
SENATE BILL 5440

State of Washington

55th Legislature

1997 Regular Session

By Senators Stevens, Hargrove, Benton and Rasmussen

Read first time 01/27/97. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to surface mining; and amending RCW 78.44.087.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

3 **Sec. 1.** RCW 78.44.087 and 1995 c 223 s 3 are each amended to read
4 as follows:

5 (1) The department shall not issue a reclamation permit until the
6 applicant has deposited with the department an acceptable performance
7 security on forms prescribed and furnished by the department. A public
8 or governmental agency shall not be required to post performance
9 security nor shall a permit holder be required to post surface mining
10 performance security with ~~((more than one))~~ any state or local agency
11 other than the department.

12 (2) This performance security may be:

13 (a) Bank letters of credit acceptable to the department;

14 (b) A cash deposit;

15 (c) Negotiable securities acceptable to the department;

16 (d) An assignment of a savings account;

17 (e) A savings certificate in a Washington bank on an assignment
18 form prescribed by the department;

1 (f) Assignments of interests in real property within the state of
2 Washington; or

3 (g) A corporate surety bond executed in favor of the department by
4 a corporation authorized to do business in the state of Washington
5 under Title 48 RCW and authorized by the department.

6 (3) The performance security shall be conditioned upon the faithful
7 performance of the requirements set forth in this chapter and of the
8 rules adopted under it.

9 (4) The department shall have the authority to determine the amount
10 of the performance security using a standardized performance security
11 formula developed by the department. The amount of the security shall
12 be determined by the department and based on the estimated costs of
13 completing reclamation according to the approved reclamation plan or
14 minimum standards and related administrative overhead for the area to
15 be surface mined during (a) the next twelve-month period, (b) the
16 following twenty-four months, and (c) any previously disturbed areas on
17 which the reclamation has not been satisfactorily completed and
18 approved.

19 (5) The department may increase or decrease the amount of the
20 performance security at any time to compensate for a change in the
21 disturbed area, the depth of excavation, a modification of the
22 reclamation plan, or any other alteration in the conditions of the mine
23 that affects the cost of reclamation. The department may, for any
24 reason, refuse any performance security not deemed adequate.

25 (6) Liability under the performance security shall be maintained
26 until reclamation is completed according to the approved reclamation
27 plan to the satisfaction of the department unless released as
28 hereinafter provided. Liability under the performance security may be
29 released only upon written notification by the department.
30 Notification shall be given upon completion of compliance or acceptance
31 by the department of a substitute performance security. The liability
32 of the surety shall not exceed the amount of security required by this
33 section and the department's reasonable legal fees to recover the
34 security.

35 (7) Any interest or appreciation on the performance security shall
36 be held by the department until reclamation is completed to its
37 satisfaction. At such time, the interest shall be remitted to the
38 permit holder; except that such interest or appreciation may be used by
39 the department to effect reclamation in the event that the permit

1 holder fails to comply with the provisions of this chapter and the
2 costs of reclamation exceed the face value of the performance security.
3 (8) Except as provided in this section, no other state agency or
4 local government shall require performance security for ~~((the purposes~~
5 ~~of))~~ any surface mine ~~((reclamation and))~~. Only ~~((one agency of~~
6 ~~government))~~ the department shall require and hold the performance
7 security. The department may enter into written agreements with
8 federal agencies in order to avoid redundant bonding of surface mines
9 straddling boundaries between federally controlled and other lands
10 within Washington state.

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