

2 **SHB 1574 - H AMD 142 ADOPTED 3/7/95**

3 By Representative Elliot

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5 On page 4, after line 22, strike all of section 3 and insert the  
6 following:

7 "**Sec. 3.** RCW 78.44.087 and 1994 c 232 s 23 are each amended to  
8 read as follows:

9 (1) The department shall not issue a reclamation permit until the  
10 applicant has deposited with the department an acceptable performance  
11 security on forms prescribed and furnished by the department. A public  
12 or governmental agency shall not be required to post performance  
13 security nor shall a permit holder be required to post surface mining  
14 performance security with more than one state or local agency, except  
15 as provided in subsection (9) of this section.

16 (2) This performance security may be:

17 ((+1)) (a) Bank letters of credit acceptable to the department;

18 ((+2)) (b) A cash deposit;

19 ((+3)) (c) Negotiable securities acceptable to the department;

20 ((+4)) (d) An assignment of a savings account;

21 ((+5)) (e) A savings certificate in a Washington bank on an  
22 assignment form prescribed by the department;

23 ((+6)) (f) Assignments of interests in real property within the  
24 state of Washington; or

25 ((+7)) (g) A corporate surety bond executed in favor of the  
26 department by a corporation authorized to do business in the state of  
27 Washington under Title 48 RCW and authorized by the department.

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

31 (4) The department shall have the authority to determine the amount  
32 of the performance security using a standardized performance security  
33 formula developed by the department. The amount of the security shall  
34 be determined by the department and based on the estimated costs of  
35 completing reclamation according to the approved reclamation plan or  
36 minimum standards and related administrative overhead for the area to

1 be surface mined during (a) the next twelve-month period, (b) the  
2 following twenty-four months, and (c) any previously disturbed areas on  
3 which the reclamation has not been satisfactorily completed and  
4 approved.

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

11 (6) Liability under the performance security shall be maintained  
12 until reclamation is completed according to the approved reclamation  
13 plan to the satisfaction of the department unless released as  
14 hereinafter provided. Liability under the performance security may be  
15 released only upon written notification by the department.  
16 Notification shall be given upon completion of compliance or acceptance  
17 by the department of a substitute performance security. The liability  
18 of the surety shall not exceed the amount of security required by this  
19 section and the department's reasonable legal fees to recover the  
20 security.

21 (7) Any interest or appreciation on the performance security shall  
22 be held by the department until reclamation is completed to its  
23 satisfaction. At such time, the interest shall be remitted to the  
24 permit holder; except that such interest or appreciation may be used by  
25 the department to effect reclamation in the event that the permit  
26 holder fails to comply with the provisions of this chapter and the  
27 costs of reclamation exceed the face value of the performance security.

28 (8) Except as provided in this section, no other state agency or  
29 local government shall require performance security for the purposes of  
30 surface mine reclamation and only one agency of government shall  
31 require and hold the performance security. The department may enter  
32 into written agreements with federal agencies in order to avoid  
33 redundant bonding of surface mines straddling boundaries between  
34 federally controlled and other lands within Washington state.

35 (~~The department and the department of ecology shall jointly~~  
36 ~~require performance security for metals mining and milling operations~~  
37 ~~regulated under chapter 232, Laws of 1994.))~~

38 (9) The department of ecology shall not issue necessary permits to  
39 an applicant for a metals mining and milling operation as defined in

1 RCW 78.56.020 until the applicant has deposited an acceptable  
2 performance security pursuant to the requirements of RCW 78.56.110.

3 (a) A public or governmental agency shall not be required to post  
4 surface mine reclamation performance security nor shall a permit holder  
5 be required to post surface mine reclamation performance security with  
6 any agency other than the department of natural resources.

7 (b) A single performance security, when acceptable to both the  
8 department of natural resources and the department of ecology, may be  
9 utilized to satisfy the requirements of this section and RCW  
10 78.56.110."

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