



Date: April 24, 2013

To: Senator Rod Skoe, Chair
Senator Julianne Ortman
Senator Richard Cohen, Chair
Senator Michelle Fischbach

From: Bryan Dahl
Executive Budget Officer

Phone: 651.201.8031

Subject: Local Impact Note: SF 786 (2nd Engrossment) (Schmit): Silica sand mining provisions; southeastern Minnesota silica sand mining joint powers board authorization.

On March 4, 2013 Minnesota Management and Budget received a local impact note request for SF 786 (Schmit), which allows the counties of Blue Earth, Chisago, Dakota, Dodge, Fillmore, Goodhue, Houston, LeSueur, Nicollet, Olmsted, Rice, Scott, Wabasha, Washington, and Winona to form a joint powers board to establish a model ordinance that will provide the minimum standards for silica sand mining, transporting, processing, and storage. The bill also allows the board to form a technical advisory team to assist the board. The bill provides for a generic environmental impact statement on silica sand mining to be completed by May 1, 2014 and provides that a statewide moratorium is enacted until March 1, 2014, for new or expanded silica sand mining, processing, or transfer facilities. The bill also allows local units of government to extend their interim ordinances for silica sand operations until March 1, 2015. The bill specifies that any costs related to the joint powers board will be funded by the participating counties.

Local impact notes are similar to the fiscal notes that you are familiar with, but they focus on the fiscal impact of proposed legislation on local governments rather than the State. This process is described in Minnesota Statutes 3.987 and 3.988. This statute requires Minnesota Management and Budget to gather and analyze information on local costs of legislation when requested by the chair or ranking minority member of the House and Senate Tax committees, the Senate Finance committee and the House Ways and Means committee.

Due to the fact that SF 786 does not mandate that local governments participate in the formation and duties related to the joint powers board, MMB has determined that the bill would not result in any State mandated actions that would cause a local government to incur additional costs and therefore we will not complete a formal local impact note to estimate the statewide local impact of this bill. However, MMB did contact the 15 counties named in the bill and asked the following survey questions:

1. Please list the additional duties you believe your county would be required to participate in if this bill became law. This can include items related to the requirement that one member from your county will sit on the board, costs related to establishment of the Technical Advisory Team, staffing costs, contracting costs with outside vendors etc. Please include an annualized cost estimate for each item you list. Please be as specific as possible.
2. The bill is unclear about the length of time it will take to complete the work of the board: please provide your thoughts on how long it will take to complete the requirements listed above. If possible please list an estimated end date.
3. It is possible that costs related to this bill will come in two phases: start-up costs and on-going costs. Please break down the costs you listed above into start-up/first year costs and ongoing costs.
4. Are there other requirements that you feel will materialize for your county if this bill becomes law? Please list and explain. Include cost estimate if possible.

MMB received a response from the following counties: Blue Earth, Dakota, Dodge, Fillmore, Goodhue, Nicollet, Rice, Scott, Wabasha, and Washington. For an indication of the possible costs a local government could incur if they chose to participate in the activities included in SF 786 the responses from these counties to the questions above have been provided as an attachment to this memo.

If you or your staff has any questions about the local note process feel free to contact Executive Budget Officer Bryan Dahl (651)201-8031.

cc: Senator Matt Schmit
Eric Nauman, Legislative Fiscal Staff
Shelby McQuay, Legislative Fiscal Staff
Nicole Kaplan, Finance Committee Administrator
Cap O'Rourke, Taxes Committee Administrator

Appendix:



Dodge County Courthouse

**DODGE COUNTY
ENVIRONMENTAL
SERVICES**

22 6TH ST EAST • DEPT 123 •

MANTORVILLE, MN 55955-2240

507-635-6272 • FAX 507-635-6193

Comments and Questions on S.F. 786

We estimate that Dodge County's participation in JPB and Advisory Committee would require about 4 board/staff days per month for first 3 years to deal with legislative mandates, JPB development, model ordinance development, travel, research, reporting, etc...; costing the county about \$16,000 per year for first 3 years. We estimate that on-going participation (years 4 thru 6) in JPB and Advisory Committee to be \$8000/year. It is difficult for us to estimate the ancillary local costs of the legislation and rules; but we know that amending zoning ordinances and enforcing new mining standards can be very costly. The cost to amend local zoning ordinances can range from \$2000 to \$20,000 depending on complexity, conflict, public education, etc.... The cost of enforcing new land use standards can also vary widely depending on permit activity. Rarely do permit fees cover local government costs when project is complex and/or greatly debated.

116Y.01 (Applicability) Sec. 2

This section now includes the largest city in the county and any city or town that has a pending or approved permit for mining...

116Y.02 (Definitions) Section 4 (same comments as previous)

(b) line 5.26_The definition of "Extraction site" seems broad as it includes the any "deposit containing silica sand". Does this mean that any area with Jordan Sandstone is already considered an "extraction site" regardless if the use is allowed or not?

(f) line 6.6_The definition of "Silica sand" references "several industrial uses" but highlights the use in hydraulic fracturing. Do the new rules or plan pertain to mines that will use or currently silica sand in the other "several industrial uses", or just those who indicate the use will be frac sand? Other industrial uses would include glass making, abrasives, sand-blasting,.....

116Y.03 Section 4 (Southeastern Minnesota Silica Sand Board) SMSSB

The purpose and necessity of this Board seems to be irrelevant considering the fact that the GEIS will be completed by the EQB and the state is required to adopt rules, which all counties will be required to adopt. Why form this Board? If this Board is formed, why would it be formed before the GEIS is completed or rules are adopted, if they are required to prepare a model ordinance?

Subdivision 1 (Establishment)

Including all the counties, largest cities and any city or township that has a permit will make a very large board, if all participate.

Subd. 7 (Funding) Lines 4.11-4.16 Although the largest statutory city and any city or township with pending

permit are able to be included on the SMSSB, it does not appear that they have any financial obligation to fund the Board based upon the language as the language still indicates that the "member county" is responsible for the annual board costs. If the county chooses not to be a member, but the largest city or any city or township with pending permits chooses to be members, is the county still responsible for funding?

Subd. 8 (Committees) Slightly different language, but same concerns. In addition to the SMSSB, the board shall appoint an advisory committee. It also appears that they are given the power to establish as many other committees or subcommittees as they deem necessary.... More created groups/layers of government. Who pays for the meetings? Is this funded by the annual county submittal to the SMSSB?

Sect 7 (116Y.05) (Responsibilities of State Agencies)

This section appears to conflict with existing state statute which exempts state owned land from local jurisdiction.....

Sec. 8 (Generic Environmental Impact Statement; silica sand mining, transportation, and facilities)

Non-metallic aggregate mineral mining (even silica sand mining) has been around for a very long time. It appears that the issue is more with the mining location and scope of the projects, as well as the end use of the silica, rather than simply viewing it as a mine. The state should already have quite a bit of information on the resources that can be expected to be impacted, including but not limited to: groundwater, surface water, air quality, aesthetics.....Other impacts cannot really be predicted until there is a project to analyze as each project and location is unique. This GEIS will not preclude the need for a specific review that may need to be completed once a project is proposed. To do a generic study on such a big and diverse area would not have much value, as each county has different issues, resources, priorities, sensitive features, economics, demographics, etc.....

In addition, the following was noted in this section...

The dates and timelines in this proposal are somewhat confusing and do not appear to make sense.

Line 3.9 **July 1, 2013** EQB Contacts all local units of government to see if they want to joint board

Line 6.19 **June 1st, 2013** EQB selects the agencies and consultants for prep of GEIS

Line 3.10 By **September 1st, 2013**- chair of EQB convenes a meeting of interested LGUs to begin drafting joint powers agreement.

Line 6.24 **March 1st, 2014** (Moratorium) State, LGUS or political subdivision of the state "shall not permit a new or expanded silica sand mining, processing, or transfer facility..." the purpose of this moratorium is "to provide sufficient time for designated state agencies to study and determine the impacts of silica sand mining, processing and transportation and to adopt the necessary law and rules change in subdivision 2, paragraph (b), clause (2)." The moratorium is only issued until March 1st, 2014, but the state does not have to adopt rules until March 1st, 2015...is this a typo??

Line 5.28 **May 1st, 2014**. EQB has to have GEIS completed. See above; so the moratorium expires before the GEIS is completed and rules are developed???

Line 6.18 **March 1st, 2015** state agencies shall adopt rules changes. See above timeframes.

Also, when is the deadline for the model ordinance preparation (which should be based on the GEIS and the minimum state rules.....)?

GENERAL COMMENT

With the EQB completing the GEIS on silica sand mining impacts, and the various state agencies required to adopt minimum standards that all counties will be required to adopt, it is unclear as to the purpose or necessity of the SMSSB. If this Board is necessary, why would it be formed so early in the process if it's only purpose is to "develop a model ordinance designed to protect and enhance southeastern Minnesota from the negative effects of silica sand mining, transportation, and processing."

Nicollet County:

SF786 Comments

1. Additional Duties

- Administration of another Comp Plan – **Ongoing Expense**
 - If participating, will this plan appropriately reflect the goals and visions of Nicollet County?
 - Potential conflict with Nicollet County Comp Plan
 - According to Section 5, Subd. 4, counties must adopt plan and amend existing land use ordinances.
- County Board participation on the Southeastern Minnesota Silica Sand Board
- Staff participation on the Advisory Commission
 - Mileage and travel time depending on meeting location

2. Time Needed to Complete Requirements

- 6 Months – 2 Years

3. Two Phase Approach

- Start Up/First Year Costs
 - Comp Plan and Land use ordinance amendments
 - Land Use Amendments - \$1,000 - \$2,000 (6 months)
 - Comp Plan - \$10,000 - \$15,000 (In-House) 1 -2 Years
\$20,000 - \$30,000 (Consultant) 1 – 2 Years
- On-Going Costs
 - Meeting attendance and travel costs – Federal Mileage Rate and Per Diems
 - Administration of comp plans and land use ordinance – Staff Time
 - Board Annual Expense - unknown

4. Other Requirements

- Another layer of government –
 - Will this require a review or notification of all permit requests to the Board?
- Potential permitting delay for mining operations
- Increased accounting and reporting requirements for the Auditor-Treasurer Department

Dakota County: Input for Local Impact Fiscal Note for SF 786

March 27, 2013

SF 786 provides for the creation of the SE MN Silica Sand Board to be funded by the member counties. One member from each county will sit on the board along with one member from the largest city in each county and one member from any city or town with a pending or approved permit. The board is charged with developing a model ordinance with minimum standards for protection of resources from silica sand mining. The board is also required to establish an advisory committee consisting concerned citizens, local units of government, and the sand mining industry. The board is also required to establish a Technical Advisory Team to assist the board in preparing the model ordinance, the team is made up of staff from the Departments of Natural Resources, Health, Transportation and the Pollution Control Agency. The board may employ staff and enter into contracts.

1. Please list the additional duties you believe your county would be required to participate in if this bill became law. This can include items related to the requirement that one member from your county will sit on the board, costs related to establishment of the Technical Advisory Team, staffing costs, contracting costs with outside vendors etc. Please include an annualized cost estimate for each item you list. Please be as specific as possible.

Dakota County response: It is difficult for us to estimate our costs related to the establishment and operation of this board without knowing what the eventual model ordinance would be envisioned to control/mandate. Based on language, the counties are responsible for all costs relating to the TAC - including any staff. Depending on how controversial this issue becomes, this could become very costly and will likely take a very long time. We envision the proposal in SF 786 as very similar to the rule-making process for the MNRRA (Mississippi River Recreational Area) a couple of years ago which took a significant amount of staff time (and cost) from many jurisdictions (without a governing board) on an issue that was never concluded.

Based on MNRRA experience, our Physical Development Division staff estimates perhaps 200 hours of staff time over a year would be required to support this Board (not including time spent directly by the Commissioner serving on the Board, or the staff support to him or her). At current costs for pay and benefits for the level of staff position (C42) likely to support this board, direct staff support costs would be approximately \$8,400 per year (200 hours X \$41.86/hr wages, payroll taxes and fringes).

Other potential costs for contracted services are not possible to estimate without know the scope of the board or its work, or how the officials serving on the board will decide to proceed.

2. The bill is unclear about the length of time it will take to complete the work of the board: please provide your thoughts on how long it will take to complete the requirements listed above. If possible please list an estimated end date.

Dakota County response: It is not possible for us to estimate this based on the bill as drafted . If a sunset date were incorporated into the bill language (the Board will complete its recommendations and report no longer than X date) it may be easier to estimate total cost over time.

3. *It is possible that costs related to this bill will come in two phases: start-up costs and on-going costs. Please break down the costs you listed above into start-up/first year costs and ongoing costs.*

Dakota County response: We would expect direct start-up costs in terms of member county staff time to be higher in order to establish the board and develop workplans and priorities; as the work unfolds direct staff time from participating counties may lessen, but be replaced by higher costs for contracted vendors to provide technical advice and support. Again this is very difficult to estimate without more specificity on the desired end result of the board's work.

4. *Are there other requirements that you feel will materialize for your county if this bill becomes law? Please list and explain. Include cost estimate if possible.*

Dakota County response: Unknown at this time.

Rice County:

“The legislation does permit Rice County to participate on the Silica Sand Board but we have not been subject to any permit requests. The County Board is undertaking an update of the comprehensive plan and accordingly they may wish to consider a more active role in this issue in the future. Given the uncertainty of participation, it is difficult to estimate any future costs.”

Scott County:

“The current bill states that participation in the new board is optional. The cost for participation is to be funded by the participating counties. So if we join there will be a cost, if we don't there won't. Our experience with such voluntary boards is that costs for participation are generally split among the members by some logical and politically acceptable formula. What I have seen in the past is a formula based on population. Scott County is the fourth largest county named in the bill behind Dakota, Washington and Olmsted. If any of those counties decide to not join then of course the relative participation costs will shift as well. Staff will likely be asked to participate in routine meetings with the technical committee and that will involve costs. It is difficult to predict how much cost without having a board operations plan established. Based on our past experiences I'd say two meetings per month, one with the full board and one with technical staff, and likely involving travel time. Also estimating preparation time we would estimate about 20 hours per month.

“When we participated in the Solid Waste Management Coordinating board our annual participation share was around \$20,000 per year. So we would estimate our annual cost would be between \$30,000 to \$50,000. This is an educated shot in the dark.”

Wabasha:

“Each unit of government would have a substantial burden on its staff members if this bill becomes law. Staff will more than likely have to partake in the meetings taking away from the time at the office. We cannot afford this with a limited number of employees in my department.

“It’s hard to put a specific dollar figure on what it would cost Wabasha County, but we don’t see how anything productive is going to come out of such a large group of people with different concerns and interests. The state should simply work on its own with experts from MPCA or the University to study air quality and water quality and devise standards that will add to the protection of public health and safety.”

Fillmore County:

1. Please list the additional duties you believe your county would be required to participate in if this bill became law. This can include items related to the requirement that one member from your county will sit on the board, costs related to establishment of the Technical Advisory Team, staffing costs, contracting costs with outside vendors etc. Please include an annualized cost estimate for each item you list. Please be as specific as possible.

A: Additional duties would include the repeat of the process Fillmore County completed in 2012. Fillmore County had two board members, planning commission members, the county attorney, technical staff members, local elected officials and citizen participants on its Silica Sand Committee. This committee met monthly for nearly a year to develop a very restrictive ordinance. This process involved extensive research, presentations from both industry representatives and MN technical staff, analysis of reports and data and development of the Industrial mining ordinance. The ordinance does include provisions for a Technical Advisory Team as part of the conditional use permit process. Costs would be related to staff time and travel to repeat another study of silica sand and would be dependent on the level of participation required. With limited Zoning staff in place and the construction season arriving soon, Fillmore County may be stretched thin trying to provide staff and resources to complete another study of silica sand.

2. The bill is unclear about the length of time it will take to complete the work of the board: please provide your thoughts on how long it will take to complete the requirements listed above. If possible please list an estimated end date.

A: The Fillmore County Zoning Ordinance, Section 736, addresses silica sand mining, has already been vetted and approved and could be used as the statewide model.

3. It is possible that costs related to this bill will come in two phases: start-up costs and on-going costs. Please break down the costs you listed above into start-up/first year costs and ongoing costs. We really don’t have a figure relating to the bill because the amount of time is not listed.

A: We could easily estimate the wages just for the Zoning Staff before, during, and after the moratorium to be probably around \$60,000. This is from fielding questions, conducting research, holding meetings, etc. The Zoning Administrator would probably spent 5-7 hours a day for 9 months working on silica sand related issues. There would be additional costs for per diem and mileage for our planning commission members who were on the 2012 Silica Sand Committee. The Zoning Office was over budget last year because of the 2012 process.

4. Are there other requirements that you feel will materialize for your county if this bill becomes law? Please list and explain. Include cost estimate if possible.

A: No Response.

Washington County:

“Giving you specific figures is difficult because of the many unknowns involved such as how many counties will actually join the Board, advisory committee charge, meeting frequency and location.

Our experience with the formation of the Counties Transit Improvement Board (CTIB) is significant time is required from legal, administration, financial, and engineering staff. You can imagine the drafting of a Joint Powers Agreement that is acceptable to 18 County Boards and County Attorneys is a significant and complex undertaking.

Using our experience with CTIB as a basis and considering the broader scope of this Board:

1. Additional Duties – Start-up:
 - a. Staff (planning, legal, financial) needed to develop, review, prepare, and present the JPA to Planning Commission, Townships, County Board.
 - b. Elected official attendance at meetings.
 - c. Consultants (financial, technical, administrative)
 - d. Updating of Township and County Ordinances
2. Without incentive/penalty to complete this work we would expect a minimum of 12 months to just complete the JPA before any work on the Ordinance begins.
3. Start-up costs in organizational salary could range from \$100,000 to \$250,000. Costs for the technical advisory team and consultants are not possible to estimate based on what we know. On-going costs are estimated at \$20,000 in staff salary. Costs of the Board and Technical Advisory Team will be at least this amount.
4. Additional documentation related to silica production tax and conflict with aggregate tax already in-place. Administering new tax, auditing, and distribution.”



Scott O. Arneson
Goodhue County Administrator
Goodhue County

509 W. Fifth St.
Red Wing, MN 55066
Office (651) 385.3001
Fax (651) 385.3034

To: Bryan Dahl, Executive Budget Officer

Cc: Senator Matt Schmit
Representative Tim Kelly
Representative Steve Drazkowski
Representative Pat Garofalo
Goodhue County Commissioners
Beau Berentson, AMC Policy Analyst

From: Scott Arneson, Goodhue County Administrator

Re: Local Impact Analysis of SF 786 (Silica Sand Mining)

Date: March 27, 2013

Per your request, attached you will find the Local Impact Analysis of SF 786- Silica Sand Mining as estimated by Goodhue County.

We have separated our analysis into two phases. Phase one illustrates costs associated with a twelve month start-up period. Phase two illustrates the estimated on-going annual costs we feel could potentially occur should this bill move forward. Our estimate includes forty hours of County staff time each month spent on preparing, researching, and participating in meetings, in addition to two full-time state employees. We have factored in \$10,000 annually for GIS Mapping per County. This will depend on how much information each County currently has for locating existing dwellings, cultural and historical resources, and environmentally sensitive areas. We have also included \$50,000 in start-up costs to hire a consultant to analyze current mining in each County, location of resources, and economical feasibility to mine the resource.

Total one year start-up costs based on our known assumptions are \$1,443,500, with annual on-going costs of \$793,500. We also are aware, but do not have an estimate on, the State rental and IT fees associated with having a fully equipped office in a State building.

Please note that the counties involved in this request have been communicating on this issue for the past two years and have developed their own standards. Given the opportunity to participate, Goodhue County would likely not elect to participate in this board.

GOODHUE COUNTY BOARD OF COMMISSIONERS

RONALD ALLEN
1st District
1713 Siewert Street
Red Wing, MN 55066

RICHARD A. SAMUELSON
2nd District
11200 Olga St. Way
Cannon Falls, MN 55009

DAN RECHTZIGEL
3rd District
1140 2nd Street
Kenyon, MN 55946

JIM BRYANT
4th District
26390 Co. 21 Blvd
Red Wing, MN 55066

TED SEIFERT
5th District
533 9th Street
Red Wing, MN 55066

**Local Impact Analysis of
SF 786
(Silica Sand Mining)**

START UP

First Year Costs

County	
Staff:	\$ 21,500
Estimated 40 hrs/month county staff time preparing, researching, and participating in meetings.	
GIS Mapping:	\$ 10,000
This will depend on how much information each County currently has for locating existing dwellings, cultural and historical resources, and environmentally sensitive areas.	
Consultant:	\$ 50,000
Fees to analyze each County's current mining, location of the resource, and economical feasibility to mine the resource. (i.e. how deep, how accessible)	
Copying & Miscellaneous Other:	\$ 500
Total Start Up Cost Per County	\$ 82,000
Total Start Up Costs for all 15 Counties	\$ 1,230,000

State	
Staff:	\$ 200,000
Estimate 2 full-time employees with benefits.	
Pier Diems/Mileage:	\$ 10,000
Silica Board Members and staff mileage.	
Conferences:	\$ 3,000
Silica Board Members and staff conferences fees and hotel stays.	
Office Rental:	??
State rental fee to rent office space to itself.	
IT Charge:	??
State IT charge for IT Services	
Equipment:	??
Copying & Miscellaneous Other:	\$ 500
Total Start Up Cost for the State	\$ 213,500

Total Start Up Costs \$ 1,443,500

ON GOING

Annual Costs Beginning in Year Two

County	
Staff:	\$ 21,500
Estimated 40 hrs/month county staff time preparing, researching, and participating in meetings.	
GIS Mapping:	\$ 5,000
Miscellaneous mapping needed.	
Consultant:	\$ 10,000
Miscellaneous consultant fees.	
Copying & Miscellaneous Other:	\$ 500
Total Annual On Going Costs Per County	\$ 37,000
Total Annual On Going Costs for all 15 Counties	\$ 555,000

State	
Staff:	\$ 200,000
Estimate 2 full-time employees with benefits.	
Pier Diems/Mileage:	\$ 10,000
Silica Board Members and staff mileage.	
Conferences:	\$ 3,000
Silica Board Members and staff conferences fees and hotel stays.	
Office Rental:	??
State rental fee to rent office space to itself.	
IT Charge:	??
State IT charge for IT Services	
Equipment:	??
GIS Mapping:	\$ 5,000
Any other miscellaneous copies/mapping.	
Consultant:	\$ 20,000
Any other miscellaneous consultant fees.	
Copying & Miscellaneous Other:	\$ 500
Total Annual On Going State Costs	\$ 238,500

Total On Going Costs \$ 793,500

**Blue Earth County
Local Impact Analysis
SF 786**

Question #1

Commissioner attendance at meetings		
Salary/benefits @ 8 hours per month	1,701	On - going cost
Per Diem @ 12 meetings/yr	900	On - going cost
Mileage @ 100 miles per mtg	678	On - going cost
Meals @ \$10/mtg	120	On - going cost
Staff participation on Technical Advisory Team		
Dept head Salary/benefits @ 8 hours per month	5,072	On - going cost
Prep work for meeting @ 8 hours/mo	5,072	Start up cost
Mileage @ 100 miles per mtg	678	On - going cost
Meals @ \$10/mtg	120	On - going cost
Consultant		
10 hours/month @ \$120/hour	14,400	Start up cost
Total Cost	28,741	

Question #2

We believe it is likely to take 24 - 30 months for the work of the board to be completed.

Question #3

See above

Question #4

- Another layer of government –
 - Will this require a review or notification of all permit requests to the Board?
- Potential permitting delay for mining operations
- Potential conflict with Blue Earth County existing ordinances. Will be costly to update/revise our ordinances.
 - According to Section 5, Subd. 4, counties must adopt plan and amend existing land use ordinances which will be costly and time consuming.

*- Legal and secretarial costs for Joint Powers board will be incurred. How those costs are distributed to participating counties is unknown and not included above.

*- will there be a funding source for the work of the JPB or will participating counties pay costs incurred by the JPB?