

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 77 (as reported without amendment)  
Sponsor: Senator Vern Ehlers  
Committee: Natural Resources and Environmental Affairs

Date Completed: 2-21-89

**RATIONALE**

Extraction of methane gas from landfills is a relatively new process in the fields of waste management and the development of renewable energy resources. Such extraction has not been subject to the State's severance tax because the wells used to recover methane gas from landfills do not break the surface of the Earth, but only tap into the surface of a closed landfill. Reportedly, the Department of Treasury recently reversed this ruling, which it originally expressed in a 1985 letter to the attorneys for the owners of a landfill, and informed those landfill owners that the process is subject to the tax. Some people feel that extraction of methane gas from landfills should be exempt from the severance tax because the wells used for such extraction do not sever the Earth's surface; because methane gas, although occurring naturally in a landfill, would not develop if not for the human activity of depositing waste in a landfill; and because methane gas from a landfill is a renewable energy source and is not extracted from a limited reserve of the resource as are oil and natural gas.

**CONTENT**

The bill would amend Public Act 48 of 1929, which levies a severance tax on producers who remove oil and gas from the soil, to exempt methane gas extracted from a landfill from the Act's definition of "gas". Such extraction of

methane gas, then, would be exempt from the severance tax and the Act's reporting requirements on the total amount of gas received, purchased, stored, or transported and its market value.

MCL 205.311

**FISCAL IMPACT**

The bill would result in an indeterminate loss of GF/GP revenue. Currently, only a few landfills are producing methane gas for commercial sale and no severance taxes are being collected. The potential reduction in State revenue would be in future years, as extraction of methane gas from landfills becomes more common.

**ARGUMENTS****Supporting Argument**

The severance tax, as its name suggests, should be levied against those who sever the Earth's surface to remove oil and gas from limited reserves of those resources. Since methane gas extraction wells remove gas only from landfills that result from man-made deposits of waste, and since methane gas extracted from the landfills is a renewable resource, rather than a limited reserve of resources, its extraction should be exempt from the severance tax.

### **Supporting Argument**

Methane gas extracted from landfills is a new, and renewable, source of energy. Its development and use is environmentally responsible and should be encouraged. Subjecting the extraction of methane gas from landfills to the severance tax could discourage some from pursuing such development and use, because the cost of paying the tax could be prohibitive.

### **Opposing Argument**

The Department of Treasury has admitted that its previous interpretation of the severance tax law, which suggested that extraction of methane gas from landfills was exempt from the tax, was rendered erroneously. Methane gas extraction from landfills differs from other types of gas extraction only in that its wells are not as deep because the source of the gas lies in a more shallow area of the Earth's surface. In addition, landfills merely add to the level of the ground surface and it is necessary to break, or sever, that surface in order to tap the methane gas source. Further, methane gas extracted from landfills is not chemically distinguishable from other gases that are extracted from deeper, geologically created reserves.

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