Wyoming Passes Sage Grouse Bill

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CHEYENNE, WY.–Wyoming's legislature has approved a local tax option that eventually may increase producers' operating costs in some jurisdictions and also has passed a new approach to managing greater sage grouse populations in its biennial general session this year, reports the head of the state's oil and natural gas association.

Wyoming's 40-day session saw 219 bills pass, press accounts indicate. According to Petroleum Association of Wyoming President Bruce Hinchey, none of the bills seem directly adverse to the state's oil and gas industry.

Governor Matt Mead vetoed two bills this year and signed 150 others into law, published reports say. Several others passed into law without needing the governor's signature, including HB 271, the "Game Bird Farms Greater Sage Grouse" bill.

Media reports note that the greater sage-grouse, a chicken-sized ground-dwelling bird that inhabits several western states, has been the subject of Wyoming legislation for more than a decade, thanks to its occasional candidacy for a listing under the Endangered Species Act. In this session, Wyoming lawmakers voted to allow state-certified breeders to collect as many as 1,000 eggs in the wild to hatch, raise in captivity and release, press accounts indicate. The Senate voted 24-6 to approve HB 271 and returned it to the House where, according to published reports, it was approved 47-13 on March 1.

"We have to consider all options for managing impacts on the sage-grouse," Hinchey assesses. "In the core habitat areas, we are limited in what we can do. There are the extensive reclamation requirements and the offsets that oblige operators to buy four acres of land in exchange for every acre they disturb."

According to statements by Senator Charlie Scott, R-Casper, periods in which sage-grouse habitat is abundant and populations are good is the right time for captive breeding programs. Opponents of the bill say results of captive breeding efforts have proven underwhelming. Removing sage grouse eggs from the wild, "reduces the success of the wild," according to published comments attributed to Senator Cale Case, R-Lander.

The bill passed not long after federal regulators released a draft federal environmental impact statement that proposed to close millions of acres to hard rock mining claims in what the Bureau of Land Management refers to "as sagebrush focal areas." Of the five alternatives considered in the BLM's EIS, media reports most often cite one that would withdraw mineral claim filings from approximately 10 million acres in Idaho, Montana, Nevada, Oregon, Utah and Wyoming, though existing mining claims would remain. The Wyoming acreage falls in the drainages for the Green and Bear rivers.

"If BLM can close off that much public land to mining, there is nothing to stop it from taking the same approach to oil and gas," Hinchey warns. "Let's hope new leadership at the Department of Interior takes a more reasonable approach."

Local Option

Hinchey indicates PAW is less enthusiastic about the passage of HB 82, a bill allowing local taxing districts to impose or increase sales and use taxes if they receive voter approval.

"This issue has been considered several times before but never has survived," Hinchey recounts. "Our concern is that it could increase the tax burden on an operator in one county and put that operator at a competitive disadvantage to someone in another county."

Wyoming's state sales and use tax is 4 percent. Depending on the county, local sales and use taxes add 1-2 percent to the final rate, a Department of Revenue report indicates.

According to the legislative services office, the bill was approved in late February. Hinchey points out that passing a local option tax bill arguably relieves state legislators of the task of finding new revenue sources for county and municipal governments.

Even so, he assesses, it appears unlikely any local government will place a tax increase proposal before its electorate in the near future. "The slowdown in oil and gas and the coal industry has meant layoffs and lost jobs," Hinchey describes. "So far, we have not heard of interest in this from any county."

County taxes also are the subject of HB 242, an unsuccessful bill that sought to expand liens on delinquent taxpayers to include mineral interests. PAW opposed the bill, Hinchey notes.

The bill would have allowed county tax departments to place a lien on any production the delinquent taxpayer held in a mineral interest, effectively "moving the county to the head of the line" in priority of collectors, Hinchey describes.

"The banks and other lenders were opposed, and operators were concerned it would prevent them from getting new loans," Hinchey explains.

After a referral from the House Revenue Committee, the bill failed to get an introduction to the full House and was considered dead by the end of the session, according to a note in the legislative index.

Budget Matters

A revenue forecast in January provided a basis for this year's budget bill. The report was produced by the Consensus Revenue Estimating Group, made up of leaders from five state departments, including the head of the Oil and Gas Commission and two academics, and was co-chaired by representatives of the Legislative Service Office and the Economic Analysis Division of the Department of Administration and Information.

Among the report's projections is an $18.8 million decline in state investment yields for fiscal year 2017-2018. It attributes those dips to lower balances in the State Agency Pool fund. The state revenue group also projects an $8.1 million FY 2017 decline in sales and use tax revenue, primarily because employment in the mineral resource industries has been slow to recover.

Some projections are rosier, however. The forecast anticipates an increase of $17.4 million in severance tax revenue from coal production increases and what the report refers to as "updated assessed valuation as a percentage of gross value of natural gas."

The report notes that a new 1 Percent Severance Tax Account, created in the 2016 legislative budget session, will see an additional $4.8 million in revenue over an October forecast thanks to increased coal production and gas valuations.

The report projects the state's combined general fund, budget reserves and severance tax set-aside at $2.8 billion for the coming fiscal year, a $900,000 increase from October's estimate.

Another revenue-related initiative during the 2017 session sought to direct the state to review benefits and impacts from a change to discounted cash flow valuation on assets. Although the legislation failed to find sufficient traction this year, after several years of supporting changes to discounted cash flow, PAW is encouraged that legislation was introduced, Hinchey reports.

"There has to be a better way to value oil and gas properties," he suggests. "Basing the tax solely on production is not fair to producers and causes a real headache whenever they get notices of valuation change. Last fall, some of our members went to Utah to see how discounted cash flow works there. They were encouraged by what they learned."

The state's analysis of discounted cash flow is the first step toward realizing a change in state tax policy, Hinchey predicts. "It is one of those issues that will take at least two years to get approved," he observed. "I think passage by 2020 is realistic." ❒