

<b>LFC Requester:</b>	<b>Jonas Armstrong</b>
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*  
**Original**     **Amendment**      
**Correction**     **Substitute**   

**Date** January 29, 2015  
**Bill No:** HB 199

**Sponsor:** Rep. Paul. C. Bandy  
**Short**    Jurisdiction over Oil and  
**Title:**    Gas Operations

**Agency Code:** Attorney General's Office - 305  
**Person Writing**    Tannis L. Fox, AAG  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

**BILL SUMMARY**

Synopsis:

HB 199 amends the Oil and Gas Act by prohibiting any “political subdivision” or “other instrumentality of the state” except the Oil Conservation Division of the Energy, Minerals and Natural Resources Department and the Oil Conservation Commission from having “jurisdiction, authority or control relating to oil and gas operations, except municipalities and those specifically provided pursuant to law.”

HB 199 prohibits counties from adopting ordinances “that restrict oil and gas activities.”

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

1. The language prohibiting “political subdivisions” and “instrumentalities of the state” from having “jurisdiction, authority or control relating to oil and gas operations, except municipalities and those specifically provided pursuant to law” is not sufficiently clear. “Oil and gas operations” is not defined, and could extend to oil and gas activities not intended to be covered by HB 199. For example, if HB 199 intends to refer to “oil and gas operations” governed by the Oil and Gas Act, that limitation should be set forth in HB.

2.A. The language prohibiting counties from adopting ordinances “that restrict oil and gas activities” is not sufficiently clear. “Oil and gas activities” is not defined and could extend to oil and gas activities not intended to be covered by HB 199. For example, if HB 199 intends to refer to “oil and gas operations” governed by the Oil and Gas Act, that limitation should be set forth in HB 199.

B. Similarly, the word “restrict” is broad and vague, and could refer to activities that have minimal impact upon oil and gas activities, and were not intended to be covered by HB 199.

C. The language restricting “oil and gas activities” could be interpreted extend to activities that have historically been within the purview of county government, such as siting, zoning, and water use ordinances, that were not intended to be covered by HB 199.

D. Similarly, HB 199 is written so broadly that it could be interpreted to extend to ordinances of general application that in some manner affect oil and gas activities, and not just to ordinances that specifically apply to oil and gas activities specifically. This could cover activities not intended to be covered by HB 199.

E. HB 199 does not state whether it is intended to apply retroactively to invalidate existing county ordinances that “restrict oil and gas activities.” This should be clarified. Because there is no exception for county ordinances, like the exception for municipalities and political subdivisions of the state, any county ordinance that could conceivably “restrict oil and gas activities” may be rendered invalid even if that is not the intent of HB 199.

3. The language excepting “municipalities and those specifically provided pursuant to law” is not sufficiently clear. It is not clear what entities “those” refers to, *i.e.*, to “political subdivision,” “other instrumentalities of the state,” or other entities.

4. The language “instrumentalities of the state” is not sufficiently clear, and the entities to which it refers should be clarified.

5. The language “specifically provided pursuant to law” is not sufficiently clear, and should be clarified.

**PERFORMANCE IMPLICATIONS** None

**ADMINISTRATIVE IMPLICATIONS** None

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP** None

**TECHNICAL ISSUES** *See* Significant Issues 1-5 above regarding language that should be clarified.

**OTHER SUBSTANTIVE ISSUES** None

**ALTERNATIVES** The language identified as unclear in Significant Issues 1-5 could be clarified so that the application of HB 199 to state and local government laws and ordinances is clear, and HB 199 does not have unintended consequences.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL** State and local governments will continue to exercise authority over oil and gas operations.

**AMENDMENTS** *See* Alternatives section above.