



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # SB0233

Title: Generally revise the board of environmental review

Primary Sponsor: Ankney, Duane

Status: As Amended in Senate Committee

- 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 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
Expenditures:				
General Fund	(\$1,894)	(\$1,894)	(\$1,894)	(\$1,894)
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$1,894</u>	<u>\$1,894</u>	<u>\$1,894</u>	<u>\$1,894</u>

Description of fiscal impact: As amended, SB 233 transfers all Board of Environmental Review (BER) rulemaking authority to the Department of Environmental Quality but would keep any contested case/appeal authority with the BER.

FISCAL ANALYSIS

Assumptions:

Department of Environmental Quality (DEQ)

- DEQ would develop rule packages and conduct public notice and comment using existing resources. The additional workload would be offset by a reduction in work as DEQ would no longer be required to present rule packages to the BER for approval.
- The BER is funded 100% by the general fund.
- The average annual costs for the last seven years for the BER are \$24,988. Of these expenses, approximately \$12,627 is for legal services, most of which are paid to the Department of Justice.
- An estimated 15% of the legal services costs are related to rulemaking. Under SB 233, these rulemaking responsibilities would be moved to DEQ, and the cost associated with BER rulemaking would be absorbed by DEQ.
- The remainder of the expenses are for BER travel to Helena and honoraria for BER meetings.

	<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>				
<u>Expenditures:</u>				
Operating Expenses	(\$1,894)	(\$1,894)	(\$1,894)	(\$1,894)
TOTAL Expenditures	(\$1,894)	(\$1,894)	(\$1,894)	(\$1,894)
<u>Funding of Expenditures:</u>				
General Fund (01)	(\$1,894)	(\$1,894)	(\$1,894)	(\$1,894)
TOTAL Funding of Exp.	(\$1,894)	(\$1,894)	(\$1,894)	(\$1,894)
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$1,894	\$1,894	\$1,894	\$1,894

Technical Notes:

1. Section 75-5-313(2)(b), MCA, requires DEQ to recommend base numeric nutrient standards to the BER. Section 61 eliminates the BER from the paragraph but retains the duty for DEQ to make a recommendation. Therefore, this provision requires DEQ to make a recommendation to itself. DEQ suggests amending the proposed language to: “(b) The department shall consult with the nutrient work group prior to ~~recommending~~ adopting base numeric nutrient standards ~~to the board~~ and shall continue to consult with the nutrient work group in implementing 28 individual nutrient standards variances.”
2. Section 82-4-422(2)(b)(iii), MCA: The bill suggests changing the language to: “providing other administrative requirements ~~that the board considers necessary~~ to implement this part;” As amended, it is unclear which entity makes the determination as to what is “necessary.” DEQ suggests revising the proposed language to say: “providing other administrative requirements that the ~~board~~ department considers necessary...”

NO SPONSOR SIGNATURE

	4.6	KA	3-31-21
Sponsor's Initials	Date	Budget Director's Initials	Date