

SENATE BILL REPORT

SB 5513

AS OF FEBRUARY 15, 1991

Brief Description: Concerning the reclamation of surface mining areas.

SPONSORS: Senator Sutherland.

SENATE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Staff: Vic Moon (786-7469)

Hearing Dates: February 19, 1991

BACKGROUND:

The Washington State Surface Mining Act has been interpreted to provide that the primary control over surface mining belongs to the Department of Natural Resources and that local governments have very limited authority. The superior court opinions in both Pierce and Clark Counties are based on a 1970 Attorney General's Opinion which interpreted legislative intent. It was presumed by the Attorney General that the Legislature intended that state rules and regulations would supersede those of local government.

SUMMARY:

The Washington State Surface Mining Act is amended to provide that authority over surface mining will be shared jointly by the Department of Natural Resources and the county legislative authority. A reclamation plan is required and will be reviewed by the county legislative authority and the Department of Natural Resources (DNR). DNR is required to cooperate with local government in the regulation of surface mining and in the drafting of surface mining permits.

The county legislative authority will regulate ongoing affairs of surface mining operations including the level of noise, traffic, hours of operation, dust created by the operation, public safety and all applicable county and city land use requirements.

The county legislative authority will work with cities affected by surface mining operations to ensure that the cities' interests are protected. If a surface mining activity is conducted completely within a city, the city will have the power vested in the county legislative authority.

Existing language relating to the technical requirements for minimum standards are amended. The new standards include control of erosion, a provision that surface mining reclamation must be completed not more than two years after

the completion or abandonment of a surface mining activity on each segment of the area for which a permit has been enforced. Mining operations may not deviate from the approved reclamation plan without prior written approval.

Prior to mining, top soil on the site will be stock-piled for use in reclamation except when the subsequent approved use of the land does not require revegetation. During operations, contaminants, garbage and other noxious waste shall be removed from the surface mining area based on a waste plan.

All grading and back filling shall be made with non-noxious, nonflammable and noncombustible solids unless approval has been granted by the county health district for a locally supervised landfill. In excavations in soil, sand or gravel, all reclaimed slopes shall be no steeper than two feet horizontal to one foot vertical for their entire length. Slopes in rock shall have no prescribed slope angle, but where a hazardous condition is created, the slope shall be backfilled to a slope of two feet horizontal to one foot vertical. Steeper slopes in remote areas are allowed if they comply with local zoning regulations. Excavations that penetrate seasonal or permanent water tables will be conducted under strict controls relating to slopes, spillways, and seepage. Lakes, ponds and wetlands shall be created to maximize the potential for a natural wildlife habitat by incorporating such measures as the irregular shapes, sinuous contours, variable depths and artificial peninsulas and islands. Clay-bearing material placed below the water level may be required to avoid sterile wetlands.

Natural appearing channels will be established for postmining drainage. Floors of mines shall be graded in gentle slopes to preclude sheet-wash erosion during periods of intense precipitation. Top soil must be restored to promote effective revegetation to stabilize slopes. Acid-forming rock exposures shall be isolated by covering such materials with at least two feet of clay-bearing fill. Revegetation will be required as appropriate to stabilize slopes, reduce erosion, mask contours and restore the appearance of the land to the extent feasible as appropriate for subsequent use.

Some or all minimum reclamation standards may be waived in writing by the Department of Natural Resources in order to accommodate unique and beneficial reclamation schemes such as parks, swimming facilities, buildings, and wildlife reserves. Waivers may be granted only after written approval of the reclamation plan describing the variances to the minimum reclamation standards. Such variances must be approved by the landowner and the local land use authority.

An environmental impact statement is required for either a new surface mining site or an existing operation after the effective date of the act. An environment impact statement is required for expansion of either an existing site or the operation after the effective date of the act.

The Board of Natural Resources will create a graduated permit fee schedule sufficient to offset the cost of the program. The schedule will be presented to the Natural Resources Committees of the Legislature for review by January 1, 1992.

Upon receipt of application for a permit, the surface mining site must be inspected by representatives of the Department of Natural Resources and the county legislative authority. The department and the county legislative authority will issue an operating permit to the applicant or return the applicant for correction of deficiencies.

The county legislative authority will have the power to conduct or authorize investigations, research experiments and demonstrations to collect information relating to surface mining.

The Department of Natural Resources and the Department of Ecology shall jointly develop a mandatory waste removal plan for each public and private surface mining site. The cost of the plan is to be paid by the site operator. The Department of Ecology shall inspect sites as needed to ensure compliance with the waste removal plan. The Department of Ecology is authorized to charge reasonable site inspection fees to cover the costs of inspection.

Any person who lives in the state of Washington has standing to seek administrative or judicial relief.

A severability and emergency clause are included.

Appropriation: none

Revenue: none

Fiscal Note: requested

Effective Date: The bill contains an emergency clause and takes effect immediately.