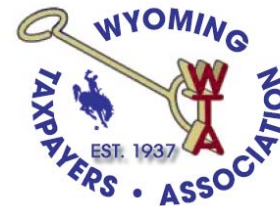


WYOMING TAXPAYERS ASSOCIATION

ACTION ALERT



SUMMARY JOINT REVENUE COMMITTEE AUGUST 25-26, 2011

Members of the Joint Revenue Committee met in Buffalo on August 25th and 26th to discuss wind taxation, coal valuation, agriculture land valuation as it pertains to subdivisions in Buffalo, WY, and receive an update on the issue of tax exemptions for economic development.

WIND TAXATION

Shawn Reese, Policy Director with Governor Mead's office, kicked off the discussion by summarizing the development of the E-3 model. Due to stakeholder concerns with the model, a series of meetings were held this summer to work out the questions and propose a new draft for wind tax legislation (explained below). This workforce, lead by the Wyoming County Commissioners Association had the following goals in mind:

- Upfront assistance for local governments
- Steady stream of revenue
- Reducing upfront financing costs for developers
- Making the tax climate competitive
- Mitigating costs to incumbent producers

The E-3 model demonstrates that competition is very keen right now with respect to renewable industry. Mr. Reese maintained that wind development in Wyoming is a means to the end goal of establishing transmission in Wyoming and further, an overall energy policy for the State. Therefore, the wind element is the first piece of the puzzle and deserves precedent. He further explained that the stakeholder groups have come together in a reasonable fashion and have fully cooperated with the Governor's Office. Mr. Reese reminded the Committee of the Governor's pledge to find a reliable revenue source for local governments, and his commitment for keeping the State's portion of the revenues from wind taxation intact.

Milt Geiger, head of the technical advisory group (from UW) demonstrated his expertise in the mechanics of the model and explained what aspects have changed as of August 4th, 2011:

- Net capacity factors of other states were increased and that for Wyoming increased from 37% to 42%.
- Construction costs were included
- The overall cost of transmission increased
- Tax laws in NM (PILT) and CO (sales tax from municipalities removed) were considered
- Transmission costs to WA and OR were accounted for

Mr. Geiger noted that UW will host the model from now on and that it will be available on the [School of Energy Resources website](#).

Lloyd Drain, Executive Director of the Wyoming Infrastructure Authority, gave an overview of the supply/demand of developable renewable resources in the west. The conclusion to be reached – at least 4 times as much developable supply exists in the West as there is demand (however, many western states were not included in the model he quoted, such as WY and ID, MT – if you include these other states, the factor could be more like 8 times). CA represents 2/3 of the total demand. The bottom line of his presentation is that there are great opportunities for Wyoming to satisfy these demands.

Cheryl Riley, Executive Director of the Wyoming Power Producers Coalition and Bob Stiens, Public Affairs Manager with Edison Mission Energy, affirmed to the Committee that the new and improved E-3 model provides a better picture of Wyoming's competitiveness. The new tax proposal as agreed by the Taskforce includes a 2% upfront impact fee, plus the \$1/MWh generation tax (which is what is already in statute). Mr. Stiens further expressed his concern the \$1/MWh and how it would impact incumbent projects and the power purchase agreements that are tied

to those projects. He maintained that his company could sustain a 31% tax increase over the life of the projects. It was later mentioned by Matt Grant, with Rocky Mountain Power, that integrated companies do not have the same problem because they don't have power purchase agreements and can build it into their rate base. Mr. Stiens asked the Committee to grandfather incumbent projects and not make them subject to the tax.

Other representatives with Power Company of Wyoming, Pathfinder Renewables, and Duke Energy expanded the discussion of the proposed tax structure emphasizing that the ad valorem tax will remain intact. Participants in the summer meetings decided to leave the determination of the tax distribution left up to the Industrial Siting Council. The Committee was further encouraged to begin the \$1/MWh generation tax immediate because locals need the revenues (current statute doesn't have it starting until year 4). The notion is that the State would get a savings because impact fees would now come from the developers instead of the State through the Industrial Siting Process.

Representatives from the Wyoming County Commissioners Association and the Wyoming Association of Municipalities expressed their position that the current statute is just fine with them and is what we should be doing. However, if there must be changes, the local governments have a few requirements for a proposed tax plan for wind:

- The ad valorem tax structure cannot change
- The distribution should be determined by the Industrial Siting Council
- The local governments need to be held revenue neutral because of impacts from building these facilities
- Transmission could, and should, be built by wind farms

The Committee instructed LSO staff to draft a model that includes the impact fee and the generation tax, but the actual amounts will be left blank, pending an analysis of revenues and neutrality to the state. This draft will be considered at the October meeting.

STANDARD INDUSTRY FACTOR FOR COAL

Marion Loomis, Executive Director of the Wyoming Mining Association and Bill Hartzler, with Alpha Coal West, presented the Committee with a proposal to place a standard industry factor for coal into statute. The gentlemen expressed their concern about the way coal has been valued in Wyoming considering the fact that overburden is getting deeper and deeper, which causes the value for tax purposes to increase, and therefore value to the company to decrease. Considering a standard industry factor for coal is something similar to what the Legislature did for the iron industry in 2004.

The crux of the matter is that there are very different numbers involved for extracting coal in the Powder River Basin versus coal in Southwest Wyoming. Therefore proposing two industry factors to account for the differences would be appropriate, and these factors would apply to both surface coal and coal mined underground. Mr. Hartzler maintained that currently, there exists an inequity for similarly situated companies. While this scenario would indeed create some winners and losers, the industry as a whole has come together to back this idea in the name of creating a fair and equitable system that is stable and predictable. Other benefits include making the audit process more streamlined and simplified. Wyoming is a very complicated state in which to calculate taxes and the Wyoming Department of Revenue agreed. For counties, this proposal would bring revenues in sooner because the process will be shorter.

The proposed legislation proposes to re-evaluate the ratio after a 5 year period, with reports going to the Legislature annually.

Representatives from the Governor's Office maintained that the Governor is supportive of this in concept because of the simplification measures, yet he would encourage investment of pieces of equipment for direct mining costs. The Governor would like to see an analysis of the revenue impacts. The Committee will have LSO staff draft a bill for consideration at the October meeting.

TAXATION OF AGRICULTURAL LANDS AND SUBDIVISIONS

The Committee was presented with the issue of proposing platted subdivisions to qualify for agricultural land classification for property tax purposes. The main driver behind the proposal is the owner of Sand Creek Ranch, LLC in Johnson County. This issue follows the efforts from two years ago to allow parcels greater than 35 acres within a platted subdivision to qualify for agricultural classification.

Brenda Arnold, Laramie County Assessor, kicked off the conversation by giving the Committee a rundown of how agricultural land is currently valued in Wyoming. She highlighted the four criteria that must be met in order to be considered agricultural:

- As of the assessment date, the land must be used for an agricultural purpose, which includes:
 - Cultivation of the soil for production of crops
 - Production of timber products or grasses for forage
 - Rearing, feeding, grazing or management of livestock
- The land is not part of a platted subdivision
- If the land is not leased land, the owner has derived annual gross revenues of not less than \$500 from the marketing of agricultural products. If the land is leased, the lessee has derived annual gross revenue of not less than \$1,000 from marketing of agricultural products.
- The land has been used or employed, consistent with the land's size, location and capability to produce as defined by the Department's rule and the Mapping and Agricultural Manual.

The Committee and interested parties took an afternoon to tour the ranch after an introduction of the issue. The following day, Mr. John Jenkins, the owner of Sand Creek Ranch, summarized the tour from the day prior and his efforts in preserving the family ranch and open spaces.

After questioning Mr. Jenkins, the Committee heard testimony from other assessors as to how this proposal could impact properties across the state, and how the current present worth method, with a capitalization rate, allows current developers to get a discount, which has been significant. In addition to the assessor from Laramie County, (Brenda Arnold) assessors from Converse and Johnson Counties illustrated unintended consequences that could result if this concept were pushed through into statute, although this property is most likely one-of-a-kind in Wyoming. Each of the assessors mentioned that currently, there are no taxpayers appealing on the grounds mentioned in the current valuation of agricultural land versus subdivisions. If this concept is indeed passed, the assessors felt the number of appeals would be exponential. After careful consideration, the Chairman took a straw poll of the Committee, yielding little interest in moving the issue forward.

TAX EXEMPTIONS FOR ECONOMIC DEVELOPMENT

Dan Noble, Director of the Excise Tax Division, and Erin Taylor, Executive Director of the Wyoming Taxpayers Association, gave the Committee an update on the work of an informal working group that is exploring how Wyoming can best model the costs and benefits of tax exemptions currently given in the name of economic development.

The working group consisted of local government, the Wyoming Economic Analysis Division, Wyoming Economic Development Association, Wyoming Taxpayers Association, and the Wyoming Department of Revenue. At the first meeting, members discussed the need to find out what other states are doing now to collect data and provide meaningful reports to legislators. Mr. Noble said that states like Tennessee and Kansas require extra reporting on their monthly sales and use tax forms, and that is an option for Wyoming as well, although we just revised our forms and that would involve more time and money. Ms. Taylor also highlighted the notion that the Wyoming Business Council built \$125M into their biennial budget to use for gathering required data from the Department of Employment (information that is currently required for the manufacturing exemption) – so there are some funds available.

Members of the Committee discussed the notion that if we want to have good data for a proper cost/benefit analysis, we will likely have to pay for it. Mr. Noble and Ms. Taylor agreed to keep the working group moving and report back at the October meeting with some ideas for the Committee.

NEXT MEETING

The next meeting of the Joint Revenue Committee is scheduled for October 25-26th in Worland, WY.