

Fiscal Estimate Narratives
DATCP 2/7/2012

LRB Number	11-3824/1	Introduction Number	SB-405	Estimate Type	Original
Description Listing frac sand mining as a conditional or prohibited use in certain types of zoning ordinances					

Assumptions Used in Arriving at Fiscal Estimate

The proposed bill specifies that under municipal law, local zoning ordinances must consider frac sand mining as a conditional use within an "agricultural zoning ordinance". The department certifies and administers farmland preservation zoning ordinances under Chapter 91, Wis. Stats. Chapter 91 requires that any nonmetallic mining be done as a conditional use [see s. 91.46(1)(h) and (6), Stats.]. The department has also interpreted Chapter 91 to allow flexibility to the local government to be more restrictive and not allow any nonmetallic mining within a FPP zoning district.

The proposed bill also requires that any "residential use ordinance" prohibit frac sand mining under the ordinance. Chapter 91, the farmland preservation law, gives flexibility to a local government to allow farm residences as an accessory use and allow these types of residences as a permitted use or a conditional use under farmland preservation zoning ordinances. The farmland preservation law also allows non-farm residences as a conditional use within the standards in chapter 91. If the proposed bill is adopted, the department will need to interpret whether the residences allowed within farmland preservation zoning ordinances will result in them being considered "residential use ordinances" under the law and require that frac sand mining be a prohibited use in these farmland preservation zoning ordinances.

The department does not estimate any additional state costs related to the proposed bill. If the bill is adopted, there will be additional local government costs related to processing conditional use permits for frac sand mining. Generally, local costs for conditional use permits are covered by permit fees adopted by the local government. The increased costs of the proposed bill would be mandatory to the local government and any increased revenue would be permissive, meaning that the local government could choose to cover any increased costs through increased permit fees.

Long-Range Fiscal Implications

There are no long range fiscal implications to the department. Any long term fiscal implications to local governments would be determined by the number of conditional use permit applications received, and any long term need to do inspections to make sure conditions in the local permits are met.