



State shouldn't regulate coal mining again

The state of Tennessee would seek to reassume responsibility for regulating coal mining after more than three decades of federal oversight under a bill advancing through the Legislature.

Tennessee is the only coal-producing state that has surrendered the regulation of coal mining to the U.S. Office of Surface Mining Reclamation and Enforcement, so the idea sounds good on the surface. Dig deeper, however, and the proposal is badly flawed.

Tennessee abdicated its regulatory responsibilities in 1984 after a dispute with OSM, which essentially is supposed to act as a watchdog over state regulators. Since then, OSM has issued permits, inspected mines and enforced the Surface Mining Control and Reclamation Act of 1977. Under the bill, The Tennessee Department of Environment and Conservation would assume those duties, though Tennessee cannot unilaterally make the decision. If the bill passes, TDEC would have to prove to the Department of the Interior it is capable of properly regulating the industry.

The bill's sponsors are Rep. Dennis Powers, R-Jacksboro, and Sen. Ken Yager, R-Kingston. The bill's authors, however, are the Tennessee Mining Association and its lobbyists, Chuck Laine and Roxanne Reiley. They contend that TDEC would be able to process permit applications faster than OSM, leading to an expansion of mining in Tennessee and more jobs in the coal fields.

The problem with the industry appears to be more a shrinking market for the state's high-sulfur coal than regulatory sluggishness.

Coal production in Tennessee plunged 90 percent from its peak of 11 million tons in 1972 to 1.1 million tons in 2013. The number of miners has dwindled below 500.

There are only five mines in the state that are actually producing coal, according to a recent OSM report. There are nine mines that are fully permitted but not producing a single chunk of coal.

If Tennessee regains primacy, a newly christened Board of Natural Resources would have to develop regulations and TDEC would have to hire staff to do the work of issuing permits, inspecting mines and enforcing the rules. The federal government would split the cost with the state, with permitting fees and a new state severance tax on coal covering the state's portion of the tab. The numbers are fuzzy, however, and the production of coal can vary wildly while the state's fixed costs would remain constant at best.

When the idea of the state reassuming primacy in coal regulation was floated last year, our support for exploring the possibility was contingent upon passage of the Scenic Vistas Protection Act. That proposal would have kept TDEC from issuing water quality permits to mines that operated on the peaks of mountains. The act's sponsor and primary advocate, Knoxville Democratic Rep. Gloria Johnson, was defeated in the November elections, leaving the measure without a legislative advocate.

In the absence of such a law, which would prevent the type of mountaintop removal mining that has savaged mountains in Kentucky and West Virginia, we cannot support the primacy bill. Coal is no longer king in Tennessee's mountains; tourism is.