DIGEST

HB 25 Reengrossed 2024 Third Extraordinary Session Riser

Abstract: Provides relative to rates, computation, and administration of severance tax on oil and gas and for dedication of certain severance tax revenues.

Present law provides for the levy of a tax, known as severance tax, on natural resources severed from the soil or water. Provides that the rate of the severance tax is predicated on the quantity or value of the products or resources severed.

Present law establishes severance tax rates on natural resources. Proposed law revises present law relative to severance tax on oil and gas. Revises both the rates of severance tax on oil and gas and the methods of calculating quantities and prices of oil and gas for purposes of computing amounts of severance taxes to be imposed on those resources.

Proposed law repeals provisions from, and adds provisions to, present law relative to severance tax as described below.

Provisions relative to oil to be repealed

Proposed law repeals all of the following provisions of present law relative to severance tax on oil:

(1) Provisions stipulating that the value of oil on which severance tax liability is based shall be the higher of the following:

(a) The gross receipts received from the first purchaser, less charges for trucking, barging and pipeline fees.

(b) The posted field price.

(2) A severance tax rate of 12.5% on oil not subject to a reduced rate per present law based on its value at the time and place of severance.

(3) A severance tax rate of 6.25% on oil produced from a well that meets the following criteria:

(a) It is incapable of producing an average of more than 25 barrels of oil per producing day during the entire taxable month.

(b) It is classified in accordance with present law as an "incapable well".

(4) A severance tax rate of 3.125% on oil produced from a well that meets the following criteria:

  (a) It is incapable of producing an average of more than ten barrels of oil per producing day during the entire taxable month.

  (b) It classified in accordance with present law as a "stripper well".

(5) A severance tax rate of 3.125% on oil produced from a well in a stripper field classified in accordance with present law as a "mining and horizontal drilling project".

(6) A variable exemption from severance tax, for a period of 24 months or until payout of the well cost, whichever comes first, for oil production from any horizontally drilled well or horizontally drilled recompletion well from which production occurs on or after July 1, 2015. Present law provides for five different exemption amounts for oil production from horizontal wells, with the exemption level varying based on the price of oil. Exemption amounts range from a 100% exemption if the price of oil is at or below $70 per barrel to a 20% exemption if the price of oil is above $100 and at or below $110 per barrel.

(7) A severance tax rate of 3.125% of value received by the first purchase on oil which is reclaimed by certain salvage crude reclamation facilities.

Provisions relative to oil to be added

Proposed law adds the following provisions relative to severance tax on oil:

(1) The value of oil on which severance tax liability is based shall be the gross receipts received from the first purchaser, less charges for trucking, barging, and pipeline fees.

(2)(a) Oil sold from a well completed before July 1, 2025, shall be taxed at the rate of 12.5% of the oil value determined in accordance with proposed law.

(b) Oil sold from a well completed on or after July 1, 2025, shall be taxed at the rate of 6% of the oil value determined in accordance with proposed law.

(c) Any oil sold on or after July 1, 2035, shall be taxed at the rate of 6% of the oil value determined in accordance with proposed law regardless of well completion date.

(3) A severance tax rate of 3% on oil produced from a well that meets the following criteria:

  (a) It is incapable of producing an average of more than ten barrels of oil per producing day during the entire taxable month.

  (b) It classified in accordance with proposed law as a "stripper well".

(4)(a) A variable exemption from severance tax, for a period of 24 months or until payout of the well cost, whichever period is shorter, for oil production from any horizontally drilled well or horizontally drilled recompletion well, referred to hereafter as a "horizontal well", that meets either of the following qualifications:

(i) It has a well completion date before July 1, 2025.

(ii) It has a well completion date of July 1, 2025, or later and was drilled and completed in a defined regulatory unit which was established prior to July 1, 2025.

(b) Proposed law provides for the same five levels of exemption amounts for oil production from horizontal wells, varying based on the price of oil, as provided in present law (ranging from a 100% exemption if the price of oil is at or below \$70 per barrel to a 20% exemption if the price of oil is above \$100 and at or below \$110 per barrel).

(c) Proposed law stipulates that, notwithstanding anything in present law or proposed law to the contrary, production of oil from a horizontal well completed on or after July 1, 2035, shall not be eligible for a severance tax exemption.

Provisions relative to gas to be repealed

Proposed law repeals all of the following provisions of present law relative to severance tax on gas:

(1)(a) Subject to adjustment as provided in present law, a severance tax rate of 7¢ per 1,000 cubic feet on natural gas, natural gasoline, casinghead gasoline, and other natural gas liquids including but not limited to ethane, methane, butane, and propane.

(b) The gas tax rate provided in present law shall be adjusted annually on July 1 for the ensuing 12 calendar months, but shall never be less than 7¢ per 1,000 cubic feet. The new gas tax rate shall be the 7¢ rate provided in present law multiplied by a gas base rate adjustment figure which the secretary of the Dept. of Energy and Natural Resources shall determine in accordance with a procedure provided in present law and publish in the official journal of the state by May 1 annually.

(2) A severance tax rate of 3¢ per 1,000 cubic feet on gas produced from an oil well with a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions, and on gas produced from an oil well by the method commonly known as gas lift.

(3) A severance tax rate of 1.3¢ per 1,000 cubic feet on gas produced from a gas well which is incapable of producing an average of 250,000 cubic feet of gas per day during an entire taxable month.

(4) A variable exemption from severance tax, for a period of 24 months or until payout of the well cost, whichever comes first, for natural gas production from any horizontally drilled well or horizontally drilled recompletion well from which production occurs on or after July 1, 2015. Present law provides for five different exemption amounts for natural gas

production from horizontal wells, with the exemption level varying based on the price of natural gas. Exemption amounts range from a 100% exemption if the price of natural gas is at or below $4.50 per million BTU to a 20% exemption if the price of natural gas is above $6.50 and at or below $7.00 per million BTU.

(5) An exemption from severance tax for severance of gas which is used in the manufacture of carbon black.

Provisions relative to gas to be added

Proposed law adds the following provisions relative to severance tax on gas:

(1) The tax rate on natural gas shall be applied to each 1,000 cubic feet measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit produced.

(2)(a) Natural gas produced from a well completed before July 1, 2025, shall be taxed at the rate of 4% of the natural gas market value determined in accordance with proposed law.

(b) Natural gas produced from a well completed on or after July 1, 2025, shall be taxed at the rate of 4% of the natural gas market value determined in accordance with proposed law, provided the well is drilled and completed in at least one defined regulatory unit which was established before July 1, 2025.

(c) Natural gas produced from a well completed on or after July 1, 2025, which is not in a defined regulatory unit established before July 1, 2025, shall be taxed at the rate of 6% of the natural gas market value determined in accordance with proposed law.

(d) Any natural gas produced on or after July 1, 2035, shall be taxed at the rate of 6% of the natural gas market value determined in accordance with proposed law.

(3) In the case of gas produced from an oil well with a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions, or, in the case of gas rising in a vaporous state through the annular space between the casing and tubing of the oil well and released through lines connected with the casinghead gas which has a casinghead pressure of 50 pounds per square inch gauge or less under operating conditions, the rate shall be:

(a) For natural gas produced through June 30, 2035, from a well completed prior to July 1, 2025, 3¢ per 1,000 cubic feet.

(b) For natural gas produced from a well completed on or after July 1, 2025, 3% of the natural gas price determined in accordance with proposed law.

(c) For any natural gas produced on or after July 1, 2035, 3% of the natural gas price determined in accordance with proposed law regardless of the well completion date.

(4) In the case of gas produced from a gas well which is incapable of producing an average of 250,000 cubic feet of gas per day during entire taxable month, the tax rate applicable to gas severed from the well shall be:

(a) For natural gas produced through June 30, 2035, from a well completed before July 1, 2025, 1.3¢ per 1,000 cubic feet.

(b) For natural gas produced from a well completed on or after July 1, 2025, 1.5% of the natural gas price determined in accordance with proposed law.

(c) For all natural gas produced on or after July 1, 2035, 1.5% of the natural gas price determined in accordance with proposed law regardless of the well completion date.

(5)(a) A variable exemption from severance tax, for a period of 24 months or until payout of the well cost, whichever comes first, for natural gas production from any horizontal well that meets either of the following qualifications:

(i) It has a well completion date before July 1, 2025.

(ii) It has a well completion date on or after July 1, 2025, and was drilled and completed in a defined regulatory unit that had a qualifying horizontal well completed between July 1, 2010, and June 30, 2025.

(b) Proposed law provides for the same five levels of exemption amounts for natural gas production from horizontal wells, varying based on the price of natural gas, as provided in present law (ranging from a 100% exemption if the price of natural gas is at or below $4.50 per million BTU to a 20% exemption if the price of natural gas is above $6.50 and at or below $7.00 per million BTU).

(c) Proposed law stipulates that, notwithstanding anything in present law or proposed law to the contrary, production of natural gas from a horizontal well completed on or after July 1, 2035, shall not be eligible for a severance tax exemption.

Provisions relative to both oil and gas to be repealed

Proposed law repeals all of the following provisions of present law relative to severance tax on oil and gas:

(1)(a) On production of oil or gas from a well classified in accordance with present law as an "inactive well", a severance tax rate of 25% of the regular rate on oil or gas, as applicable, imposed by present law. The special rate shall apply for a period of ten years if the production commences before Oct. 1, 2028.

(b) On production of oil or gas from a well classified in accordance with present law as an "inactive well", a severance tax rate of 50% of the regular rate on oil or gas, as applicable, imposed by present law. The special rate shall apply for a period of ten years if the production commences on or after Oct. 1, 2028.

(2)(a) On production of oil or gas from a well classified in accordance with present law as an "orphan well", a severance tax rate of 12.5% of the regular rate on oil or gas, as applicable, imposed by present law. The special rate shall apply for a period of ten years if the production commences before Oct. 1, 2028.

(b) On production of oil or gas from a well classified in accordance with present law as an "orphan well", a severance tax rate of 25% of the regular rate on oil or gas, as applicable, imposed by present law. The special rate shall apply for a period of ten years if the production commences on or after Oct. 1, 2028.

(3) A severance tax rate of 12.5% on distillate, condensate, or similar natural resources severed from the soil or water either with oil or gas based on the resource's value at the time and place of severance.

(4) An exemption from severance tax for production of natural gas, gas condensate, and oil from any well drilled to a true vertical depth of more than 15,000 feet, where production commences after July 31, 1994. The exemption shall be effective for 24 months from the date commercial production begins or until payout of the well cost, whichever comes first.

(5) A reduction of severance tax on oil and gas, known as the "produced water injection incentive", for producers who take certain actions to increase recovery of hydrocarbons from the discharge of certain produced waters from oil and gas activities onto the ground and into surface waters in coastal wetlands.

(6) Special provisions for computation of interest on refunds of overpayments of severance tax to operators of certain horizontal or deep wells.

Provisions relative to both oil and gas to be added

Proposed law adds the following provisions relative to severance tax on oil and gas:

(1) The secretary of the Dept. of Energy and Natural Resources shall determine the prices upon which the severance tax for oil, natural gas, and other hydrocarbons shall be calculated, with such determinations made in accordance with procedures established in proposed law.

(2)(a) Production from an oil or gas well designated in accordance with proposed law as an "inactive well" shall be subject to a severance tax rate of 25% of the regular rate on oil or gas, as applicable, imposed by proposed law. This reduced rate shall apply for a period of ten years if the production commences before Oct. 1, 2028.

(b) Production from an oil or gas well designated in accordance with proposed law as an "inactive well" shall be subject to a severance tax rate of 50% of the regular rate on oil or gas, as applicable, imposed by proposed law. This reduced rate shall apply for a period of ten years if the production commences on or after Oct. 1, 2028.

(3)(a) Production from an oil or gas well designated in accordance with proposed law as an "orphan well" shall be subject to a severance tax rate of 12.5% of the regular rate on oil or gas, as applicable, imposed by proposed law. This reduced rate shall apply for a period of ten years if the production commences before Oct. 1, 2028.

(b) Production from an oil or gas well designated in accordance with proposed law as an "orphan well" shall be subject to a severance tax rate of 25% of the regular rate on oil or gas, as applicable, imposed by proposed law. This reduced rate shall apply for a period of ten years if the production commences on or after Oct. 1, 2028.

(4) Production from an oil well that is undergoing or has undergone well enhancements that required a Dept. of Energy and Natural Resources permit, including but not limited to deepening, extension, recompletion, rework, or sidetrack, all as defined in present law, shall be taxed at the rate of 6% of the oil value determined in accordance with proposed law.

(5)(a) A 100% exemption from severance tax for production of natural gas, gas condensate, and oil from any well drilled to a true vertical depth of more than 15,000 feet, referred to hereafter as a "deep well", that meets either of the following qualifications:

(i) It has a well completion date before July 1, 2025.

(ii) It has a well completion date on or after July 1, 2025, and was drilled and completed in a defined regulatory unit which was established prior to July 1, 2025.

(b) Proposed law provides that the severance tax exemption for production from a deep well shall apply for 24 months from the date commercial production begins, or until payout of the well cost, whichever period is shorter.

(c) Proposed law stipulates that, notwithstanding anything in present law or proposed law to the contrary, production from a deep well completed on or after July 1, 2035, shall not be eligible for a severance tax exemption.

Provisions relative to severance tax to be retained

Proposed law retains present law requiring all of the following with respect to production from inactive wells and orphan wells:

(1) In order to qualify for inactive or orphan well status for purposes of qualifying for a reduced severance tax rate on production from that well, an application for inactive or orphan well certification shall be made to the Dept. of Energy and Natural Resources during the period beginning July 1, 2018, and ending June 30, 2028.

(2) If, in any one fiscal year, the secretary of the Dept. of Revenue estimates that the severance tax paid on production from inactive wells and orphan wells will be in excess of $15,000,000, the secretary shall notify the commissioner of conservation of the Dept. of Energy and Natural Resources, who shall not certify inactive or orphan well status for any other wells for the remainder of that fiscal year.

(3) If the severance tax is paid at the full rate before the Dept. of Energy and Natural Resources approves an application for inactive or orphan well status, the operator is entitled to a credit against taxes imposed in an amount equal to the tax paid.

Proposed law retains present law providing an exemption from severance tax for oil production commencing on or after Oct. 1, 2021, and before June 30, 2031, from any orphan well that is undergoing or has undergone well enhancements that required a permit from the Dept. of Energy and Natural Resources.

Proposed law retains present law providing that there shall be no severance tax exemption for oil or gas produced from horizontally drilled wells or horizontally drilled recompletion wells if the price of oil exceeds $110 per barrel or if the price of natural gas exceeds $7.00 per million BTU.

Proposed law retains present law providing an exemption from severance tax for severance of gas which meets any of the following criteria:

(1) It is subsequently injected into a formation in this state for the purpose of storing by the producer.

(2) It is originally produced without the state of La. and has been injected into the earth within this state.

(3) It is produced from oil or gas wells and vented or flared directly into the atmosphere, provided such gas is not otherwise sold.

(4) It is used for drilling fuel in the field where produced or is used by a lease operator on the lease for fuel in connection with the operation and development for, or production of, oil and gas in the field where produced.

(5) It is consumed in the production of natural resources in this state.

Dedication of severance tax revenues

Proposed law repeals present law requiring that certain amounts of severance tax revenue on oil and gas, referred to hereafter as "mineral revenues", be dedicated to the following special funds:

(1) La. Wildlife and Fisheries Conservation Fund and the Oil and Gas Regulatory Dedicated Fund Account. (R.S. 30:136.1(D))

(2) La. Education Quality Trust Fund. (Const. Art. VII, §10.1)

(3) La. Quality Education Support Fund. (Const. Art. VII, §10.1)

(4) Mineral Revenue Audit and Settlement Fund. (Const. Art. VII, §10.5 and R.S. 39:97)

(5) Transportation Trust Fund. (R.S. 48:77)

Proposed law repeals present law providing that after other required allocations and deposits of mineral revenues, such revenues received each year in excess of $660 million and under $950 million shall be allocated as follows:

(1) 30% shall be appropriated to the La. State Employees' Retirement System and the Teachers' Retirement System of La. for application to the balance of the unfunded accrued liability of those systems for pension benefit payments until such liability has been eliminated.

(2) The remainder shall be deposited into the Revenue Stabilization Trust Fund. (Const. Art. VII, §§10.15 and 10.16)

Proposed law repeals present law requiring that mineral revenues in excess of the base which would otherwise be deposited into the Budget Stabilization Fund under certain provisions of present law (R.S. 39:94(A)(2)), but are prohibited from being deposited into the fund under other provisions of present law (R.S. 39:94(C)(5)), shall be distributed as follows:

(1) 30% shall be appropriated to the La. State Employees' Retirement System and the Teachers' Retirement System of La. for application to the balance of the unfunded accrued liability of those systems for pension benefit payments until such liability has been eliminated.

(2) The remainder shall be deposited into the Revenue Stabilization Trust Fund. (Const. Art. VII, §§10.15 and 10.16)

Present law requires that one-third of the amount of sulphur severance tax, but not to exceed $100,000, be allocated to the governing authority of the parish within which the severance or production occurs. Proposed law repeals the $100,000 limit, thereby requiring that the full one-third of the sulphur severance tax amount be allocated to the governing authority of the parish in which the severance or production occurs.

Present law requires that one-fifth of the amount of severance tax on oil, gas, and all other natural resources except sulphur or timber, but not to exceed $500,000, be allocated to the governing authority of the parish within which the severance or production occurs. Proposed law repeals the $500,000 limit, thereby requiring that the full one-fifth of the severance tax amount on oil, gas, and all other natural resources except sulphur or timber be allocated to the governing authority of the parish in which the severance or production occurs.

Proposed law requires that one-third of the lignite severance tax be allocated to the governing authority of the parish within which the severance or production occurs.

Applicability; effectiveness

Proposed law applies to taxable periods beginning on or after July 1, 2025.

Proposed law providing for dedication of severance tax revenues becomes effective if and when the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. 7 of this 2024 3rd Ex. Sess. is adopted at a statewide election and becomes effective.

All other provisions of proposed law become effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 30:87(A), R.S. 39:100.116, and R.S. 47:631, 633, 633.2, 633.4(E), 645(A) and (B), and 1624(A)(1)(b); Adds R.S. 47:633.1 and 633.1.1; Repeals R.S. 47:324, 633.5, 648.21, and 1624(A)(2))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Delete proposed law providing that the computation of severance tax on oil shall be based on the oil price. Provide instead that the computation of severance tax on oil shall be based on the oil value.

2. Provide that the value of oil shall be the gross receipts received from the first purchaser, less charges for trucking, barging, and pipeline fees; and that in the absence of an arms-length transaction, the value shall be the severer's gross income from the property determined by present law.

3. Exempt from severance tax crude oil produced from certified stripper wells in any month in which the average value of oil determined in accordance with proposed law is less than $20 per barrel.

4. Delete proposed law providing that the computation of severance tax on natural gas shall be based on the natural gas price. Provide instead that the computation of severance tax on natural gas shall be based on the natural gas market value.

5. Establish the methodology by which the natural gas market value shall be determined for purposes of proposed law.

6. Delete proposed law providing that gas vented or flared directly into the atmosphere more than 90 days after a well's completion date shall be exempt from severance tax only

during short-duration events such as facility upsets, venting to unload wells, workover operations, or other day-to-day operations. Otherwise, retain present law providing a severance tax exemption for gas vented or flared directly into the atmosphere.

7. Provide that production from an oil well that is undergoing or has undergone well enhancements that required a Dept. of Energy and Natural Resources permit, including but not limited to deepening, extension, recompletion, rework, or sidetrack, all as defined in present law, shall be taxed at the rate of 6% of the oil value determined in accordance with proposed law.

8. Provide a definition of "defined regulatory unit" for purposes of proposed law.

9. For purposes of the severance tax exemption for production from horizontal wells completed on or after July 1, 2025, provided for in present law and proposed law, remove the requirement that the well be drilled and completed in a defined regulatory unit that had a qualifying horizontal well completed between July 1, 2010, and June 30, 2025.

The House Floor Amendments to the engrossed bill:

1. Delete duplicative language from proposed law.