Local Mandate Fiscal Impact Estimate
Kentucky Legislative Research Commission
2016 Regular Session

Part I: Measure Information

Bill Request #: 199

Bill #: HB 23

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

Sponsor: Rep. Fitz Steele

Unit of Government: **X** City **X** County **X** Urban-County
X Charter County **X** Consolidated Local **X** Unified Local 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 23 exempts unmined coal reserves from state and local property taxation if, on January 1 of the 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 during that tax year.

It should be noted that in the case of Gillis v. Yount, 748 S.W.2d 357 (Ky. 1988), the Kentucky Supreme Court 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 unmined coal separate from other real property and providing it with a preferential tax rate was an unconstitutional tax classification. In light of that ruling, it is likely that HB 23, which would provide an exemption to a certain class of unmined mineral interests based on whether the owner or lessee held an extraction permit, would be challenged in court.

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

As stated above, unmined coal reserves are taxable by the state and local governments as real property. HB 23 exempts from taxation 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.

The amount of currently taxable unmined coal reserves that are not permitted for extraction cannot be identified. However, the valuation method for this class of property already takes into account whether a particular reserve is 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.

As a result of this assessment method, the current assessed value of all coal resources not projected to be mined within the next year is ascertainable, and serves as a reasonable estimate of the amount of unmined coal that would become exempt under this bill. According to figures provided by the Department of Revenue for tax year 2015, the assessed value of coal resources statewide that are not projected to be mined in the next year is $1,975,468,853. Application of the state real property tax rate to this base will generate approximately $2.4 million for the state general fund. Using the average tax rates levied by local taxing jurisdictions in tax year 2014, this tax base would generate approximately $20 to $24.4 million collectively for the jurisdictions where the reserves are located (which are within the 43 counties of the eastern and western coal fields).

As is the case for any newly created exemption from local property tax, a local jurisdiction may be able to compensate for any loss in revenue by imposing a higher tax rate upon all other property remaining taxable (this rate is referred to as the "compensating tax rate"). In the case of school taxes, it should be noted that if the assessed value of newly exempted property in a given school district constituted a substantial portion of the district's 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:** JWN **Date:** 12/7/15