STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**01/25/10**	Bill No:	**AB 656**
Tax:	**Oil and Gas Severance**	Author:	**Torrico**
Related Bills:	**AB 1604 (Nava)**		

This analysis will only address the bill's provisions which impact the State Board of Equalization (BOE).

BILL SUMMARY

This bill would require the BOE to annually report to the Legislature, the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges the amount of revenue that would be raised by the imposition of a 12.5 percent per barrel oil and natural gas severance (severance) tax.

SUMMARY OF AMENDMENTS

Since the last analysis, amendments deleted the previous provisions which would have, in part, imposed an oil and gas severance tax upon any producer for the privilege of severing oil or gas from the earth or water in this state for sale, transport, consumption, storage, profit, or use.

ANALYSIS

CURRENT LAW

Under current law, the following taxes, fees, and assessments relating to oil are imposed:

Regulatory Assessment. The Division of Oil, Gas, and Geothermal Resources of the Department of Conservation imposes a fee on each barrel of oil and each 10,000 cubic feet of natural gas produced. Producers of oil and gas are required to pay the fee, which is currently at a rate of $0.0790758. The fees are assessed for purposes of financing the regulatory work of that division. (Article 7 (commencing with Section 3400) of Chapter 1 of Division 3 of the Public Resources Code.)

Property Tax. Under Property Tax Law, with respect to oil in the ground, “proved reserves” are subject to property tax assessment by county assessors (Property Tax Rule 468). In this respect, for property tax purposes, Public Resources Code Section 3234 gives both county assessors and the BOE access to monthly production reports related to the regulatory assessment filed with the Department of Conservation by oil well owners pursuant to Public Resources Code Section 3227.

Oil Spill Prevention and Administration Fee. Existing law also imposes an Oil Spill Prevention and Administration Fee of $0.05 per barrel upon persons owning crude oil when it is received at a marine terminal from within the state, which is collected by the marine terminal operator. The fee is also imposed on operators of pipelines transporting oil in the state across, under, or through marine waters. This BOE-administered fee is deposited into the Oil Spill Prevention and Administration Fund. (Part 24 (commencing with Section 46001 of Division 2 of the Revenue and Taxation Code.)

Sales and Use Tax. Currently, the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code) imposes a sales or use tax on the gross receipts from the retail sale of, and on the sales price of, tangible personal property, unless specifically exempted by statute. Under existing law, retail sales of motor vehicle fuel (gasoline) and diesel fuel, are subject to sales or use tax.

Excise Taxes. Under the Motor Vehicle Fuel Tax Law, the state imposes an excise tax of $0.18 per gallon on the removal of gasoline at the refinery or terminal rack, upon entry into the state, and upon sale to an unlicensed person. The Diesel Fuel Tax Law also imposes an excise tax of $0.18 per gallon in a similar manner.

Federal law imposes an additional per gallon tax on gasoline and diesel fuel of 18.4 cents and 24.4 cents, respectively.

PROPOSED LAW

This bill would require the BOE to determine the amount of revenue that would be raised if a severance tax were imposed upon a producer for the privilege of severing oil or gas from the earth or water in the state at the rate of 12.5 percent per barrel, including a summary of the estimated amount of revenues that would be distributed to the following:

- Fifty percent to the California State University.
- Twenty-five percent to the University of California.
- Twenty-five percent to the California Community Colleges.

The BOE would be required to report the estimated revenue and distribution to the Legislature, the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges, on or before November 1 of each year.

BACKGROUND

Numerous legislative bills have been introduced over the last 30 years that would have imposed an oil severance assessment, tax, or fee similar to the assessment imposed by AB 656. These include AB 336 (Villaraigosa) in 1995 and AB 1693 (Margolin) in 1993. In addition, in 1992, Proposition 67, "The Economic Recovery Tax Relief Act of 1992," included, among its numerous provisions, an oil severance tax. That proposition was not approved by the voters. Most recently, a similar tax was proposed in 2006, as Proposition 87, the "Clean Alternative Energy Act," which was not approved by voters, and, in 2008, as AB 9 of the Third Extraordinary Session, which died in the Assembly Committee on Revenue and Taxation.

COMMENTS

1. **Sponsor and purpose.** The bill is sponsored by the California Faculty Association and is intended to provide for a report on the amount of revenues that would be generated through the imposition of a severance tax, including a summary of revenues that would be distributed to California's public institutions of higher education.
2. **Summary of amendments.** The **January 25, 2010 amendments** delete the previous provisions to instead require the BOE to report estimated revenue that would be raised if a 12.5 percent per barrel severance tax were imposed.

The **January 14, 2010 amendments** made the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation, rather than the BOE, responsible for certifying a stripper well, and revised the operative date to the first day of the first calendar quarter commencing more than six months after the bill is enacted.

The **January 4, 2010 amendments** to the proposed Oil and Gas Severance Tax Law specified a tax rate of 12.5 percent of the gross product and added a definition for the term "political subdivision of the state." Other amendments to the bill are non-substantive and do not materially impact the BOE.

3. **Will the estimate capture the author's intent?** This measure simply requires the BOE to report the estimated amount of revenue that would be raised if a severance tax were imposed at a rate of 12.5 percent per barrel. In its current form, the bill lacks any of the specifics that were contained in the January 14, 2010 version of the bill that imposed the severance tax and that are needed to prepare an estimate of revenue, such as exemptions, definitions, the basis of the tax, etc. The author may wish to consider amending this measure to require the BOE to base the revenue estimate on the previous version of the bill. The author may also wish to consider adding a sunset date since the bill does not specify an end date for the annual report.
4. **Is a statutory requirement necessary?** The BOE routinely provides revenue estimates for various tax or fee proposals that the BOE administers or would likely administer, including those related to a severance tax of various tax rates and products. If the BOE were requested to prepare a revenue estimate, rather than mandated to report by statute as proposed by this bill, any ambiguities in preparing the estimate, as noted in Comment 3, may also be addressed since the BOE would be provided specifics at the time of the request. This would also allow for more flexibility in the types of requests in that they could involve different scenarios, such as different rates.
5. **Related legislation.** AB 1604 (Nava) proposes a 10% oil severance tax with revenues to be deposited into the General Fund.

COST ESTIMATE

The administrative costs associated with this measure would be absorbable.

REVENUE ESTIMATE

This provision would not affect the state's revenues.

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