HB12-1314

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 12-0450	**Date:**	March 7, 2012
Prime Sponsor(s):	Rep. Sonnenberg	**Bill Status:**	House Agriculture
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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.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
Cash Funds		
Severance Tax Trust Fund*	($64,869)	($71,387)
Local Government Severance Tax Fund	(64,869)	(71,387)
State Expenditures		
General Fund	$14,800	
FTE Position Change		
Effective Date: August 8, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and 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 exemption 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 that has less than $250 withheld by unit operators and first purchasers.

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. This bill prohibits the executive director from making and sending an estimated tax liability to taxpayers exempted by the bill.

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, an entity that has less than $250 withheld by all operators and first purchasers is not required to file a severance tax return.

State Revenue

The state will see ***reduced revenue of $129,738 and $142,774 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 reduced revenue of $64,869 and $71,387 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 these 6,928 taxpayers received refunds, 1,422 taxpayers had no refund or balance due, and 1,372 taxpayers had a tax balance due of $109,000;
- taxpayers that were expected to have no refund or balance due or have a tax liability would no longer file returns, and the state would receive $109,000 less in severance tax revenue than otherwise;
- 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;
- the same share of taxpayers with withholding less than $250, that received notices and filed returns in 2009 would file returns as a result of 2010 notices, resulting in an estimated 740 additional returns that would be filed in the absence of this bill;
- the average net payment for the additional returns will be $102 based on historical averages, yielding an additional $75,000 in severance tax revenue that would have been collected in the absence of this bill; and
- the estimated revenue loss under this bill ($117,329 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 losses of $129,738 and $142,774, 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 less 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