

FISCAL NOTE

Revised to reflect amendments adopted.

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2011-12		FY 2012-13	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	10,225			
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	10,225			

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 1, as amended by AM36, exempts any major pipeline that has submitted an application to the United States Secretary of State pursuant to Executive Order 13337 prior to the effective date of the Act. The remainder of the Major Oil Pipeline Siting Act remains unchanged.

The Public Service Commission (PSC) has identified the costs associated with an application under the Act. As the bill is amended, it is not anticipated that these costs will be incurred in the next two years. Therefore, no appropriation is required at this time to address the application process.

However, regardless of whether an application is received, the PSC must undergo the rule and regulation process. The total estimated cost for this is in excess of \$50,000. Since many of the PSC staff split their time and salary between a mixture of Cash Funded and General Funded activities, that amount can be reduced to reflect only the amount needed to cover the portion of salaries that would normally be paid for out of Cash Funds dedicated to other specific activities. The end result is the need for \$10,225 in General Funds in the 2011-2012 fiscal year.

LB 1 is the Major Oil Pipeline Siting Act.

Section 3 provides purposes for the Act. Section 4 provides Legislative findings. Section 5 provides definitions.

Section 6 requires a pipeline carrier proposing to construct a major oil pipeline to be placed in operation in the state after the effective date of the act to file an application with the PSC and receive approval prior to beginning construction. A pipeline carrier proposing a substantive change to the route of a major oil pipeline shall file an application for the proposed change with the PSC prior to beginning construction relating to the proposed change. Such applications shall be accompanied by a written agreement to pay expenses assessed pursuant to section 7 of the Act.

Section 7 requires the PSC to assess the expenses reasonably attributable to the investigation and hearing regarding an application filed under section 6. This assessment shall include expenses billed by agencies filing reports as authorized in subsection (3) of section 8 of the Act and both direct and indirect costs incurred by the PSC, its staff or consultants, to the applicant as agreed under section 6 of the Act. The PSC shall bill the applicant. The applicant shall pay the bill within fifteen (15) days. The payment shall be credited to the Public Service Commission Pipeline Regulation Fund. Section 7 includes language to address issues of non-payment, filing of objections, and further delinquency of payment.

Section 8 addresses the actions that the PSC shall take upon receipt of an application. Subsection (3) requires certain agencies to file a report with the PSC, prior to the hearing on the application, regarding information within the respective agencies' area of expertise. The agencies identified are:

- Department of Environmental Quality
- Department of Natural Resources
- Department of Revenue
- Department of Roads
- Game and Parks Commission

Nebraska Oil and Gas Conservation Commission
Nebraska State Historical Society
State Fire Marshal
Board of Educational Lands and Funds

The agencies may submit a request for reimbursement of expenses incurred for any consultants hired pursuant to this subsection not to exceed an unidentified amount of dollars. In order for this reimbursement cap to have meaning, such a cap needs to be identified and amended into the bill.

Section 8 (4) requires an application under the Act to be granted if the major oil pipeline is determined by the PSC to be in the public interest. The pipeline carrier shall have the burden of establishing that the proposed pipeline would serve the public interest. This subsection goes on to identify the determining factors that the PSC shall use to make this evaluation.

Section 9 requires the PSC to enter an order granting the application or denying the application within eight (8) months after the receipt of the application. The PSC may extend the time for entry of an order for just cause.

Section 10 provides for appeals by aggrieved parties.

Section 11 creates the Public Service Commission Pipeline Regulation Fund.

Section 12 allows the PSC to contract for professional services and expert assistance to assist with reviewing applications under the Act.

The Public Service Commission has identified certain assumptions in their estimate of fiscal impact. These include:

1. One application per year
2. Three days of hearings at three separate locations
3. Five counties involved
4. Twenty-five municipalities affected
5. PSC staff time totaling 672 hours
6. An estimate of \$500,000 for agency related reports, and consultants providing expertise for the investigation and hearings.
7. The assumption that the PSC will be able to assess the applicant up-front for certain costs prior to their actual occurrence. The PSC would intent to "true-up" with the applicant once actual costs are known.

These underlying assumptions appear to be generally reasonable. However, it should be noted that the assumptions in item number 7 are in a gray area. First, the bill provides for the PSC to assess the applicant. It is not a matter of certainty that this can be done prospectively. If the PSC is not able to assess the applicant based on estimates of future costs, some manner to pay for initial cost must be found. It is likely that this would entail using General Funds. It would be beneficial if the bill's language specified the prospective or non-prospective nature of such assessments. Furthermore, the bill is silent regarding the PSC's authority to "true-up" with an applicant. If this is the PSC's intent and in line with the Legislature's will, the bill should allow for such a provision. In this manner, any overage assessed to an applicant can be refunded if not required to pay for actually incurred costs.

Additionally, assumption number 1 may be questioned. In all likelihood, there will be a single application for pipeline construction under the Act. However, that is not a certainty. By making the assumption of a second year application, the PSC is allowing for the possibility of re-filings or changes under the Act's provisions. While multiple pipeline applications are not anticipated, planning ahead for such scenarios is prudent. If no applications are submitted in the second year, the PSC will have spending authority with no new funds to expend, since funding is not received in absence of an application.

The total PSC estimate of costs is \$541,687 in the first year and \$542,643 for the second year. There is no basis to disagree with these estimates, under their assumptions. Since one of the PSC's underlying assumptions is the ability to prospectively assess the applicant, these costs are identified as Cash Fund expenditures with Cash Fund revenues to offset.

The agencies required to submit reports under section 8 have estimated costs in the following amounts:

<u>Department of Environmental Quality</u>	<u>\$4,000</u>	<u>\$4,000</u>
<u>Department of Natural Resources</u>	<u>\$0</u>	<u>\$0</u>
<u>Department of Revenue</u>	<u>\$0</u>	<u>\$0</u>
<u>Department of Roads</u>	<u>\$0</u>	<u>\$0</u>
<u>Game and Parks Commission</u>	<u>\$0</u>	<u>\$0</u>
<u>Nebraska Oil and Gas Conservation Commission</u>	<u>\$3,450</u>	<u>\$0</u>
<u>Nebraska State Historical Society</u>	<u>\$1,000 per mile</u>	<u>\$1,000 per mile</u>
<u>State Fire Marshal</u>	<u>\$0</u>	<u>\$0</u>
<u>Board of Educational Lands and Funds</u>	<u>\$3,000-\$5,000</u>	<u>\$3,000-\$5,000</u>

With one exception, the agencies listed above have estimated minimal costs associated with the prospect of hiring consultants to address the provisions of LB 1. Under the bill's provisions, these costs may be submitted to the PSC for reimbursement. Since these dollar amounts are so low, it is assumed that the respective agencies have sufficient budgetary authority to address these costs without need for an appropriation increase.

The exception to this is the Historical Society (NSHS). The NSHS estimates the potential need to survey the proposed route of a pipeline. The estimated cost of that is in a range near \$1,000 per mile surveyed. In absence of a proposed route, the cost of such a survey cannot be accurately estimated. It is highly likely that this cost will be significant and require an increase in appropriation authority. At this time, it is assumed that the NSHS will address these costs through the normal budget and/or deficit process. Since these costs cannot be accurately identified, no dollars for this purpose are included in the table on page one of this fiscal note.

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Lyn Heaton	DATE	11/16/11	PHONE	471-2526
COMMENTS					
<p>BOARD OF EDUCATIONAL LANDS AND FUNDS: Costs for the BELF are expected to be minimal. The BELF can utilize existing personnel and financial resources, subject to laws authorizing use of such resources, to evaluate the impact of any proposed major oil pipeline relative to their area of expertise and jurisdiction. Any cost to evaluate the impact of the proposed pipeline and subsequently prepare the report to the PSC, with the exception of any costs incurred for any required consultants up to an unspecified maximum, will not be reimbursed by the applicant.</p> <p>ENVIRONMENTAL QUALITY: Concur. Minimal fiscal impact expected.</p> <p>STATE FIRE MARSHAL: Concur with the State Fire Marshal estimate of little or no fiscal impact. The agency can utilize existing personnel and financial resources, subject to laws authorizing use of such resources, to evaluate the impact of any proposed major oil pipeline relative to their area of expertise and jurisdiction. Any cost to evaluate the impact of the proposed pipeline and subsequently prepare the report to the PSC, with the exception of any costs incurred for any required consultants up to an unspecified maximum, will not be reimbursed by the applicant.</p> <p>GAME AND PARKS COMMISSION: Concur. Minimal fiscal impact expected.</p> <p>DEPARTMENT OF NATURAL RESOURCES: Concur with the Dept. of Natural Resources estimate of minimal fiscal impact. The agency can utilize existing personnel and financial resources, subject to laws authorizing use of such resources, to evaluate the impact of any proposed major oil pipeline relative to their area of expertise and jurisdiction. Any cost to evaluate the impact of the proposed pipeline and subsequently prepare the report to the PSC, with the exception of any costs incurred for any required consultants up to an unspecified maximum, will not be reimbursed by the applicant.</p> <p>OIL AND GAS CONSERVATION COMMISSION: Concur. Minimal fiscal impact expected.</p> <p>DEPARTMENT OF REVENUE: Concur with the Department of Revenue estimate of minimal fiscal impact. The Department of Revenue can utilize existing personnel and financial resources, subject to laws authorizing use of such resources, to evaluate the impact of any proposed major oil pipeline relative to their area of expertise and jurisdiction. Any cost to evaluate the impact of the proposed pipeline and subsequently prepare the report to the PSC, with the exception of any costs incurred for any required consultants up to an unspecified maximum, will not be reimbursed by the applicant.</p> <p>DEPARTMENT OF ROADS: Concur. Minimal fiscal impact is expected.</p> <p>STATE TREASURER'S OFFICE: Concur with the State Treasurer's Office estimate of little or not fiscal impact. The agency can utilize existing personnel and financial resources, subject to laws authorizing use of such resources, to evaluate the impact of any proposed major oil pipeline relative to their area of expertise and jurisdiction. Any cost to evaluate the impact of the proposed pipeline and subsequently prepare the report to the PSC, with the exception of any costs incurred for any required consultants up to an unspecified maximum, will not be reimbursed by the applicant.</p>					