

## Department of Planning and Budget 2017 Fiscal Impact Statement

**1. Bill Number:** SB1291

**House of Origin**     Introduced     Substitute     Engrossed  
**Second House**     In Committee     Substitute     Enrolled

**2. Patron:**    Chafin

**3. Committee:** Agriculture, Conservation and Natural Resources

**4. Title:**    Well permit applications; disclosure of trade secrets.

**5. Summary:** Authorizes the Department of Mines, Minerals, and Energy (Department) to require disclosure of chemical ingredient names, chemical abstracts numbers, or the amount or concentration of chemicals or ingredients used to stimulate a well provided there is an exclusion from mandatory disclosure under the Virginia Freedom of Information Act as a trade secret. The bill authorizes the Director of the Department of Mines, Minerals and Energy (Director) to disclose such information to additional Department staff or state or local officials to assist the Department in responding to an emergency. The bill prohibits such individuals from disseminating such information further. The bill requires the Director to notify the party that submitted the trade secret of disclosure as soon as practicable. The bill prohibits orders issued pursuant to § 45.1-361.27, Code of Virginia, from including trade secret information. *This revised fiscal impact statement reflects information provided by the Department of Environmental Quality (DEQ) regarding fiscal implications, and information from DMME concerning the number of permitted operations.*

**6. Budget Amendment Necessary:** No. See item 8, below.

**7. Fiscal Impact Estimates:** Preliminary. See item 8, below.

**8. Fiscal Implications:** DMME may require an application for a well, a supplement thereto, and a well completion report to include chemical ingredient names, the chemical abstracts numbers for chemical ingredients, or the amount or concentration of chemicals or ingredients, used to stimulate a well provided there is an exclusion from mandatory disclosure under the Virginia Freedom of Information Act. This exclusion is authorized in SB1292, a companion bill. DEQ anticipates the combined impact of this action will result in an incremental general fund expenditure impact to the agency of \$908,692 per groundwater characterization, or assessment, in Southwest and Coastal Virginia. This averages to approximately \$250,000 per fractured facility in Southwest Virginia, and \$650,000 per fractured facility in Coastal Virginia. Without access to the names, amounts, and concentrations of chemicals or ingredients used to stimulate a well pursuant to §45.1-361.29, Code of Virginia, or regulations promulgated under §45.1-361.27, Code of Virginia, DEQ anticipates that it will be required to implement a new ambient groundwater monitoring program to gather empirical data to monitor groundwater conditions and fulfill its responsibilities to protect groundwater quality.

This would entail baseline and sampling to generate groundwater data on aquifer characterization and ambient groundwater quality. The majority of the expenses DEQ anticipates incurring are for drilling monitoring wells. The anticipated cost for such activity in Coastal Virginia is higher than Southwest Virginia because of soil conditions, depth of aquifer, and thus, the number of monitoring spots.

While this bill will result in an expenditure impact to DEQ, the timing of the impact is unknown. Based in information provided by DMME, there are currently approximately 10,000 active permits issued under §45.1-361.29, Code of Virginia, or regulations promulgated under §45.1-361.27, Code of Virginia. Of these 10,000 active permits, there are currently approximately 8,000 active wells; approximately 70 to 75 percent of these wells have been fractured and all are located in Southwest Virginia. In calendar year 2016, DMME issued approximately 125 permits pursuant to §45.1-361.29, Code of Virginia, or regulations promulgated under §45.1-361.27, Code of Virginia. DMME anticipates drilling activity to remain the same or increase slightly going forward. It is anticipated that approximately 70 to 75 percent of these wells will be fractured wells. DEQ does not anticipate each of these will require ambient groundwater characterization. Rather, DEQ anticipates one such characterization will be required in Southwest Virginia, and one in Coastal Virginia, for an impact of 908,692. Additional characterizations may be needed depending on the results of the initial characterizations.

Additional expenditures will depend on the number of assessments DEQ is required to conduct in fulfilling its water quality responsibilities.

This bill does not have a fiscal impact to the Department of Mines, Minerals and Energy.

**9. Specific Agency or Political Subdivisions Affected:** Department of Mines, Minerals and Energy, Department of Environmental Quality.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** SB1292 provides an exclusion from the mandatory disclosure provisions of FOIA for trade secrets submitted to DMME that identify certain information regarding ingredients and chemicals used to stimulate a well pursuant to §45.1-361.29, Code of Virginia.