



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # SB0176

Title: Generally revise laws related to coal, coal tax, and coal-fired unit remediation

Primary Sponsor: Molnar, Brad

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	\$43,436	\$43,385	\$44,237	\$44,849
Federal Special Revenue	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	(\$250,000)	(\$250,000)	(\$250,000)	(\$250,000)
Federal Special Revenue	(\$1,439,500)	(\$1,439,500)	(\$1,439,500)	(\$1,439,500)
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: SB 176 amends the Coal-Fired Generating Unit Remediation Act, 75-8-107, MCA to include demolition and removal of coal-fired units closed on or after January 1, 2020 and requires the Department of Environmental Quality to determine the bond or financial assurance amount for the demolition and removal, not including a discount rate. SB 176 amends statutes directing the disbursement of coal tax proceeds (15-35-108 and 17-5-703, MCA) to require that recipients of coal tax funds sign a statement supporting coal.

FISCAL ANALYSIS

Assumptions:

Department of Environmental Quality (DEQ)

1. This legislation includes demolition and removal requirements for all coal-fired units at Colstrip.
2. Colstrip Units One and Two Remediation Plan under the Coal-Fired Generating Unit Remediation Act, has been submitted to the department jointly by Talen and Puget Sound Energy and was approved by DEQ on

- December 3, 2020. Colstrip owners would need to submit information required in Section 5 for Units One and Two retroactively.
3. DEQ will require bond updates and collect bonds twice per year.
 4. DEQ is currently required to determine the bond or other financial assurance necessary to remediate the contamination associated with the Colstrip ash ponds under a 2012 Administrative Order on Consent (AOC). Bonds are currently determined with a discount rate, so those amounts will be adjusted.
 5. DEQ will determine the bond or other financial assurance amount needed for the demolition and removal requirements of the coal-fired generating units at Colstrip.
 6. Determination of the bond or other financial assurance for decommissioning will require 0.2 FTE and \$25,000 in contracted services for experts in decommissioning and financial assurance to determine decommissioning costs and bond amount.
 7. It is assumed that the Colstrip owners will comply and not appeal the amount of the bond or other financial assurance determined by DEQ. If a Colstrip owner appeals the amount of the bond or other financial assurance, administrative and judicial actions may result in additional fiscal impact.
 8. The bond requirements are applicable to all aspects of the Remediation Plan, including past actions, approved remedies, and bonding done under the AOC.
 9. Demolition and removal are part of the bonding requirements.
 10. The bonding requirement for demolition and removal is waived in the case the coal-fired generating unit is legitimately sold for generation or experimental purposes, including but not limited to carbon sequestration, but applies when the unit ultimately closes. DEQ assumes the bonding requirements under the AOC remain in effect.
 11. Bonding under the AOC for units not currently covered under a Remediation Plan will remain in place.
 12. The department may recover costs to determine the bond or other financial assurance amount as described in 75-8-106(7), MCA.
 13. Based on Technical Note #2 below, DEQ cannot sign the statement supporting coal, which would preclude receipt of the \$250,000 in coal severance tax as provided for in 15-35-108(10), MCA. That \$250,000 is used to match \$1,439,500 in federal grant monies from the Department of Interior to fund DEQ's coal regulatory program. The net loss in state and federal revenue to DEQ would be \$1,689, 500.

	<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>
<u>Fiscal Impact:</u>				
FTE	0.20	0.20	0.20	0.20
<u>Expenditures:</u>				
Personal Services	\$13,294	\$13,253	\$13,615	\$13,781
Operating Expenses	\$30,142	\$30,132	\$30,622	\$31,068
TOTAL Expenditures	<u>\$43,436</u>	<u>\$43,385</u>	<u>\$44,237</u>	<u>\$44,849</u>

Funding of Expenditures:

General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$43,436	\$43,385	\$44,237	\$44,849
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	<u>\$43,436</u>	<u>\$43,385</u>	<u>\$44,237</u>	<u>\$44,849</u>

Revenues:

General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$250,000)	(\$250,000)	(\$250,000)	(\$250,000)
Federal Special Revenue (03)	(\$1,439,500)	(\$1,439,500)	(\$1,439,500)	(\$1,439,500)
TOTAL Revenues	<u>(\$1,689,500)</u>	<u>(\$1,689,500)</u>	<u>(\$1,689,500)</u>	<u>(\$1,689,500)</u>

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

General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$293,436)	(\$293,385)	(\$294,237)	(\$294,849)
Federal Special Revenue (03)	(\$1,439,500)	(\$1,439,500)	(\$1,439,500)	(\$1,439,500)

Technical Notes:**Department of Environmental Quality (DEQ)**

1. The remediation plan does not require the joint submitters to specify a demolition date.
2. As a regulator of the coal industry, DEQ must remain an impartial decision maker regarding regulated industries. Therefore, DEQ's responsibilities under Title 2, Chapter 2 (Standards of Conduct) and Chapter 4 (Montana Administrative Procedure Act), MCA would prohibit DEQ from signing the "statement in support of coal" described in Sections 1 & 2 of the proposed bill. This may be the case for other state agencies as well.
3. Section 4 does not give the department authority to determine the provisions of this statute with respect to applicable legal obligations in the event of a conflict.
4. The proposed bill states that "[a]n owner may direct the [DEQ] to reduce bond requirements for real-time expenditures during remediation." DEQ must analyze the work performed to determine compliance with the remediation plan and other requirements. For these reasons, DEQ would not be able to adjust the bond on a real-time basis.
5. The proposed bill language gives the facility owner control of bond reduction, with no criteria regarding what constitutes an "expenditure[e] during reclamation" or whether such "expenditures" are sufficient to reduce the amount needed to financially assure reclamation.

Department of Revenue (DOR)

6. The bill does not explicitly state what form the support statement must be in. Some rule making will be necessary to address this ambiguity.

<u>BAM</u>	<u>2-11-21</u>	<u>KA</u>	<u>2/10/21</u>
<i>Sponsor's Initials</i>	<i>Date</i>	<i>Budget Director's Initials</i>	<i>Date</i>