

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 15, 2010
POSITION: Oppose unless amended
SPONSOR: Department of Conservation

BILL NUMBER: AB 2453
AUTHOR: V. Tran

BILL SUMMARY: Oil and Gas: Operations: Enforcement Actions

Existing law establishes procedures for an operator of a well or owner of a rig, derrick, or other operating structure to appeal an order of the State Oil and Gas Supervisor or a district deputy regarding the operation of a well, or drilling or testing operations. This bill would make numerous changes to the appeal process and procedures.

FISCAL SUMMARY

To implement the requirements of this bill, the Department of Conservation (Conservation) would need to fund 1.0 Staff Counsel III position from the Oil, Gas and Geothermal Administrative Fund. Conservation estimates the annual cost for this position would be \$145,000.

We note that Conservation is currently represented by the Attorney General's Office (AGO) for the appeals process. The costs for the AGO representation is approximately \$260,000 per year. Changes to the appeals process required in this bill would create, on average, ten more cases that Conservation would need AGO representation for. This would result in increase of \$50,000 in annual AGO costs to the Oil, Gas and Geothermal Administrative Fund.

COMMENTS

Finance opposes this bill unless amended to its original version. While the bill would implement needed changes to the appeal process, it creates additional costs to the Oil, Gas and Geothermal Administrative Fund that were not identified in the Governor's Budget.

Specifically, this bill would do the following:

- Require the State Oil and Gas Supervisor or a district deputy to state the factual basis for the order, the statutory and regulatory basis for the action, and the penalties and requirements imposed on the operator.
Require a cease and desist order to specify the operations to cease and a detailed explanation of the action to be taken by the operator to allow operations to resume.
Provide for review by the Director of Conservation if an order by the State Oil and Gas Supervisor or a district deputy imposes a civil penalty.
Require all appeals to be heard in a formal hearing process before an administrative law judge except for certain emergency orders which would have an expedited hearing before the Director of Conservation.

(Continued)

Analyst/Principal (0634) M. Almy Date Program Budget Manager Karen Finn Date

Department Deputy Director Date

Governor's Office: By: Date: Position Approved Position Disapproved

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COMMENTS (continued)

- Require the Division of Oil, Gas, and Geothermal Resources to reimburse an operator for required remedial work if an order is invalidated on appeal.

The author of the bill states that the statutory changes provided would address procedural concerns raised by the Court of Appeal in the *Terma Company v. Bridgette Luther* decision. Conservation states that having both in-house counsel to address informal hearings and Attorney General's Office support for formal hearings would provide the most cost-effective model to implement the requirements of this bill.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the February 19, 2010 version change our position from "Support" to "Oppose, unless amended". The amendments made to the appeals process and procedures now require all appeals to be heard in a formal hearing process before an administrative law judge. Only certain emergency orders would be allowed to have an expedited hearing before the Director of Conservation. This changes our position as the amendments result in additional costs of \$50,000 annually to the Oil, Gas and Geothermal Administrative Fund from the original version.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)								Fund Code
	LA	(Dollars in Thousands)								
	CO	PROP								
	RV	98	FC	2010-2011	FC	2011-2012	FC	2012-2013		
3480/Conservation	SO	No	C	\$195	C	\$195	C	\$195		3046
<u>Fund Code</u>	<u>Title</u>									
3046	Oil, Gas and Geothermal Administrative									

Suggested Amendments
AB 2453 (As amended July 15, 2010)

The suggested amendment would be to restore the bill to its original version dated February 19, 2010. By doing so, the bill would result in more appeals being heard in an expedited hearing before the Director of Conservation creating savings to the Oil, Gas and Geothermal Administrative Fund.