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 Finance and Tax Committee

BILL: CS/SB 978

INTRODUCER: Finance and Tax Committee and Senator Pruitt

SUBJECT: Oil and Gas Production Taxes

DATE: March 26, 2009 REVISED:

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

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	x	Statement of Substantial Changes
B. AMENDMENTS........................		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

This C/S provides a tiered tax rate structure for the oil production tax on tertiary oil. Tax is imposed at the rate of one percent of the gross value of oil on the first sixty dollars of value; seven percent of the gross value of oil on the value of oil above sixty dollars and below eighty dollars; and nine percent of the gross value of oil on the value of oil eighty dollars and above.

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 total impact of $1 million for the reduction in rate for tertiary production activity.

The Revenue Estimating Impact Conference has not estimated the impact of the bill as amended by the C/S.

This bill substantially amends ss. 212.02, Florida Statutes.

II. Present Situation:

Oil and Gas Production[1] **-** 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.

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 Index [3]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:

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[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.

[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/)

- 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.
  - 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 oil[4].

- Tax is imposed at the rate of one percent of the gross value of oil on the first sixty dollars of value;
- Tax is imposed at the rate of seven percent of the gross value of oil on the value of oil above sixty dollars and below eighty dollars; and
- Tax is imposed at the rate of nine percent of the gross value of oil on the value of oil eighty dollars and above.

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.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not reduce the percentage of state tax shared with cities or counties.

B. Public Records/Open Meetings Issues:

None.

[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.

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 State Trust Fund Total State Impact	(.7) (.1) (.8)	(.7) (.1) (.8)	(.7) (.1) (.8)
Total Local Impact	(.2))	(.2)	(.2)
TOTAL	(1.0)	(1.0)	(1.0)

The estimate was based on the tax rates in the original bill.

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.)

This C/S provides a different tiered tax rate structure for the oil production tax on tertiary oil from that provided in the bill. Under the C/S, tax is imposed at the rate of one percent of the gross value of oil on the first sixty dollars of value; seven percent of the gross value of oil on the value of oil above sixty dollars and below eighty dollars; and nine percent of the gross value of oil on the value of oil above eighty dollars.

The C/S strikes the provisions providing a temporary tax exemption.

B. Amendments:

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.