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FISCAL NOTE STATEMENT

Senate Bill or Resolution No. SB 2252

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Sheila Sandness
Senior Fiscal Analyst

2017 SENATE ENERGY AND NATURAL RESOURCES

SB 2252

2017 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2252
1/27/2017
Job #27522

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution: Relating to items eligible for the oil and gas gross production tax.

Minutes:

Att #1=Senate Unruh Att#2=Geoff Simon

Chairwoman Unruh: Let's call the committee to order and take attendance. Attendance was taken and All committee members present. I hand the gavel to Vice Chair Kreun.

Vice Chair Kreun: Let's take up SB 2252. Sen. Unruh

Sen Unruh: (1.02) I am here in support of SB 2252. (See Att #1)

Vice Chair Kreun: Any questions. Continue with those in favor of SB 2252.

Ron Ness, ND Petroleum Council: (3.18) I stand in support of this bill. I think Senator Unruh did a fine job explaining the emphasis of this bill. The salt water disposal wells are regulated by ND Industrial Commission as is a regular oil or other aspects of the industry like the gas processers are regulated by the Public Service Commission. One of our member companies, here today, Toby Hauck, from Belfield owns and operates more well than anyone else. Any questions.

Toby Hauck, Missouri Basin Energy Services, (MBI Energy) We are the largest SWD company in ND. I operate 27 SWD's in western ND. We are in favor of SB 2252. Oil was taxed during extraction production process and water is a byproduct that comes back up with the oil. In the last 2 years since we started to get taxed on this. Each time we paid this tax, we have written a letter we are paying in protest. Over the last 2 years, we have had a landowner in one of our areas that was taxed originally for property on his location. The following year he was taxed over 2000% more because this tax came into effect. That would make great impact in the local economy, and also, the people that have the landowner rights in those areas. We have seen the exact same company out of Texas, that bringing this into play. All of my SWD's that are being taxed currently are coming from the exact firm. They are asking the information be sent directly to them. The first line of letter: We are employed by

the various counties of ND to assist in the purpose of property assessment. Is it for their benefit, or is it for the benefit of ND?

Chairwoman Unruh: Any further in support? Any in opposition to SB 2252?

Geoff Simon, Western Dakota Energy Assoc.: (7.20) Our members are the cities, counties, school districts in the energy producing counties and includes, oil, gas, and coal in western ND. I will deviate a bit from my written testimony. I was not sure what the intent of this bill really was. It would appear that the intent was to clarify that salt water disposal wells that are part of producer's operation are considered exempt from ad valorem taxes.

That is the practice now. If the producer owns the salt water disposal well, it is currently exempt from property taxes. With this bill, because it is overly broad and would include those commercial disposal wells, which we do not believe is appropriate. The producers pay gross production taxes in lieu of ad valorem taxes. Those cover the costs associated with the impacts that the oil industry has in our jurisdictions. (see Att#2) (9.41) Please Do Not Pass.

Sen. Armstrong: How did you come up with how much each well is valued at?

Geoff: It is just an average based on the numbers we have.

Sen. Armstrong: Where does the total number come from? Why are they valued at \$1M dollars?

Geoff: I would have to talk to our tax director about that. I got these numbers from them.

Terry Traynor, ND Assoc. of Counties: (11.12) Here to opposed to SB 2252. We feel the bill expand what the exemption would cover and say that gross production tax is covering this. Right now we seem to have a bright line of what it is covering. This bill would blow it. Every commercial operation that supports the oil industry isn't being supported by gross production tax. If we say, because these businesses support the oil industry they should not be taxed. What about man camps or trucking industry that is supporting the industry. Where does it stop.

Chairwoman Unruh: Do you know who the tax is applied to, property owner which the facility sits or the actually company that operates the disposal facility?

Terry: The property owner, but the tax department is better able to answer that.

Sen. Cook (13.04): Most of the oil counties have hired a company from Texas to professionally assess property, correct?

Terry: Most of the oil companies do this for counties and do the heavy industrial commercial properties that are out of their training and scope.

Sen. Cook: Did all the counties hire the same Texas company?

Terry: That I don't know.

Chairwoman Unruh: Any more testimony in opposition? I will accept agency testimony.

Sen. Cook: I would like Linda to answer my question.

Linda Leadbetter: (15.00) State supervisor of Assessments, Office of State Tax Commissioner: Yes, I will stand for your question.

Sen. Cook: Who is paying the taxes, the property-owner or the commercial operator?

Linda: It would be the property owner. The only time it would be the lease holder is when there is a possessory interest law that has the owner actually being a government entity. The individual that owns the property would receive the tax and would be involved in the lease agreement for that property. The only way to assess it is through the real property owner.

Chairwoman Unruh: So as the assessment is preformed, it is equitable amongst all facilities. Is being assessed the same way by all the different assessors?

Linda: That is what we work toward at the State Board of Equalization level. This is done within each county. That all the plants within each county is assessed equally. Different markets come to play when crossing county lines.

Sen. Roers: (16.23) In the assessment of these, there was a question about the Million-dollar value. Are any of those established from sales? What are the procedures for assessment?

Linda: The procedures for all assessments are the same. There is a market analysis, and based on income. They will use a cost, market approach and income approach. These three they will determine a value that is best for that property. The three different methods and find a good number.

Sen. Cook: (17.33) We were told there were that there were some protests on these taxes. Has your office reviewed these assessments on these commercial salt water plants?

Linda: I am not aware of protests. We heard testimony that someone paid taxes under protest. We are not aware of filed protests.

Chairwoman Unruh: Any further testimony? Seeing none, hearing is closed. Take 5 minutes. What are your wishes?

Sen. Cook : I do not see that this bill is the solution. I move a DO NOT PASS.

Sen. Oban : I second.

Chairwoman Unruh: Any discussion. Roll called: YES 5 NO -0- -2-AB
SB2252 – DO NOT PASS Bill passes **Chairwoman Unruh** is carrier.

1/27/17

Date:
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2252

Senate Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen Cook Seconded By Sen Oban

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh	/		Sen. Erin Oban	/	
Vice Chair Curt Kreun	AB				
Sen. Kelly Armstrong	/				
Sen. Dwight Cook	/				
Sen. Jim Roers	/				
Sen. Don Schaible	AB				

Total (Yes) 5 No 0

Absent -2-ab

Floor Assignment Sen Unruh

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2252: Energy and Natural Resources Committee (Sen. Unruh, Chairman)
recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
SB 2252 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

SB 2252

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att # 1
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Testimony for SB2252
Senator Jessica Unruh

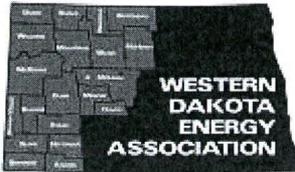
Mr. Vice Chairman - SB 2252 deals with exemptions from the ad valorem tax. When the state of ND imposed the Gross Production tax in 1953, it was put in place in **NDCC 57-51-03 Gross Production Tax to be in lieu of other taxes**. The statute goes on to read that this tax shall be in lieu of all ad valorem taxes by the state, counties, cities or townships, school districts or other municipalities.

Recently, owners land upon which commercial salt water disposal wells are located have begun getting assessed property tax. These commercial salt water disposal wells are part of the production process as the salt water that is produced with the oil must be re-injected into a non-potable formation under state law. In addition, commercial salt water disposal wells skim a sheen of oil off the salt water in the process, this oil (generally) a barrel or three per day, is sold and the gross production tax is paid by the salt water disposal operator.

Section 57-51-04 – on page 2 line 1 – 4, expressly states what is not exempt from the ad valorem tax. Commercial salt water disposal wells which is clearly a component of the process of oil production is not listed in this section.

Mr. Vice Chairman, there are experts who operate these wells here today and they will provide the specifics. I appreciate the committee's consideration.

original



Geoff Simon, Western Dakota Energy Association
Testimony SB 2252
Senate Energy & Natural Resources Committee
January 27, 2017

SB 2252
1-27-17
AHH #2
pg 1

Chairman Unruh & Committee members:

I am Geoff Simon, Executive Director of the Western Dakota Energy Association. Our association was previously known as the ND Association of Oil & Gas Producing Counties. The name change reflects the fact that in addition to counties, we also represent cities and school districts, and in addition to the oil & gas counties, we also represent local government in the coal-producing counties.

I rise in opposition to HB 2252, not because I disagree with what I think is the bill's intent – to ensure that salt water disposal wells owned by producers are tax exempt – but because the operative language is overly broad with the result being that it would exempt all saltwater disposal wells from ad valorem taxes, including commercial disposal operations, which we do not believe is appropriate.

For tax directors in the oil-producing counties, it is currently standard practice to include producer-owned saltwater disposal wells among the assets considered exempt from ad valorem taxes. As indicated in the section of Century Code that this bill seeks to amend, the producer pays gross production taxes in lieu of other taxes.

It is our opinion that the language in SB 2252 would exempt all saltwater disposal wells, not just those that are part of a producer's operation. These commercial disposal wells are not operated by the same companies that are paying gross production taxes from functioning oil wells. The operators are companies charging a fee per barrel for other companies to dispose of saltwater. It is an income-producing business that is oil related, but the operator is not paying any production tax to the state.

The impact of exempting these properties would be a significant loss of tax revenue in the oil counties. I gathered figures for the big four oil-producing counties:

(900)
McKenzie County - 36 commercial disposal wells, total value \$41 million, total tax \$320,000
Williams County – 29 disposal wells, \$28 million total value, total tax \$160,000
Mountrail County – 23 disposal wells, \$25 million total value, total tax \$170,000
Dunn County – 16 disposal wells, \$11 million total value, total tax \$63,000

Saltwater disposal wells are permitted through the North Dakota Industrial Commission and are not subject to any other fees to the counties. Truck traffic associated with these sites imposes a burden on our township and county roads and local emergency services. Taxing them through the property tax system is the only way for the counties to recoup costs directly attributable to these sites.

Obviously, if these commercial disposals wells were exempted from property taxation, that financial burden would shift to other commercial and residential property owners. Therefore, absent an amendment to clarify that the bill applies only to disposal wells owned by the producer that are part of its production, we would urge a **DO NOT PASS** on SB 2252.

Thank you for your consideration, and I would attempt to answer any questions you may have.