Department of Planning and Budget
2005 Fiscal Impact Statement

1. **Bill Number** HB 2507

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron** Phillips

3. **Committee** H. Committee on Agriculture, Chesapeake, and Natural Resources

4. **Title** Coal mining safety.

5. **Summary/Purpose:** This bill amends the Virginia Coal Mine Safety Act and the Virginia Coal Surface Mining Control and Reclamation Act to address safety concerns, including notification of violations, qualifications of inspectors, new map designations, roof control plans, requirements for storage of explosives, clearance on haulage roads, operation of equipment, slope and shaft conditions, requirements for protective clothing, location of fire-fighting equipment, and increased safety examinations. The bill consolidates reporting requirements for impoundments or dams, and requires that emergency evacuation plans be kept up to date. This bill also prohibits mining to occur in an area where the topography and geology may result in danger to any residence, or at night or in locations where a threat of danger to lives or property exists. This bill requires prior approval of a detailed plan to protect individuals and property outside of the permitted area from potential harm caused by mining activities, and construction of protective barriers along the perimeter of mining areas where harmful materials may become loose as a result of mining activities and pose a threat to lives and property outside of the permitted area.

6. **Fiscal Impact Estimates are preliminary:**

6a. Expenditure Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2004-05	0	0	-
2005-06	0	0	-
2006-07	0	0	-
2007-08	0	0	-
2008-09	0	0	-
2009-10	0	0	-
2010-11	0	0	-

6b. Revenue Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2004-05	0	0	-
2005-06	(395,854)	0	50% GF, 50% NGF
2006-07	(573,004)	0	50% GF, 50% NGF
2007-08	(750,154)	0	50% GF, 50% NGF
2008-09	(927,304)	0	50% GF, 50% NGF

2009-10	(1,104,454)	0	50% GF, 50% NGF
2010-11	(1,281,604)	0	50% GF, 50% NGF

7. **Budget amendment necessary:** No.

8. **Fiscal implications:** The Department of Mines, Minerals and Energy (DMME) estimates that approximately 80 percent of the coal mines in Virginia would not be able to receive permits under the provisions of this bill, because the bill prohibits the permitting of any coal mine where the topography or geology may result in any danger to any residence. This would cause a direct reduction in permitting revenue as well as the loss of other federal funds to DMME. In addition, non-permitted coal mines would cease operations and cause the loss of severance tax to localities and loss of other state revenues from income, sales, and other general taxes. Also, non-permitted coal operators could bring “regulatory takings actions” against the Commonwealth. In other words, companies could take legal action against the Commonwealth to recover revenue lost resulting from the new regulation rendering previously profitable coal deposits no longer valuable.

   DMME estimates that the bill would cause DMME to lose 80 percent of new permit revenue in its coal surface mining regulatory program in FY 2006 and beyond. Existing permits would become subject to these new provisions during the permit mid-term review. The permits have a five-year term, so DMME estimates that 1/3 of the permits would come under review in each of FY 2006, 2007, and 2008. Assuming 80 percent of the permits would not be able to meet the permit prohibition under this bill, DMME would lose its renewal permit revenue over the next eight years (three years for permit mid-term reviews plus five years for reclamation bond coverage). DMME used a straight-line reduction for renewal permit revenue over the eight-year period when calculating the revenue impact. DMME receives a federal grant from the Office of Surface Mining for 50 percent of the cost of its coal surface mining regulatory program. Therefore, any decrease in permit fee revenue from permit prohibitions would result in an equal loss of federal funds. These factors were used in calculating the revenue impact of this bill.

   If mining companies lose their coal mining permits before they complete mining, DMME would be faced with the increased likelihood of companies not completing required reclamation. DMME would have to complete the reclamation using the proceeds from the companies reclamation bonds. Therefore, DMME would have the administrative costs of these projects while losing the permitting revenue from the forfeited mine sites.

   An 80 percent drop in permitting would cause a long-term workload reduction in DMME’s surface coal mining program starting in FY 2011 as permitted sites are able to be released from their reclamation bonds. This would result in the long-term reduction in need for general fund support and positions. This reduction would be phased in over a three-year period as permits are released.

   DMME also operates the Abandoned Mined Land (AML) program in conjunction with its coal surface mining regulatory program. Virginia receives approximately $6 million per year from AML funds to reclaim lands and drinking water systems damaged by historic coal mining. The loss of such a large amount of permit fee revenue would have a significant effect on the coal mining regulatory program and DMME may not be able to maintain administration of the AML program. This could jeopardize the approximately $6 million in federal funds received each year for this program.

The loss of a substantial portion of permit activity and the Abandoned Mined Land Program would have a substantial impact on DMME's viability. In FY 2005, 54 percent of the department's budget is for the coal surface mining program.

According to DMME, this bill would probably cause additional fiscal impacts. Actions under this bill that would result in denial of permit renewals or new permits could trigger takings actions by coal owners or mining companies. Assuming an average value of $40/ton (2005 typical value) and Virginia's 31 to 32 million annual tonnage produced, the 2005 value of coal produced is approximately $1.25 billion. Any actual fiscal impact from any takings litigation is speculative and could not be calculated at this time.

Reductions in coal mining also would have a fiscal impact on localities imposing coal severance taxes. Under Virginia law, localities may impose a coal severance tax of up to two percent on value of coal produced within the county. Assuming the average 2005 per ton value and amount of coal production described above, two percent of the value would result in a $26 million reduction in revenue for the seven Southwestern Virginia counties with coal production.

Finally, if mining were prohibited under this bill, coal operators would pay less income, payroll, and other taxes in Virginia.

9. **Specific agency or political subdivisions affected:** Department of Mines, Minerals and Energy; Counties of Lee, Wise, Russell, Scott, Dickenson, Wise, and Tazewell

10. **Technical amendment necessary:** No.

11. **Other comments:** None.

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cc: Secretary of Commerce and Trade