

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: SB1292

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
 Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Chafin**3. Committee:** General Laws and Technology**4. Title:** Virginia Freedom of Information Act (FOIA); trade secrets submitted to the Department of Mines, Minerals and Energy.

5. Summary: Excludes from the mandatory disclosure provisions of FOIA trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted to the Department of Mines, Minerals and Energy (DMME) that identify the amount or concentration of chemicals or ingredients used to stimulate a well pursuant to § 45.1-361.29, Code of Virginia, or DMME regulations concerning such ground-disturbing activities. The bill requires that for such records to be protected, the submitting party must (i) invoke this FOIA exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary. The bill requires DMME to determine whether the information claimed to be a trade secret is entitled to such protection. *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: DEQ anticipates this bill 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: None.