilities would be assumed by the state. HB 405 does not identify or establish funding for inventories or assessments conducted by the state under this section.
2. New Section 5(2) includes language that requires all judicial challenges with respect to a clean energy development project with a project cost, as determined by the court, that is more than \$1 million to have precedence over any civil cause of a different nature pending in court. This section may conflict with other statutory provisions that provide a scheduling preference for other types of civil cases including child abuse and neglect and youth court cases.

Sponsor’s Initials

Date

Budget Director’s Initials

Date