



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # HB0599

Title: Generally revise opencut laws

Primary Sponsor: Gunderson, Steve

Status: As Introduced

- 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 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	(\$16,000)	(\$16,000)	(\$16,000)	(\$16,000)
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: HB 599 generally revises the Opencut Mining Act, 82-4-401, et seq., MCA. These revisions include the repeal of Section 82-4-440, MCA, which eliminates limited borrow operations, and adds 82-4-432(14), MCA, that creates a less stringent permitting process. These changes to the Opencut Act have a fiscal impact to the Department of Environmental Quality as described below.

FISCAL ANALYSIS

Assumptions:

Department of Environmental Quality (DEQ)

1. HB 599 repeals 82-4-440, MCA, eliminating the limited borrow operation, which removes a \$500 application fee that was deposited in the Opencut Fund, 17-2-102, MCA.
2. HB 599 adds 82-4-432(14), MCA, that creates a less stringent permitting process that includes a \$500 permit application fee to be deposited in the Opencut Fund, 17-2-102, MCA.
3. Revenue lost from the limited borrow application fee will be offset by application fees generated through the less stringent process in 82-4-432(14), MCA.

- There were 33 new standard opencut permit applications submitted in FY 20, and DEQ estimates that number will remain the same into the future.
- DEQ estimates standard permitting application submittals that require a fee of \$1,500 will likely be reduced by approximately 50% (or 16) due to applicants pursuing the less stringent process in 82-4-432(14), MCA, which will result in a loss of state special revenue to the Opencut Fund of \$16,000 ((16 applications X \$1,500) - (16 applications X \$500)).
- Existing FTE will be used to implement provisions of this bill.

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
Fiscal Impact:				
Expenditures:				
TOTAL Expenditures	\$0	\$0	\$0	\$0
Funding of Expenditures:				
TOTAL Funding of Exp.	\$0	\$0	\$0	\$0
Revenues:				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$16,000)	(\$16,000)	(\$16,000)	(\$16,000)
TOTAL Revenues	(\$16,000)	(\$16,000)	(\$16,000)	(\$16,000)

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$16,000)	(\$16,000)	(\$16,000)	(\$16,000)

Effect on County or Other Local Revenues or Expenditures:

- Rural county governments typically permit sites in areas that meet the criteria set forth in 82-4-432(14), MCA, so these entities should see a cost savings in application fees and permit application preparation.

Technical Notes:

Department of Natural Resources and Conservation (DNRC)

- Changes to 82-4-431(3), MCA, would exclude the permitting requirement for a landowner removing less than 10,000 cubic yards of opencut materials. With no permit requirement, compensatory mitigation under 76-22-111, MCA, would not be required for new gravel operations on private lands occurring in sage grouse core, general, or connectivity habitat.
- The fiscal impact of this permitting exclusion within the compensatory mitigation system, per 76-22-111(1)(a), MCA, cannot be determined because loss of functional habitat is determined by acres, not cubic yards of material mined, and because project developers can provide permittee responsible mitigation, which does not involve monetary contributions to the stewardship account to offset functional acres lost.

NOT SIGNED BY SPONSOR

Sponsor's Initials

3/1/21
Date

RE for KA
Budget Director's Initials

3/1/21
Date