

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 712** HLS 14RS 1468
 Bill Text Version: **ENROLLED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: June 5, 2014 11:45 AM	Author: GREENE
Dept./Agy.: Revenue	Analyst: Greg Albrecht
Subject: Interest on Severance Tax Refunds	

TAX/SEVERANCE TAX EN +\$4,000,000 GF RV See Note Page 1 of 1
 Prohibits the state from paying interest on refunds for the overpayment of certain severance taxes

Current law suspends the severance tax the production of oil & gas from horizontally drilled wells and wells drilled to a true vertical depth of 15,000 feet or more. The suspension is for 100% of the tax for the earlier of 24-months or until well cost payout. Effectively, the suspension is for 24-months of production. In practice, producers tend to pay the severance tax on production until at least final certifications by DNR and possibly longer, and realize the suspension benefit via refund claims on future returns. Those refunds are paid with judicial interest applied (currently 4% through 2014, and since 2011).

Proposed law provides interest on refunds for overpayment of severance taxes by operators who qualify for the horizontal drilling and deep well severance tax suspension programs, at the U.S. Treasury Yield Curve Constant Maturity 6-Month Treasury Bill rate, when the refunds are paid by the Revenue Dept. within 180 days of a taxpayer properly filing a refund claim, with the judicial rate applying for any time over 180 days. Effective upon governor's signature.

EXPENDITURES	2014-15	2015-16	2016-17	2017-18	2018-19	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total		\$0	\$0	\$0	\$0	\$0

REVENUES	2014-15	2015-16	2016-17	2017-18	2018-19	5 -YEAR TOTAL
State Gen. Fd.	\$2,000,000	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000	\$18,000,000
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$2,000,000	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000	\$18,000,000

EXPENDITURE EXPLANATION

The bill provides two different interest rates for severance tax refunds, even if only one of the rates will apply in almost all cases. However, the bill references the 6-month treasury rate on a particular day of the year, and both rates will be known as of the first of each year when applicable. Most of the Department's cost will involve distinguishing the production and refund claims of the two types of wells addressed by this bill from the various types of wells that are reported on tax returns. The Dept. estimates costs of staff time to develop, program, and test system modifications at about \$45,000.

REVENUE EXPLANATION

With the ramp up of major severance tax suspension programs over the past several years, including the horizontal drilling and deep well programs addressed in this bill, severance tax refunds have increased dramatically. Refunds jumped up sharply starting in the fall of 2009, peaked in the fall of 2011, and have stabilized at an average of \$7.8 million per month since April of 2012. The Revenue Dept. estimates 81% of this monthly average is estimated to be associated with the horizontal drilling and deep well programs, or \$6.3 million per month; an annual amount of \$75.6 million. The Dept. looked at the last five full fiscal years (2009 - 2013) to arrive at an annual average amount of interest paid within this refund total of \$4.5 million per year. That average includes the peak refund years of 2011 and 2012, and likely somewhat overstates the interest amount affected by this bill. The interest paid in 2013, \$3.974 million is probably a more appropriate estimate since it better coincides with the period of relative stability in monthly refunds mentioned above, and with the recent periods of stable 4% judicial interest.

The interest rate provided in the bill, U.S. Treasury Yield Curve Constant Maturity 6-Month Treasury Bill rate, is currently 0.05% and has averaged 0.10% from 2011. Relative to the current judicial interest rate, this implies some 97.5% lower interest being paid on these refunds. The state fisc would realize this lower interest cost as greater net severance tax receipts, amounting to some \$3.9 million per year. The bill provides for this interest when the refund is paid within 180 days of being properly claimed, and virtually all refunds are paid before 180 days has elapsed. Thus, much of the current amount of interest associated with these two tax suspension programs would be eliminated, resulting in nearly \$4 million per year of retained general fund revenue. In cases where it takes longer than 180 days for the Department to pay a refund claim, the higher judicial rate would apply to the time period in excess of 180 days. Since this is the same rate that would apply under current law, this provision has no fiscal effect.

Presumably, the first establishment of the 6-month treasury rate will occur at the beginning of October 2014 for first application with refunds paid after January 1, 2015. Thus, the revenue effect for FY15 will be only one-half of a full year amount.

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|-------------------------------------|--|--------------------------|---|
| Senate | <u>Dual Referral Rules</u> | House | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input type="checkbox"/> | 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input type="checkbox"/> | 6.8(F)(2) >= \$500,000 State Rev. Reduc. {H & S} |
| <input checked="" type="checkbox"/> | 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> | 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

John D. Carpenter
Legislative Fiscal Officer