

HOUSE BILL NO. 439

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES BRICE, Kelly

Introduced: 1/22/96

Referred: Resources, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to minerals, including coal, to the statewide bonding pool for
2 the reclamation activities imposed on mining operations, and to the statewide
3 bonding pool's use for surface coal mining projects."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 27.19.040(b) is amended to read:

6 (b) The commissioner shall establish a statewide bonding pool for mining
7 operations as an alternative to individual performance bonds. A miner participating
8 in the bonding pool shall contribute an initial deposit not to exceed 15 percent of the
9 reclamation bond plus an additional nonrefundable annual fee not to exceed five
10 percent of the reclamation bond. The commissioner shall refund the 15 percent deposit
11 upon satisfactory completion of the approved reclamation plan. If requested by the
12 miner, the commissioner may apply the deposit to a new reclamation plan. **In**
13 **addition to its use for mining operations under this chapter, the** [THE]
14 commissioner **shall** [MAY] allow the bonding pool to be used to meet the

1 requirements of AS 27.21.160.

2 * **Sec. 2.** AS 27.21.080(a) is amended to read:

3 (a) A permit issued under this chapter includes the right of successive renewal
4 upon expiration, for areas within the boundaries of the permit area. An opponent of
5 renewal of a permit has the burden of proving that the permit should not be renewed.
6 Subject to (c) of this section, if a permittee applies for renewal of the permit, the
7 commissioner shall renew the permit after public notice is given in the manner
8 provided in AS 27.21.130 unless the commissioner finds, in writing, that

9 (1) the terms and conditions of the permit have not been satisfactorily
10 met, and the permittee has not demonstrated to the satisfaction of the commissioner
11 that the permittee is meeting and will continue to meet a schedule set by the
12 commissioner under AS 27.21.240(a) or (b) for correcting a permit violation;

13 (2) the surface coal mining and reclamation operation of the permittee
14 is not in compliance with the environmental protection standards of this chapter and
15 regulations adopted under it;

16 (3) the requested renewal substantially jeopardizes the permittee's
17 continuing responsibility on existing permit areas;

18 (4) the permittee has not **either**

19 **(A)** provided sufficient evidence that the performance bond
20 under AS 27.21.160 in effect for the operation will continue for the renewal
21 period requested in the application, and that any additional bond required by
22 the commissioner under AS 27.21.160 will be obtained; **or**

23 **(B) when seeking to use the statewide bonding pool for**
24 **mining operations established under AS 27.19.040(b), complied with all**
25 **requirements of the bonding pool;** or

26 (5) information required by the commissioner in accordance with this
27 chapter has not been provided by the permittee.

28 * **Sec. 3.** AS 27.21.140(d) is amended to read:

29 (d) If the application is approved, the permit shall be issued upon filing of the
30 performance bond required by AS 27.21.160 **or satisfactory compliance with the**
31 **requirements of the statewide bonding pool for mining operations established**

1 under AS 27.19.040(b).

2 * **Sec. 4.** AS 27.21.160(a) is amended to read:

3 (a) Except as provided in (c) **and (g)** of this section, after an application for
4 a permit has been approved and before the permit may be issued, the applicant must
5 file with the commissioner, on a form prescribed and furnished by the commissioner,
6 a performance bond payable to the State of Alaska and conditioned on faithful
7 performance of the requirements of this chapter and the permit. The bond must cover
8 the area of land within the permit area on which the applicant will initiate and conduct
9 surface coal mining and reclamation operations within the initial term of the permit.
10 As succeeding increments of surface coal mining and reclamation operations are
11 initiated and conducted within the permit area, the permittee shall provide an additional
12 bond or bonds to cover those increments in accordance with this section. The amount
13 of the bond required for an area within the permit area shall be determined by the
14 commissioner and shall reflect the probable difficulty of the reclamation considering
15 the topography, geology, hydrology, revegetation potential, and similar factors relating
16 to the area. The amount of the bond must be sufficient to assure the completion of the
17 reclamation plan by the commissioner in the event of forfeiture and, for the entire
18 permit area, may not be less than \$10,000.

19 * **Sec. 5.** AS 27.21.160 is amended by adding a new subsection to read:

20 (g) As an alternative to performance bonds, applicants conducting surface coal
21 mining and reclamation operations may use the bonding pool established by the
22 commissioner under AS 27.19.040(b) for reclamation activities to meet the
23 requirements imposed by this section.

24 * **Sec. 6.** AS 27.21 is amended by adding a new section to read:

25 **ARTICLE 3A. ALASKA SURFACE COAL MINING ADVISORY COMMISSION.**

26 Sec. 27.21.800. ALASKA SURFACE COAL MINING ADVISORY
27 COMMISSION ESTABLISHED. (a) The Alaska Surface Coal Mining Advisory
28 Commission is established in the Department of Natural Resources.

29 (b) The commission is composed of nine members. The commission shall be
30 composed of individuals who have experience in the various aspects of the surface coal
31 mining industry in the state and representatives of agencies involved in surface coal

1 mining enforcement and restoration activities. The governor shall appoint the members
2 of the commission. Each member serves at the pleasure of the governor.

3 (c) The commission shall make recommendations to the governor and to the
4 legislature on ways to amend this chapter to conform to amendments in applicable
5 federal law, changing conditions in the coal industry in the state, and changing
6 appropriate technologies.

7 (d) The commission shall

8 (1) report its recommendations each year to the governor during the
9 first 10 days of the regular session of the legislature; and

10 (2) notify the legislature that the report prepared and submitted under
11 (1) of this subsection is available.

12 * **Sec. 7.** AS 27.21.998(11) is amended to read:

13 (11) "permit area" means the area of land indicated on the approved
14 maps submitted by the operator with the application which must be covered by the
15 operator's bond as required by AS 27.21.160(a) - (f) or by the individual
16 performance and payment requirements for the operator who participates in the
17 statewide bonding pool for mining operations as authorized by AS 27.21.160(g),
18 [AS 27.21.160] and must be readily identifiable by appropriate markers on the site;