

THE FISCAL NOTE FOR HB215-FN IS MISLEADING—AT BEST

The Fiscal Note attached to HB215-FN does not stand up to scrutiny. The Fiscal Note would have legislators believe there are significant costs associated with enactment of HB215-FN.

That is not true. I urge legislators to consider the facts as discussed below, and (1) ignore the HB215-FN Fiscal Note; and (2) conclude that any fiscal consequences of HB215-FN are likely zero, or at most *de minimus*.

Specifically the Fiscal Note suggests:

- The department will bear direct costs and/or opportunity costs (without appropriation for such costs) and that these costs are indeterminable, and
- Applicants (that are either a county or local jurisdiction) that submit permits to build new landfills or expand existing landfills will incur additional costs up to \$100,000 per year.

Scratch the surface and you will find that the Fiscal Note is misleading—at best. The most likely fiscal outcome of HB215-FN enactment is zero direct costs to the department and zero costs to any county or municipal governmental entity. In the unlikely event that there are any such costs, they will be *de minimus*.

Moreover, the essence of HB215-FN dictates that good government requires that costs and benefits of governmental actions must be considered side-by-side. Thus, if there are any opportunity costs to the department of HB215-FN enactment, such costs must be weighed against the benefits of a more robust state landfill siting policy that will come with enactment of HB215-FN.

Direct and opportunity costs to the Department is a red herring

The Fiscal Note says: “The potential expenditures associated with this bill are indeterminable. However, costs would arise from revising administrative rules and managing more extensive or complex public benefit demonstrations during application reviews.”

In fact, while there may be opportunity costs for the department associated with enactment of HB215-FN, “potential expenditures” for the department are not indeterminable; they are zero. That is, enactment of HB215-FN will not result in any significant direct costs to the department:

- Revising administrative rules will not engender any actual direct costs for the department, given that the HB215-FN will not require any significant change to administrative rules.
- Moreover, if there are any direct costs to changing administrative rules, those costs will be for a one-off exercise to slightly revise administrative rules, not a recurring cost.

The claim that “costs would arise” from managing more extensive or complex public benefit demonstration during application reviews is at best a half-truth:

- Application reviews by the department for new landfills or landfill expansions are extremely labor-intensive. The incremental labor input to ensure the department’s fulfillment of HB215-FN requirements will be *de minimus*– akin to a pimple on the butt of an elephant.
- HB215-FN does not require the department to conduct any new studies, develop any new tools, etc. It merely requires the department to “consider” harms of a landfill identified by a third-party in its determination of net public benefit. This additional consideration will not be burdensome; it will be just one of an extremely long list of considerations the department already undertakes.

Cost to the state and local entities is also a red herring

The Fiscal Note includes a chart that shows an indeterminable increase in costs for the state and for local governmental entities of up to \$100,000 per year in perpetuity. The way the Fiscal Note explains this is: “The Department estimates that potential additional expenditures could range from \$0 to \$100,000 for the State, counties, or municipalities, depending on the frequency and complexity of applications submitted. In years where no such applications are filed, no expenditures related to this legislation would be incurred.”

This belies a number of facts related to “the frequency and complexity of applications submitted”:

- There are only nine operating landfills in the state. The upper bound on the “frequency” of applications is probably three: a new pending application from GSL which may or may not be subject to HB215-FN, and possibly two landfill expansions (Turnkey and Mt. Carberry).
- Under HB215-FN, all three of these landfills (GSL, Turnkey and Mt. Carberry) will bear any and all costs of a harms assessment, meaning there will be no cost to the state or local jurisdictions.
- Also with respect to the frequency of applications, while there are 250 “...inactive, closed landfills, most of which are unlined and municipally-owned” according to the department, it is extremely unlikely that any of these landfills will make application to the department to build a de novo landfill or expand the existing closed landfill. Again, no cost to the state or local jurisdictions.
- And with respect to the complexity of applications, again the analogy of a pimple on an elephant’s butt is apt. Applications to build a new landfill or expand an existing landfill are so complex, that the added burden to the applicant of fulfilling the requirement under HB215-FN of assessing the harms of the landfill are lost in the noise. Stated another way, the cost of HB215-FN is extremely unlikely to affect the economics of submitting landfill permit applications.