

AN ACT relating to the impact of refunds of natural resources severance and processing tax upon distributions from the local government economic assistance fund and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS 42.450 TO 42.495 IS CREATED TO READ AS FOLLOWS:

*As used in KRS 42.450 to 42.495:*

*(1) "Refund" means a payment of money from the State Treasury to a taxpayer, upon the authorization of the Department of Revenue following the submission of a timely request filed in accordance with applicable statutes and administrative regulations, representing all or part of an overpayment previously made by the taxpayer for a tax liability arising under KRS 143.020 or 143A.020; and*

*(2) "Severance and processing taxes on coal collected annually" means the total amount of money collected from the tax imposed by KRS 143.020 in a given fiscal year, reduced by the total amount of refunds of that tax paid during the prior fiscal year.*

➔Section 2. KRS 42.4582 is amended to read as follows:

- (1) There is hereby established in the State Treasury a fund entitled "Local Government Economic Development Fund." The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted or unencumbered balances in the fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be prorated for grants to counties according to the allotment schedule set out in KRS 42.4592.
- (2) (a) Moneys shall be transferred from the general fund in an amount equal to fifty percent (50%) of the severance and processing taxes on coal collected annually, unless otherwise amended by the budget bill.

- (b) The transfers shall be made quarterly, based upon the revenue estimates prevailing at the time each quarterly transfer is due. **Each quarterly transfer shall be adjusted to account for refunds by determining the total amount of refunds paid in the prior fiscal year, dividing that amount by four (4), and reducing each transfer by this amount.** ~~[, except that]~~ The last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual transfer required by this subsection.
- (c) The quarterly calculation and transfer of funds pursuant to this section shall be made only after distribution of the quarterly installment of the annual amount from the prior calendar year allowed as an incentive to an approved company under KRS 143.024 and 154.27-060.

➔Section 3. KRS 42.4592 is amended to read as follows:

- (1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585 shall be allocated as follows:
- (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total **coal severed**~~[tax collected]~~ in the current and preceding four (4) years~~[on coal severed]~~ in each respective county to the total **coal severed**~~[tax collected]~~ statewide in the current and four (4) preceding years;
- (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal-producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:
1. Percentage of employment in mining in relation to total employment in the respective county;

2. Percentage of earnings from mining in relation to total earnings in the respective county; and
  3. Surplus labor rate; and
- (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two (2) or more coal-producing counties. For purposes of this paragraph, "coal-producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.
- (2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be *provided by the Office of Employment and Training in the Education and Workforce Development Cabinet, and*~~[the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce;]~~ "surplus labor rate" shall be the rate published for the latest available five (5) year period by the Office of Employment and Training~~[of the Department of Workforce Investment in the Education and Workforce Development Cabinet,]~~ as provided in paragraph (b) of this subsection.
- (b) 1. Each year the Office of Employment and Training shall estimate surplus labor for each county and for the Commonwealth and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.
2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the Office of Employment and Training may consult with knowledgeable individuals, including but not limited to the Office of the

United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.

3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.
- (3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Department for Local Government.

➔Section 4. KRS 42.470 is amended to read as follows:

Moneys in the local government economic assistance fund shall be allocated among the counties as follows:

- (1) Funds allocated under KRS 42.4585:
  - (a) Sixty percent (60%) shall be distributed to each coal producing county on the basis of the ratio of ~~tax collected on~~ coal severed in each respective county to the coal severed ~~tax collected~~ statewide.
  - (b) Thirty percent (30%) shall be distributed to each coal producing county on the basis of per capita income (inverse order), ton miles of resource roads and population, equally weighted.
  - (c) Ten percent (10%) shall be distributed to non-coal producing counties impacted by the transport of coal on the basis of geographic area, ton miles of resource roads, and per capita income (inverse order), weighted on a basis of

30/100, 40/100, and 30/100, respectively. The expenditure of such funds shall be limited to the categories of projects set out in KRS 42.455(2)(c). All counties shall receive an annual payment based on the average of total ton miles within the county during the most recent three (3) year period. To qualify for the funds distributed under the provisions of this paragraph, a county must have within its geographic boundaries in any single year twenty-five hundredths of one percent (0.25%) of the total ton miles within coal impact counties during the most recent three (3) year period.

- (2) (a) All funds allocated under KRS 42.450(2) shall be distributed among the mineral producing counties on the basis of the tax collected on minerals severed in each respective county.

*(b) In no event shall the amount of funds distributed to a mineral producing county, and to the incorporated areas within that county under KRS 42.475, in any given quarter be reduced by greater than fifty percent (50%) as a result of any refund of the tax imposed on the severance and processing of minerals. If a refund of tax occurs and a county's allocated share of the refund amount is greater than fifty percent (50%) of the quarterly distribution due that county and its incorporated areas, the remainder shall carry forward to be offset in successive quarters as necessary until it is satisfied in full.*

➔Section 5. KRS 42.475 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, ten percent (10%) of the funds allocated to each county under the provisions of KRS 42.470 shall be allotted to the incorporated areas within the county based on the ratio that the population of each incorporated area bears to the total population of all the incorporated areas within the county; except that incorporated areas shall not be eligible for funds allocated to counties under the provisions of KRS 42.490 and 1980 Acts, ch. 394, sec. 11.

**(2) If the amount of funds to be allotted to an incorporated area under subsection (1) of this section is less than twenty-five dollars (\$25) in any given quarter, then the allotment shall not be made and the applicable funds shall instead be distributed to the county to which they were allocated under KRS 42.470.**

→Section 6. Whereas many cities and counties rely on funding provided through the Local Government Economic Assistance Fund and the Local Government Economic Development Fund programs to satisfy already budgeted expenditures and debt service in priority categories relating to improving the environment for new industry and the quality of life, and substantial, unanticipated reductions in that funding may cause serious financial hardships on these local governments, an emergency is declared to exist, and this Act takes effect July 1, 2016.