

**COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT  
LEGISLATIVE RESEARCH COMMISSION  
2016 REGULAR SESSION**

**MEASURE**

2016 BR NUMBER **1010**

**HOUSE** BILL NUMBER **423/GA**

RESOLUTION NUMBER \_\_\_\_\_

AMENDMENT NUMBER \_\_\_\_\_

**SUBJECT/TITLE: An ACT relating to revenue measures and declaring an emergency.**

**SPONSOR: Representative Rand**

**NOTE SUMMARY:**

FISCAL ANALYSIS:  IMPACT     NO IMPACT     INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT:  STATE     LOCAL     FEDERAL

BUDGET UNIT(S) IMPACT: \_\_\_\_\_

FUND(S) IMPACT:  GENERAL     ROAD     FEDERAL     RESTRICTED AGENCY \_\_\_\_\_     OTHER

**FISCAL SUMMARY**

<b>FISCAL ESTIMATES</b>	<b>2015-2016</b>	<b>2016-2017</b>	<b>2017-2018</b>	<b>ANNUAL IMPACT AT FULL IMPLEMENTATION</b>
<b>REVENUES</b>		(\$24,940,000) General Fund \$127,000 Restricted Fund	(\$37,260,000) General Fund \$127,000 Restricted Fund	
<b>EXPENDITURES</b>				
<b>NET EFFECT</b>		(\$24,940,000) General Fund \$127,000 Restricted Fund	(\$37,260,000) General Fund \$127,000 Restricted Fund	

( ) indicates a decrease/negative

**MEASURE'S PURPOSE:** The purpose of the legislation is to enact the revenue measures related to the Executive Branch Budget. According to the *North Atlantic Operating Company* decision, including both appropriations and revenue measures within the same bill violates Section 51 of the Kentucky Constitution. The proposal also includes additional provisions relating to revenue and taxation.

**PROVISIONS/MECHANICS:**

The GA version of HB 423 includes the following statutory amendments, making these changes permanent:

1. **Waste Tire Trust Fund:** Extends the new tire fee of \$1 until June 30, 2018. This provision continues the funding source for the waste tire programs;

2. **Coal Severance Tax:** Changes the distribution of coal severance tax receipts. Currently, coal severance tax receipts are divided between the General Fund (50%) and two separate economic development funds (LGEDF-35% and LGEAF-15%). This amendment phases-in over four years a return of 100% of the coal severance receipts to coal-producing counties, with the LGEDF receiving 60% of the tax and the LGEAF receiving 40% of the tax by the fiscal year 2019-2020. Additionally, the distribution of funds through the LGEDF are modified to allow 50% of those funds to be distributed to the county based on coal severed in that county and 50% based on the equally-weighted factors of (1) employment in mining; (2) earnings in mining; and (3) surplus labor. While the coal severance distribution is a statutory appropriation, the increase of that appropriation results in less resources for General Fund purposes, as detailed in the chart below;
3. **Sales and Use Tax:** Exempts drugs and over-the-counter drugs for certain agricultural animals, including cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic organisms, cervids, and bees. Purchases on or after August 1, 2016, but before August 1, 2022, are exempted;
4. **Sales and Use Tax:** Exempts bees used in a commercial enterprise and certain items used in that enterprise, when sold or purchased on or after August 1, 2016, but before August 1, 2022;
5. **Income Tax:** Establishes a refundable income tax credit equal to the noise-mitigation costs incurred by an individual that would have been paid for or reimbursed if the residence had been located in a noise contour higher than 60 DNLs. The new tax credit is capped at \$3 million annually;
6. **Income Tax:** Excludes from adjusted gross income contributions to the Kentucky Education Savings Plan Trust up to \$5,000 for the taxpayer and each dependent, limited to a maximum annual exclusion of \$10,000, beginning January 1, 2019, and ending prior to January 1, 2025. Additionally, contributions that are refunded or distributed and not used for qualified educational expenses are included in the calculation of adjusted gross income; and
7. **Income Tax:** Updates the Internal Revenue Code reference date to the Internal Revenue Code in effect on December 31, 2015.

The proposal also contains the following non-codified provisions. These changes are effective for and apply to the two fiscal years contained in the Executive Branch Budget, beginning July 1, 2016, and, ending June 30, 2018, and they expire at the end of June 30, 2018:

1. **KIA Administrative Fee:** Allows the KIA to impose a fee of 0.5% for the administration of each project funded through the Infrastructure for Economic Development Funds for coal-producing and Tobacco counties;
2. **Executive Agency Lobbyists:** Increases the fees paid by lobbyists to \$275 and allows penalties collected by the Executive Branch Ethics Commission to be deposited into a trust and agency fund, solely to be used by the commission for carrying out the provisions of KRS Chapter 11A in conducting administrative hearings under KRS Chapter 13B;
3. **Auditor of Public Accounts:** Allows the Auditor of Public Accounts to charge agencies for additional expenses incurred in the performance of audits;
4. **Personnel Board:** Allows a fee to be imposed on each agency in the Executive Branch for the operation of the Personnel Board;
5. **Water Withdrawal Fees:** Prohibits any state or local taxes to be imposed on fees assessed

- by the Kentucky River Authority;
6. **Personnel Cabinet:** Allows a pro rata assessment from all state agencies, in all three branches of government that are supported by the personnel system;
  7. **Premium and Retaliatory Taxes:** Requires these taxes be credited to the General Fund; and
  8. **Speed Title Procedure:** Requires salvage or rebuilt titles to be processed through the speed title procedure when an electronic notification is issued by a county clerk’s office.

**FISCAL EXPLANATION:**

The following are the General Fund impacts:

Description (in millions)	FY 2017	FY 2018
Coal Severance Tax Distribution	(\$15.30)	(\$27.60)
Sales and Use Tax – Agriculture Drugs	(\$6.50)	(\$6.50)
Sales and Use Tax – Bees	(\$0.14)	(\$0.16)
Income Tax – Airport Noise Mitigation	(\$3.00)	(\$3.00)
Income Tax – Internal Revenue Code Update	-0-	-0-
Income Tax – Deduction for Contributions to Kentucky Education Savings Plan Trust*	-0-	-0-
<b>TOTAL</b>	<b>(\$24.94)</b>	<b>(\$37.26)</b>

\*NOTE: There is no impact during the 2016-2018 biennium, but this exclusion is expected to have a negative impact beginning in fiscal year 2018-2019.

The following impacts are related to restricted accounts:

**Executive Branch Ethics Commission:** The fee paid by lobbyists is deposited into a trust and agency fund account to the credit of the Commission. There are currently 580 employers registered. The fee is increased by \$150 (\$275, from the current amount of \$125). The increase related to this fee to the restricted account is \$87,000. Additionally, the proposal allows the penalties collected to be retained by the Commission for approximately \$40,000. This restricted account increase is approximately \$127,000.

Other restricted accounts: All other provisions continue the practice from the current budget and no additional changes would occur.

**DATA SOURCE(S):** LRC staff

**PREPARER:** Jennifer Hays **NOTE NUMBER:** 156 **REVIEW:** \_\_\_\_\_ **DATE:** 3/22/2016