HB12-1314

Colorado Legislative Council Staff Fiscal Note

FINAL FISCAL NOTE

Drafting Number:	LLS 12-0450	**Date:**	July 9, 2012
Prime Sponsor(s):	Rep. Sonnenberg Sen. Hodge	**Bill Status:**	Signed into Law
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TITLE: CONCERNING AN EXCEPTION TO THE REQUIREMENT TO FILE AN OIL AND GAS SEVERANCE TAX RETURN FOR A PERSON WHO HAS LESS THAN A CERTAIN AMOUNT WITHHELD, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
Cash Funds		
Severance Tax Trust Fund*	$74,532	$82,021
Local Government Severance Tax Fund	74,532	82,021
State Expenditures		
General Fund	$14,800	
FTE Position Change		
Effective Date: The bill was signed into law by the Governor on June 4, 2012, and takes effect August 8, 2012, assuming no referendum petition is filed.		
Appropriation Summary for FY 2012-2013: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

* *This amount is divided equally between the Perpetual Base Account and the Operational Account.*

Summary of Legislation

This bill creates an exception to the current requirement that all taxpayers owing severance tax on oil and gas production must file a return with the Department of Revenue (DOR). The exemption applies to any taxpayer for whom the amount withheld:

- is less than $250; and
- is greater than their severance tax liability.

In addition, the amended bill prohibits the DOR from sending non-filing taxpayers whose withholding is less than $250 an estimate of their liability unless there is good reason to believe that they do not qualify for the above exception. Under current law, if a taxpayer fails to file a severance tax report, the executive director of DOR may estimate the amount of taxes, interest and penalties due and mail the estimate to the taxpayer. Within 10 days of mailing, if no response is received, the estimated amount becomes the taxpayer's severance tax liability to the state.

Background

Operators and first purchasers who disburse income from oil and gas production in Colorado to any working interest, royalty interest or any other type of interest, withhold one percent from the gross income disbursed and electronically remit the withholding to the DOR on a monthly basis. Annually, they are required to prepare a statement of withholding for each interest owner. One copy is sent to the interest owner and the other copy is submitted to DOR along with a severance tax reconciliation form.

Currently, if an entity is a producer or owns a working interest, royalty interest or other interest from oil and gas production in Colorado, the entity must file a return and pay state severance tax. Under this bill, a taxpayer who has less than $250 withheld by all operators and first purchasers is not required to file a severance tax return if the withholding exceeds the taxpayer's liability.

State Revenue

The state will see ***increased revenue of $149,064 and $164,042 in FY 2012-13 and FY 2013-14,*** respectively. Under current law, one-half of severance tax receipts are credited to the Severance Tax Trust Fund and one-half to the Local Government Severance Tax Fund. Each of these funds will see increased revenue of $74,532 and $82,021 in FY 2012-13 and FY 2013-14, respectively. These estimates are based on the following assumptions:

- in tax year 2010, 9,722 entities filed a return reporting less than $250 in withholding, of which 6,928 taxpayers received refunds;
- only taxpayers with expected refunds of over $50 (based on the previous years return) would continue to file returns to get refunds, resulting in $67,000 in additional severance tax revenue to the state from those taxpayers who are due a refund but do not file;
- the same share of taxpayers with withholding less than $250, that received notices and filed returns between 2007 and 2009 would file returns as a result of 2010 notices, resulting in an estimated 336 additional returns that would be filed for refunds in the absence of this bill;
- the average estimated refund for the additional returns is $202 based on historical averages, yielding an additional $67,800 in severance tax revenue that would be collected; and
- the estimated revenue gain under this bill ($134,807 in 2010) will remain proportional to the overall severance tax revenue total forecast in the Legislative Council Staff December revenue forecast for FY 2012-13 and FY 2013-14, implying revenue gains of $149,064 and $164,042, respectively, in those years.

State Expenditures

Office of Information Technology (OIT). The OIT will incur added costs of $14,800 General Fund in FY 2012-13 (200 hours * $74 per hour) in order to reprogram and modify the state's GenTax system, based on the following assumptions:

- all oil and gas severance tax withholding information from the DR21W forms will be made available to the GenTax system;
- all DR21W forms for a specific interest holder with be summed to determine if the specified withholding threshold is met;
- accounts with less than $250 in withholding will be excluded from the current non-filer process; and
- current DR21W forms will be revised to provide easier access to the required data.

Local Government Impacts

Severance tax revenue is divided equally between the Severance Tax Trust Fund and the Local Government Severance Tax Fund. Money from the latter fund is used to fund direct distributions (30 percent) and energy impact assistance grants (70 percent) for local governments impacted by energy development. These local governments will receive slightly more money as a result of this bill.

State Appropriations

For FY 2012-13, the Department of Revenue will require a General Fund appropriation of $14,800. These funds will then be reappropriated to the Office of Information Technology.

Departments Contacted

Revenue