REVISED

DEPARTMENT OF TAXATION
2001 Fiscal Impact Statement

1. Patron: Stump

2. Bill Number: HB 2220
House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

3. Committee: House Finance

4. Title: Local Coal Severance Tax;
Lien for Delinquent Taxes

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

5. Summary/Purpose:

This bill would create a lien, for the payment of local coal severance license taxes, on the real and personal property owned by persons engaging in the business of severing coal from the earth. This lien would encumber the real and personal property owned by persons engaged in the business of severing coal and applies only to property located in the county or city where such severing takes place. This lien would be prior to all other liens except for certain local taxes and obligations to the Commonwealth of Virginia.

The effective date of this bill is not specified.

6. Fiscal Impact Estimates are: Not Available (See Line 8).

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill has no impact on state revenues. Localities may experience an increase in revenues to the extent that they are able to collect additional delinquent severance taxes because of the existence of this lien.

9. Specific agency or political subdivisions affected:

All cities and counties in which businesses sever coal

10. Technical amendment necessary: No.

10. Other comments:

Under current law, a county or city may impose the 1% coal severance tax authorized by C*ode of Virginia* § 58.1-3712 and the 1% Local Coal and Gas Road Improvement and Virginia Coalfield Economic Development Authority tax authorized by *Code of Virginia* § 58.1-3713. In total, a county or city may impose a maximum 2% coal severance tax.

Under current law, a locality must obtain a court judgment against the taxpayer in order to obtain a lien against the taxpayer's real and personal property for delinquent coal severance taxes. Once filed in the circuit court records, this judgment is a lien against all real estate owned by the taxpayer in the locality.

In order to obtain a lien against the personal property of the taxpayer, the locality must request that the court clerk issue a writ of execution to the sheriff ordering the sheriff to levy the property. The locality's lien against the personal property arises once the sheriff has levied the property by identifying it and inventorying it. This is the same process used by localities to obtain liens regarding all delinquent taxes, other than real estate taxes.

This bill would grant to the locality a lien for delinquent coal severance taxes against all real and personal property of the taxpayer that is located in the locality without following these procedures.

The benefit of the lien is that it makes the locality a secured creditor. Even if the locality is unable to obtain payment on the debt from the taxpayer, the locality may still be able to obtain payment by having the property seized and sold.

Although the Commonwealth of Virginia may issue tax liens which encumber the real property of delinquent taxpayers without obtaining a court judgment, these liens have no special priority over earlier liens filed against the property. This bill would give coal severance tax liens a priority over all other liens except for real estate and personal property taxes, levies, and penalties; any obligation, bond or instrument used in lieu of a bond to the Department of Mines, Minerals, and Energy; and liens benefiting the Commonwealth of Virginia. This lien would be superior to liens filed prior in time, including judgment liens and deeds of trust (mortgage liens).

Additionally, localities would be authorized to sell real estate encumbered by this lien in the same manner as real estate subject to delinquent real estate taxes. Also, this lien would attach to the rents from real estate encumbered by this lien.

In foreclosure sales, the purchaser would be responsible for seeing that the proceeds of the sale are correctly applied to this lien. Currently, in foreclosure sales the selling trustee is responsible for the proper application of the sale proceeds.

c: Secretary of Finance
Date: 1/21/01/JEM
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