

1 HB572
2 114885-1
3 By Representative Hill
4 RFD: County and Municipal Government
5 First Read: 16-FEB-10

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8 SYNOPSIS: Currently, counties, cities, towns, and
9 municipalities receiving a share of state revenues
10 of the tax levied on severed oil and gas are
11 prohibited from levying a broad range of local
12 taxes related to oil and gas production.

13 The bill would limit the prohibition on
14 local taxation and clarify that local governmental
15 entities would be prohibited from levying any tax
16 on oil and gas severed and on which severance taxes
17 have been paid to the state.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To amend Section 40-20-2, Code of Alabama 1975,
24 relating to taxes imposed on the severance of oil and gas and
25 prohibitions against the levying of local taxes by counties,
26 cities, towns, and municipalities upon oil and gas production,
27 sale, and storage activities; to clarify that counties,

1 cities, towns, and municipalities receiving a share of the
2 proceeds of the state oil and gas severance taxes are
3 prohibited from levying a local tax only on the severance of
4 oil and gas on which severance taxes have been paid to the
5 state.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 40-20-2, Code of Alabama 1975, is
8 amended to read as follows:

9 "§40-20-2.

10 "(a) (1) There is hereby levied, to be collected
11 hereafter, as herein provided, annual privilege taxes upon
12 every person engaging or continuing to engage within the State
13 of Alabama in the business of producing or severing oil or
14 gas, as defined herein, from the soil or the waters, or from
15 beneath the soil or the waters, of the state for sale,
16 transport, storage, profit, or for use. The amount of such tax
17 shall be measured at the rate of eight percent of the gross
18 value of the oil or gas at the point of production except as
19 provided in subsequent subdivisions of this subsection.

20 Provided, however, that the tax on offshore production,
21 produced from depths greater than 8,000 feet below mean sea
22 level, shall not be computed as a percentage of gross value at
23 the point of production, as provided in this article, but
24 shall be computed as a percentage of gross proceeds, as
25 provided in Article 1A of this chapter.

26 "(2) Effective May 1, 1985, and thereafter, the
27 incremental oil or gas production produced during a given year

1 resulting from a qualified enhanced recovery project shall be
2 taxed at the rate of four percent of gross value at the point
3 of production of the incremental oil or gas production. The
4 State Oil and Gas Board of Alabama shall approve the qualified
5 enhanced recovery project and the determination of the
6 projected annual oil or gas production that could have
7 otherwise been produced without the benefit of the initiation
8 of the qualified enhanced recovery project at a hearing held
9 pursuant to Section 9-17-7, as amended, and shall notify the
10 Alabama Department of Revenue thereof.

11 "(3) All wells producing 25 barrels or less of oil
12 per day or producing 200,000 cubic feet or less of gas per day
13 shall be taxed at the rate of four percent of gross value of
14 the oil or gas at the point of production.

15 "(4) All oil and gas produced from onshore discovery
16 wells, all oil and gas produced from onshore development wells
17 on which drilling commenced within four years of the
18 completion date of the discovery well and producing from a
19 depth of 6,000 feet or greater, and all oil and gas produced
20 from onshore development wells on which drilling commenced
21 within two years of the completion date of the discovery well
22 and producing from a depth less than 6,000 feet shall be taxed
23 at a rate of six percent of the gross value of the oil and gas
24 at the point of production for a period of five years from the
25 date production begins from the discovery and development
26 wells, provided, that all production to receive a six percent
27 tax rate, which is produced from discovery wells, must be from

1 discovery wells permitted by the State Oil and Gas Board of
2 Alabama after July 1, 1984, and that all production to receive
3 a six percent tax rate from development wells on which
4 drilling commenced within the required time of completion of a
5 discovery well, which was permitted after July 1, 1984, and
6 the development well must also have been permitted after July
7 1, 1984; provided however, that the six percent tax rate
8 applicable to a discovery well or development well shall be
9 applicable to any replacement well drilled to replace the
10 discovery well or the development well during the six percent
11 five-year, tax rate period for only the remainder of the tax
12 rate period.

13 "(5) For any well for which the initial permit
14 issued by the Oil and Gas Board is dated on or after July 1,
15 1988, except a replacement well for a well for which the
16 initial permit issued by the Oil and Gas Board is dated before
17 July 1, 1988, the rate provided in subdivision (1) of this
18 subsection shall be reduced by 2 percent.

19 "(6) For any well for which the initial permit
20 issued by the Oil and Gas Board is dated on or after July 1,
21 1996, and before July 1, 2002, except a replacement well for a
22 well for which the initial permit issued by the Oil and Gas
23 Board is dated before July 1, 1996, the applicable rate shall
24 be reduced by 50 percent for a period of five years commencing
25 with commercial production after which subdivision (5) shall
26 apply.

1 "(b) The tax is hereby levied upon the basis of the
2 entire production in this state, including what is known as
3 the royalty interest, on which production the amount of such
4 tax shall be a lien, regardless of the place of sale or to
5 whom sold, or by whom used, or the fact that the delivery may
6 be made to points outside the state; and the tax shall accrue
7 at the time such oil or gas is severed from the soil or the
8 waters, or from beneath the soil or the waters, and in its
9 natural, unrefined or unmanufactured condition. Provided,
10 however, that natural gas lawfully injected into oil or gas
11 pools or reservoirs in the soil or beneath the soil or waters
12 of the State of Alabama is exempt from this tax. Provided,
13 further, that natural gas lawfully injected into the earth for
14 the purpose of lifting oil or gas in the State of Alabama is
15 exempt from this tax. However, if any gas so injected into the
16 earth is sold for such purposes or injected into underground
17 storage facilities as defined in Section 9-17-150 et seq.,
18 then the gas so sold or injected shall not be exempt from this
19 tax. Natural gas lawfully vented or flared in connection with
20 the production, treatment, or processing of oil or gas is
21 exempt from this tax.

22 "(c) A county, city, town, or municipality of the
23 State of Alabama shall not establish, levy, impose, or
24 collect, ~~as a condition of doing business or otherwise, any~~
25 ~~tax, fee, license, or charge whatsoever, directly or~~
26 ~~indirectly, on or with respect to the production, treating,~~
27 ~~processing, ownership, sale, storage, purchase, marketing, or~~

1 ~~transportation~~ any tax on any oil or gas severed or produced
2 in the State of Alabama and on which severance taxes have been
3 paid to the State of Alabama, ~~or upon the business of~~
4 ~~producing, treating, processing, owning, selling, buying,~~
5 ~~storing, marketing, or transporting such oil or gas, or upon~~
6 ~~the ownership, operation, or maintenance of plants,~~
7 ~~facilities, machinery, pipelines, gathering lines, or any~~
8 ~~equipment whatsoever, which are, or may be, necessary or~~
9 ~~convenient to the production, treating, processing, ownership,~~
10 ~~storage, sale, purchase, marketing, or transportation of such~~
11 ~~oil or gas; provided, that nothing.~~ Nothing herein shall be
12 construed to prohibit, limit or restrict a county, city, town,
13 or municipality from imposing and collecting ad valorem taxes
14 on any property, real or personal, not otherwise now exempted
15 by law, ~~further, the.~~ The limitation herein imposed upon
16 counties, cities, towns, and municipalities shall not apply to
17 any county, city, town, or municipality which does not receive
18 a share of the severance tax levied upon production other than
19 offshore production as defined in Section 40-20-1 under the
20 provisions of this article. The limitation herein imposed upon
21 counties, cities, towns, and municipalities shall remain in
22 full force and effect in regard to offshore production as
23 defined in Section 40-20-1.

24 "(d) Nothing contained herein shall be deemed to
25 limit or to enlarge the authority of a county, city, town, or
26 municipality to levy taxes or licenses on oil refining
27 facilities located therein or on the suppliers of services or

1 goods not including oil or gas to those persons engaging in
2 the business of producing, treating, processing, owning,
3 selling, buying, storing, marketing, or transporting such oil
4 or gas. Provided, however, no such taxes or licenses shall be
5 levied on offshore drilling or production facilities as
6 defined in Section 40-20-1.

7 "(e) In all cases of production of oil from unit
8 operations as authorized and approved by the State Oil and Gas
9 Board of Alabama, for purposes of computing the per well
10 production, the aggregate production of oil from the entire
11 unit shall be divided by the number of wells within the unit,
12 including injection, disposal, and other wells utilized in
13 unit operations, and the quotient thereof shall be deemed and
14 declared to be the number of barrels of oil produced from each
15 well in such unit regardless of the actual amount of oil per
16 day produced from the well, if any."

17 Section 2. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.