Local Mandate Fiscal Impact Estimate
Kentucky Legislative Research Commission
2015 Regular Session

Part I: Measure Information

Bill Request #: 298

Bill #: HB 130

Bill Subject/Title: AN ACT relating to the property tax on unmined coal.

Sponsor: Rep. Short

Unit of Government: X City X County ___ Urban-County

___ Charter County ___ Consolidated Local ___ Unified Local Government

Office(s) Impacted: ___

Requirement: ___ Mandatory ___ Optional

Effect on
Powers & Duties: ___ Modifies Existing ___ Adds New ___ Eliminates Existing

Part II: Purpose and Mechanics

HB 130 would reduce the local property tax burden on some unmined coal reserves by amending the way in which the fair cash (taxable) value of certain reserves is assessed by the state Department of Revenue ('department').

The bill amends KRS 132.820 to establish a "standard value" of zero ($0) for unmined coal reserves that have not had any amount of coal severed during the 10-year period immediately preceding the Jan. 1 assessment date, effective for reserves assessed on and after Jan. 1, 2015. The constitutional mandate of assessment at a property's "fair cash value" would still apply, so the bill provides that the department may deviate from the defined standard value if information became available that warranted that action.

Pursuant to the ruling of the Kentucky Supreme Court in *Gillis v. Yount*, 748 S.W.2d 357 (Ky. 1988), unmined coal is a form of real property, and as such the constitution requires that it be assessed for state and local property tax at its fair cash value (in place), estimated at the price it would bring at a fair voluntary sale. The valuation method currently used by the department to centrally assess the fair cash value of all unmined coal in the state was developed as a result of a settlement reached in 2005 in the *Kentuckians for the Commonwealth v. Blanton* case, No. 88-CI-0407.

The method takes into account numerous factors impacting the market for unmined coal, using an income-based approach that seeks to estimate and assign a present value to the future income to be derived from the ownership of the property, which is complicated due to the volatile nature of the market for coal. One of the many factors is whether the reserve is actively being mined, or is idle. Idle reserves are not being mined currently, and may not be mined for some time. If a coal reserve is classified as idle, its present assessed value is reduced because it will not be worth as much in a fair voluntary sale in today's market due to the distant and/or uncertain time period before it will likely be mined to generate income for its owner.

Related to the concept of an idle reserve's possible *future* mining income, HB 130 would require the department to take into account the activity in a given reserve over the *immediate past* 10 years. If no coal has been mined from a reserve in that time period, that is, if the reserve has been idle for 10 full years prior to the assessment date, the "standard value" will be zero ($0).

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

At the local level, unmined coal assessments are figured into the annual computation of property tax rates (performed as a result of "House Bill 44.") Local taxing jurisdictions are allowed to impose a compensating tax rate on real property, which is the rate that will generate approximately the same amount of revenue as was collected in the prior year. The effect of this rate calculation is that if the total assessment of taxable property within a jurisdiction is reduced (which would occur in the 43 counties having unmined coal property by virtue of this bill), a local taxing jurisdiction may impose a higher compensating tax rate which would be applied to all taxable property. Therefore, **a locality could possibly mitigate any reduction in revenues by levying the compensating tax rate, effectively shifting the tax burden to other properties.**

The total assessment of reserves that have been idle for a full 10-year period is not readily available; however the total assessment of all currently idle reserves can serve as an indicator of the scale of impact. The assessed value of all currently idle reserves is approximately $100 million, which generates approximately $862,100 to $1,290,000 in total revenue for local jurisdictions having unmined coal property.

Data Source(s): LRC staff

Preparer: Eric Kennedy **Reviewer:** MCY **Date:** 2/4/15