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

Part I: Measure Information

Bill Request #: 1475

Bill #: HB 338

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

Sponsor: Rep. Steele

Unit of Government: **X** City **X** County **X** Urban-County Unified Local Government **X** Charter County **X** Consolidated Local **X** Government

Office(s) Impacted: ____

Requirement: **X** Mandatory ___ Optional

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

Part II: Purpose and Mechanics

HB 338 would exempt unmined coal reserves from state and local property taxation if, on January 1 of the given tax year, the owner or lessee did not hold a state and federal permit to mine the coal, and did not anticipate that coal would be mined from the given reserve at any point during that tax year.

It should be noted here that in the case of *Gillis v. Yount*, 748 S.W.2d 357 (Ky. 1988), the Supreme Court of Kentucky analyzed the property tax on unmined minerals (specifically coal). In that opinion, the Court recognized that ownership interests in unmined minerals are interests in real property, and held that a statute classifying such real property interests separate from surface real property and affording them with a preferential tax rate was an unconstitutional tax classification. In light of that ruling, it is possible that HB 338, which would provide an exemption to a certain class of unmined minerals interests, based solely on whether the owner or lessee held an extraction permit, would be subject to a legal challenge.

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

As stated above, unmined coal reserves are taxable by the state and local governments as constituting a class of real property. Under HB 338, assuming it became law and withstood any possible constitutional challenge, all unmined coal for which no extraction permit has been granted for a given taxable year, and for which the owner or lessee did not anticipate actively mining during the year, would become exempt from taxation.

The amount of currently taxed unmined coal reserves that are not currently permitted for extraction cannot be identified. However, the valuation assessment method for this class of property already takes into account whether a particular resource is *active* or *idle*, in terms of current production. For example, if the owner or lessor of coal reserve is not currently mining that coal, whether or not a permit to mine has been issued, that interest is considered by the Department of Revenue (DOR) to be idle. This status factors into the assessment of the taxable value of that resource, such that the current fair cash value of an idle coal resource is less than if that same resource were being actively mined.

In this way, the current assessed value of all idle coal resources can serve as a reasonable indicator of the amount of unmined coal that may become exempt under this bill. According to recent figures provided by the DOR, the assessed value of idle coal resources statewide is approximately $106 million. This generates approximately $129,000 for the state, and between $862,100 to $1,290,000 for the local taxing jurisdictions where the reserves are located. This range serves as an estimate of the amount of local tax revenue that would be forgone under HB 338.

As is the case for any newly created exemption from local property tax, it may be possible for a local jurisdiction to compensate for any loss in revenue by imposing a higher tax rate in subsequent years upon all other property remaining taxable (referred to as the "compensating tax rate"). In the case of school taxes, it should also be noted that if the assessed value of newly exempted property in a given school district constituted a substantial portion of the total assessment base, the exemption could impact the SEEK funding formula and the mix of state and local revenues available to the district

Data Source(s): Department of Revenue; LRC Staff

Preparer: Eric Kennedy **Reviewer:** MCY **Date:** 2/13/15