GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2021 Biennium

Bill #	HB0403	**Title:**	Generally revise coal tax laws
Primary Sponsor:	Usher, Barry	**Status:**	As Amended

☒Significant Local Gov Impact ☐Needs to be included in HB 2 ☒Technical Concerns

☐Included in the Executive Budget ☒Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2020 Difference	FY 2021 Difference	FY 2022 Difference	FY 2023 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue	$0	$0	$0	$0
Revenue:				
General Fund	$0	$0	$0	($672,993)
State Special Revenue	$0	$0	$0	($89,732)
Net Impact-General Fund Balance:	$0	$0	$0	($672,993)

Description of fiscal impact: HB 403 as amended raises the local share of the coal gross proceeds tax on underground mines to 5%. It also extends the time frame of the state tax abatement through production in 2030. FY 2023 is the first fiscal year the general fund is affected by HB 403, and will represent a general fund decrease of $672,993 and a university system decrease of $89,732. Local revenues will increase by about $2.568 for FY 2022.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. Coal mined from existing underground mines is taxed at 2.5% of gross value minus deductions through December 31, 2020. After this point, coal production from underground mines is taxed at 5%.
2. HB 403 as amended extends the 2.5% tax rate on production for the state portion through December 31, 2030.
3. HB 403 as amended raises the local portion of the coal gross proceeds tax to 5% effective on passage and approval. This analysis assumes that this effective date will be amended to reference production beginning January 1, 2020. See technical note #2 and the local revenue section.

4. Coal gross proceeds must be reported by March 31 each year, detailing the production of the previous calendar year.
5. The county treasurer includes these values on property tax rolls, to be paid in November and the following May.
6. A mining company that extracts coal in 2018 reports the gross value by March 31, 2019. Coal gross proceeds taxes are paid in November 2019 and May 2020, which are in FY 2020.
7. Fiscal year gross proceeds collections are lagged two years from the calendar year in which the coal production occurred. This lagged effect causes FY 2023 to be the first year impacted. Tax collections in FY 2023 are paid on CY 2021 production.
8. Calendar year 2021 coal production is estimated using assumptions from the HJ 2 revenue estimate.
9. Between FY 2015 and FY 2019 coal mined underground accounted for an average of 14.75% of coal gross proceeds revenue. If this coal had been taxed at 5%, it would have represented an average of 25.68% of coal gross proceeds revenue.
10. Total coal gross proceeds from all mines is estimated to be $520.125 million in CY 2021.
11. Coal gross proceeds tax revenue from all mines is estimated to be $26.006 million in CY 2021 (the 5% tax rate is effective for existing underground mines beginning in CY 2021 under current law).
12. Assuming 25.68% of this tax revenue is from underground mines, $6.680 million of coal gross proceeds comes from underground coal mining in CY 2021.
13. If this coal was taxed at 2.5% as proposed by HB 403, that would represent $3.340 million less revenue.
14. Coal gross proceed revenue is shared between the state and counties in the same proportion as FY 1990. The average state share of coal gross proceeds in counties with an underground coal mine is 22.84%.
15. Of the mills assessed in 1990, 45 were for state school equalization and six were for the university system.
16. The cost to the general fund in FY 2023 is $672,993.
17. The cost to the special revenue fund to the credit of the university system is $89,732.
18. Costs associated with form changes are minimal and will be absorbed by the department.

	FY 2020 Difference	FY 2021 Difference	FY 2022 Difference	FY 2023 Difference
Fiscal Impact:				
Expenditures:				
TOTAL Expenditures	$0	$0	$0	$0
Funding of Expenditures:				
TOTAL Funding of Exp.	$0	$0	$0	$0
Revenues:				
General Fund (01)	$0	$0	$0	($672,993)
State Special Revenue (02)	$0	$0	$0	($89,732)
TOTAL Revenues	$0	$0	$0	($762,725)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	($672,993)
State Special Revenue (02)	$0	$0	$0	($89,732)

Effect on County or Other Local Revenues or Expenditures:

1. HB 403 raises the coal gross proceeds tax to 5% for the portion of tax revenue going to counties. This fiscal note assumes that FY 2022 will be the first year affected by the change, see technical note 2.
2. Coal gross proceeds are estimated at $518.371 million in FY 2022.
3. Tax revenue will be $25.919 million.
4. Assuming 25.68% of this tax revenue is from underground mines, $6.657 million of coal gross proceeds comes from underground coal mining.
5. If this coal is taxed at 5% as proposed by HB 403, there will be an additional $3.329 million in revenue.
6. Coal gross proceeds are shared between the state and counties in the same proportion as FY 1990. The average local share of coal gross proceeds in counties with an underground coal mine is 77.16%.
7. This translates to a $2.568 million increase in revenue for counties.
8. In FY 2023 the counties would have received tax revenues at a 5% rate under current law, so HB 403 does not change their expected tax revenues moving forward from that point.

Long-Term Impacts:

1. If a new underground coal mine was developed, that mine would receive a state tax rate of 2.5% in perpetuity. Whereas before the lower tax rate would have only applied for 10 years.

Technical Notes:

1. It is not clear that 15-23-715, MCA, allows counties to abate taxation under 15-23-703(1)(c), MCA. Counties have not been allowed to abate under this tax rate in the past. The current interpretation of the law is that once an underground mine had received the tax rate in (1)(c), 2.5%, for ten years it would revert to the tax rate in (1)(a), 5%. After this time, a county would be able to offer an abatement under 15-23-715, MCA, against the 5% rate. HB 403 as amended extends the time period of (1)(c) to 20 years and raises the county portion of the coal gross proceeds in (1)(c) up to 5%. If it is the intent of the amendment sponsor to allow counties the option to abate before 2030, 15-23-715, MCA, should directly reference 15-23-703(1)(c), MCA, not 15-23-703(1)(a), MCA.
2. Coal gross proceeds are reported for a year's production at a time. This bill having an immediate effective date does not work with current reporting methods because the department cannot differentiate coal production at the current rate versus coal production at the new rate after bill implementation. The effective date should be retroactive back to production beginning January 1, 2019 or be pushed back to production beginning January 1, 2020. This fiscal note assumes the latter option.

	3/22/19	TL	3/22/19
Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*