

Rembolt | Ludtke

LB 1048: Wind Taxation
Nebraska Wind Conference - 2010

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Rembolt | Ludtke LLP

DISCLAIMER



If you think junior high is hard,
try reading tax regulations all day.

I am NOT a tax lawyer

Summary of Tax Changes



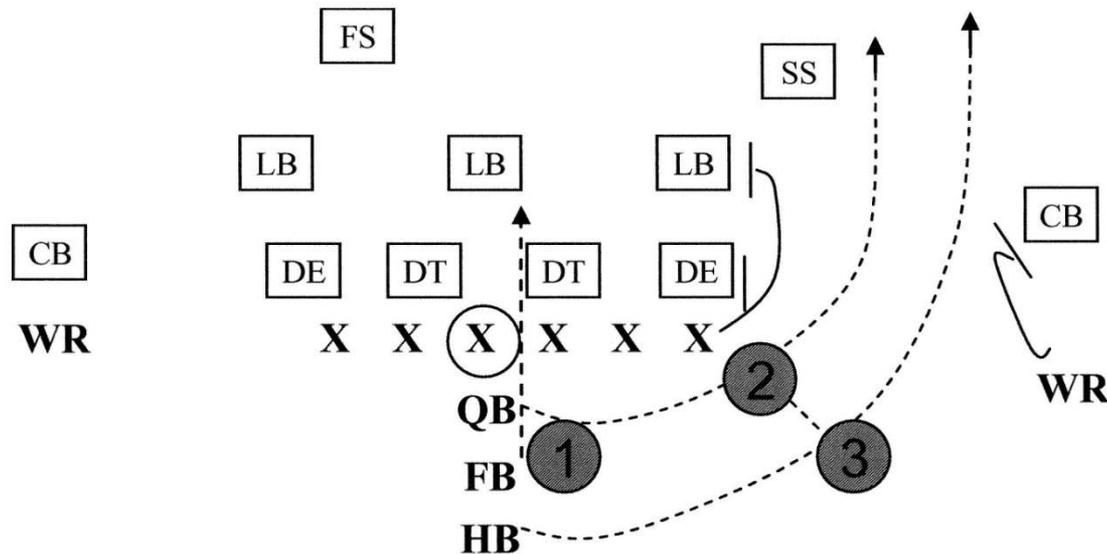
- Wind generation infrastructure currently treated as personal property for tax purposes
 - Depreciated over 5 years
 - High up-front cost for developers
 - Created budget problems for counties, schools
- Replaced by a “Nameplate Capacity Tax”

Replacing the Personal Prop. Tax



- Options considered

1. Convert wind generation to real property
2. Generation tax
3. Nameplate Capacity Tax: Sen. Langemeier



Nameplate Capacity Tax



- Purpose
 - Key: “purpose....is to replace personal property taxes currently imposed...”
- All revenues go back to counties
- No revenues go to State’s General Fund
 - “No new taxes”
 - None of the NCT revenues go to the Dept. of Revenue to administer the tax
 - Dept. of Revenues additional expenses will come from the General Fund (est. \$30,000)

Personal Property Tax Exemption



- LB 1048 clarifies that wind generation infrastructure is personal property
- Bill then exempts wind infrastructure from personal property taxes

The Nameplate Capacity Tax



- \$3,518 /megawatt capacity of turbine
- “Nameplate Capacity” defined
- Calculation of Tax
 - Value of 1MW turbine: \$1.5 million
 - Total property tax paid per MW over 5 years: \$51,430
 - \$51,430 divided by useful life of turbine (29 yrs) = \$3,518
- Nutshell: Spread taxes over life of the turbine
 - Taxes after average life are gravy

Exemptions



- Public Power and Government-owned wind generation infrastructure
- Net-metering customers



Collection & Enforcement

by the



Distribution



- Distribution by the county treasurer



- To local taxing entities that would have received property tax revenues
- Same amount as would have been received in personal property tax revenues

Concerns



- Singling out Nameplate Capacity Tax in revenue short years
- Credit for past property taxes paid – Knox County (Legislative Interim Study)
- Constitutionality: No dispute.



Miscellanea



- NCT revenues are not subject to the county's spending lids for the first 5 years the wind farm is commercially operating
- Presence of wind farm not to affect real property values
- Personal property tax paid prior to effective date of act to be credited against NCT

MISC!

Summary



- NCT replaces personal property taxes going to counties and other local political subdivisions
- Entirety of money goes to counties
- Will provide a revenue stream, that is...
 - stable
 - predictable
 - long-term





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