

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 978

INTRODUCER: Senator Pruitt

SUBJECT: Oil and Gas Production Taxes

DATE: March 5, 2009 REVISED: 03/10/09

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Fav/1 amendment
2.			FT	
3.			GA	
4.			WPSC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill provides a tiered tax rate structure for the oil production tax on tertiary oil, and provides that for specified periods of time, certain oil and gas production is exempt from the oil production tax and gas production tax levied on every person who severs oil or gas in the state for sale, transport, profit, or commercial use.

This bill substantially amends ss. 212.02 and 211.027, Florida Statutes.

II. Present Situation:

Oil and Gas Production¹ - The state began imposing severance tax on oil and production in 1945 and at a rate of 5 percent of value. In 1977, the tax rate was changed to 8 percent and it has not been revised since that time.

¹ Information related to oil and gas production is provided by the "2008 Florida Tax Handbook Including Fiscal Impact of Potential Changes" prepared by the staffs of the Finance and Tax Committee of the Florida Senate, the Policy and Budget Council of the Florida House of Representatives, the Legislature's Office of Economic and Demographic Research, and the Florida Department of Revenue, pgs. 134-135.

In 1979, the disposition of severance tax revenues was changed to reflect the creation of the Division of State Lands in the Department of Natural Resources. Fifty percent of the tax collected was deposited into the newly created Conservation and Recreation Lands Trust Fund (CARL TF), and 37.5 percent of the oil tax and 30 percent of the gas tax were dedicated to the General Revenue Fund. The producing county received 12.5 percent of the oil tax and 20 percent of the gas tax.

In 1986, the basis for the oil and gas production severance tax was changed from percentage of value to an indexed rate per unit of production. In 1987, the distribution to the CARL TF was stopped and the tax revenues were directed to the General Revenue Fund. In 1995, the distribution of the taxes was again revised to provide that 75 percent of the oil tax and 67.5 percent of the gas tax were distributed to the General Revenue Fund, and 12.5 percent from both sources was directed to the Minerals Trust Fund.² Today, oil is taxed at 8 percent of the gross value at the point of production. Small wells producing less than 100 barrels per day and oil produced by tertiary methods are taxed at 5 percent of gross value. Gas production tax is determined by the volume in mcf (1000 cubic feet) of gas produced and sold or used. The tax rate is based on the change in the annual monthly average of the gas fuels Producer Price Index³ for the previous calendar year times the base rate of \$.171 per mcf.

Twenty-four states specifically tax the production of oil and gas. Several others include petroleum production taxes in mineral severance regulations. About two-thirds of the states levy specific rates per barrel of oil or cubic foot of gas. Some states charge a flat rate per barrel, ranging from 4 mills per barrel to 50 mills per barrel plus a CPI adjustment. Most states charge a percent of market value ranging from .1 mill per dollar to 15 percent. The normal range for major oil and gas producing states is from 3 percent to 15 percent.

Chapter 96-323, Laws of Florida – In 1996, the Legislature enacted chapter 96-323, Laws of Florida, to create new oil and gas severance tax exemptions, which sunset on June 30, 2007, for the following:

- Oil and gas produced from new field wells, completed after July 1, 1997, for a period of 60 months after the completion date.
- Oil and gas produced after July 1, 1997, for a period of 48 months after the completion date, from:
 - A new producing well in a field established by the Department of Environmental Protection before July 1, 1997;
 - A shut-in well that has been out-of-service for a period of at least 24 months, prior to July 1, 1997, and through workover and mechanical repair is returned to commercial production.

² The purpose of the Minerals Trust Fund is to receive designated taxes on severance of minerals to fund the administrative costs or programs of the state established to reclaim those lands disturbed by the severance of minerals; to fund the geological survey of the state; to fund the regulation of oil and gas exploration and production; and to serve as a repository for funds allocated to the Department of Environmental Protection to respond to incidents that cause environmental damage or contamination. (s. 211.31, F.S.)

³ The Producer Price Index program measures the average change over time in the selling prices received by domestic producers for their output. The prices included in the PPI are from the first commercial transaction for many products and some services. (U.S. Bureau of Labor Statistics, U.S. Department of Labor, available at <http://www.bls.gov/pPI/>)

- A temporarily abandoned well or wellbore that has been out-of-service for a period of at least 24 months prior to July 1, 1997 and that is returned to commercial production by redrilling and recompletion.
- Oil and gas produced after July 1, 1997, for a period of 60 months after the completion date from any horizontal well or any well having a total measured depth in excess of 15,000 feet.

III. Effect of Proposed Changes:

Section 1. Amends s. 211.02, F.S., to establish a tiered rate structure for the oil production tax assessed on tertiary oil⁴.

- For oil having a value of \$100 per barrel or more, the tax shall be 5 percent of the gross value.
- For oil having a value of \$60 but less than \$100 per barrel, the tax shall be 3 percent of the gross value.
- For oil having a value of less than \$60 per barrel, the tax shall be 1 percent of the gross value.

The bill revises the definition of “tertiary oil” to provide that tertiary oil means the excess barrels of oil produced, or estimated to be produced, as a result of the actual use of a tertiary recovery method in qualified enhanced oil recovery project, and provides that a “qualified enhanced oil recovery project” is a project for enhancing recovery of oil that meets the requirements of 26 U.S.C. s. 43(c)(2) to qualify for the federal enhanced oil recovery tax credit. References to a repealed section of the Internal Revenue Code of 1954 are deleted.

Section 2. Amends s. 211.027, F.S., to provide the following exemptions from the imposition of the oil and gas severance tax:

- Oil and gas produced from a new well field completed on or after July 1, 2009, is exempt for a period of 60 months after the completion date.
- Oil and gas produced on or after July 1, 2009, is exempt for a period of 48 months after the completion date from:
 - A field that was established by the Department of Environmental Protection before July 2, 2009, from a new producing well.
 - A shut-in well that has been out of service for a period of at least 24 months before July 1, 2009, and through workover and mechanical repair is returned to commercial production.
 - A temporarily abandoned well or wellbore that has been out of service for a period of at least 24 months before July 1, 2009, and that is brought into commercial production by redrilling and completion.
- Oil and gas produced on or after July 1, 2009, is exempt for a period of 60 months after the completion date, from any horizontal well or any well having a total measured depth in excess of 15,000 feet.

⁴ Tertiary oil is oil produced from the use of techniques designed to increase the amount of oil to be extracted from an oil field.

Section 3. Provides that the statutory provisions creating the exemptions in section (2) of the bill are repealed effective June 30, 2019.

Section 4. Provides that if enacted into law, the bill will take effect July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill creates a tiered rate structure for the severance tax imposed on tertiary oil production. Also, the bill provides a structured severance tax exemption for oil and gas produced from specified types of wells.

B. Private Sector Impact:

To the extent that a tiered rate structure for tertiary oil production, and a tax exemption for certain oil and gas producing wells are provided in the bill, oil and gas companies pay less in severance taxes.

C. Government Sector Impact:

The Revenue Estimating Impact Conference meet on Friday, March 6, 2009, and adopted a zero cash impact for fiscal years 2009-2010 and 2010-2011, and the following estimated impacts in the out years:

Tertiary Oil Severance Tax			
	FY 2009-2010 Annualized	FY 2011-2012 Cash	FY 2012-2013 Cash
General Revenue	(.7)	(.7)	(.7)
State Trust Fund	(.1)	(.1)	(.1)
Total State Impact	(.8)	(.8)	(.8)
Total Local Impact	(.2))	(.2)	(.2)
TOTAL	(1.0)	(1.0)	(1.)

Temporary Exemptions			
	FY 2009-2010 Annualized	FY 2011-2012 Cash	FY 2012-2013 Cash
General Revenue	(3.7)	(3.7)	(3.7)
GR Surcharge	(.1)	(.1)	(.1)
State Trust Fund	(.6)	(.6)	(.6)
Total State Impact	(4.4)	(4.4)	(4.4)
Total Local Impact	(.8)	(.8)	(.8)
TOTAL	(5.2)	(5.2)	(5.2)

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides tax exemptions for certain oil and gas production on or after July 1, 2009, within a specified time frame after the completion date, but it is unclear from the date what the term “completion date” refers to. Also, the bill provides a tax exemption for shut-in wells and temporarily abandoned wells which have not been in production for a period of 24 months before July 1, 2009, but doesn’t specify if the 24 month period must be the 24 months immediately preceding July 1, 2009.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

Barcode 894272 by Community Affairs on March 10, 2009:

This technical amendment clarifies the conditions under which the oil and gas severance tax exemption will be applied.