

HOUSE BILL NO. HB0045

Mine reclamation bonding-voluntary assigned trusts.

Sponsored by: Joint Minerals, Business & Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to environmental quality; authorizing and
2 requiring the department of environmental quality and the
3 environmental quality council to establish a voluntary
4 assigned trust option for reclamation bonds as specified;
5 specifying requirements for voluntary assigned trusts;
6 specifying that any voluntary assigned trust proceeds are
7 held in trust by the state on behalf of each operator's
8 permit or license for fulfilling all or a portion of
9 reclamation requirements; requiring rulemaking; and
10 providing for effective dates.

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12 *Be It Enacted by the Legislature of the State of Wyoming:*

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14 **Section 1.** W.S. 35-11-417 by creating a new
15 subsection (h) is amended to read:

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35-11-417. Bonding provisions.

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4 (h) The council shall promulgate rules for a
5 voluntary assigned trust program for coal, bentonite, trona
6 and uranium permits or licenses to bond all or a portion of
7 the full cost of reclamation as recommended by the
8 administrator and determined by the director. This
9 subsection shall not become operative until the governor
10 has signed rules that the council promulgates for a
11 voluntary assigned trust program that require that the
12 protection provided by voluntary assigned trusts be
13 consistent with the objectives and purposes of this act.
14 Any rules promulgated under this subsection shall be in
15 accordance with the following:

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17 (i) Participation in an assigned trust program
18 shall be voluntary on the part of an operator. An operator
19 seeking to participate in a voluntary assigned trust as
20 part of the operator's bonding option shall elect to create
21 an assigned trust as required by rules promulgated by the
22 council;

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1 (ii) The amount necessary for an operator to
2 fully fund the voluntary assigned trust shall be
3 recommended by the administrator and determined by the
4 director in accordance with the provisions of this article
5 for each operator's permit or license;

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7 (iii) For each payment plan for a voluntary
8 assigned trust:

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10 (A) The department shall provide the state
11 treasurer with a copy of the director's annual bond letter
12 that discloses the reclamation obligation and the estimated
13 mine life and duration of reclamation for each individual
14 voluntary assigned trust;

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16 (B) Participants in the assigned trust
17 shall provide annual payments of not less than five percent
18 (5%) of the total annual reclamation bond obligation until
19 the assigned trust is fully funded and sufficient to cover
20 the cost of the reclamation obligation as provided in W.S.
21 35-11-417(c);

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1 (C) Participants in the assigned trust
2 shall, upon request in writing by the participant, be
3 granted a payment holiday not to exceed five percent (5%)
4 not more than one (1) time in five (5) years, if necessary;

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6 (D) In the event a required annual payment
7 is missed, the participant shall forfeit all interest
8 earned by the assigned trust for the year the annual
9 payment was missed;

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11 (E) Any forfeited interest shall be
12 deposited into a state fund for unfunded mine reclamation,
13 which is hereby created;

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15 (F) Participants in the assigned trust
16 shall provide other acceptable bonding instruments
17 authorized by this act to cover the remaining full cost of
18 reclamation.

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20 (iv) The funds received for a voluntary assigned
21 trust for coal shall be invested by the state treasurer as
22 authorized by law and in a manner to obtain the highest net
23 return possible consistent with the preservation of one

1 hundred percent (100%) of the corpus of the assigned trust.
2 All earnings from investment of the corpus of the assigned
3 trust shall be credited by the state treasurer to the
4 balance of each voluntary assigned trust;

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6 (v) The funds received for a voluntary assigned
7 trust for non-coal shall be invested by the state treasurer
8 as authorized by law and in a manner to obtain the highest
9 net return possible less any administrative fees consistent
10 with the preservation of the corpus of the assigned trust.
11 All earnings from investment of the corpus of the assigned
12 trust shall be credited by the state treasurer to the
13 balance of each voluntary assigned trust;

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15 (vi) The investment options of the treasurer
16 shall include funds authorized by law. The investment fund
17 options used shall be based on the corpus protection
18 requirements as provided in paragraphs (iv) and (v) of this
19 subsection. No funds shall be withdrawn by the participant
20 from these accounts during the first year after the
21 establishment of the participant's voluntary assigned
22 trust;

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1 (vii) The participant shall deposit any cash
2 into an irrevocable assigned trust, managed by the state
3 treasurer for the benefit of the department. The assets of
4 each assigned trust shall be available solely to cover the
5 department's cost of completing reclamation in the event of
6 forfeiture. No portion of the trust assets shall be
7 returned to the participant until trust assets are released
8 in accordance with W.S. 35-11-423;

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10 (viii) Any remaining amounts within an assigned
11 trust shall be released to the participant in the manner
12 provided for bonds in accordance with the provisions of
13 W.S. 35-11-423 after funds are applied to cover all costs
14 of reclaiming the affected land. Reclamation funds from the
15 assigned trust shall be withdrawn last, following
16 certification of the requested bond release by the
17 director. Bond reductions to the permit or license shall be
18 made from any other bond instruments first until the
19 assigned trust is fully funded;

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21 (ix) Each assigned trust shall not be withdrawn
22 until released by the director in accordance with this act
23 and any rules promulgated under this act;

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(x) Any rules promulgated under this act shall

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include:

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(A) A process for withdrawal of funds that

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exceed the bond obligation of a participant;

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(B) Provisions for each assigned trust to

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be assigned to a new owner resulting from a permit or

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license transfer.

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(xi) Permits or licenses that include federal

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lands with a federal bonding requirement may participate in

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the assigned trust following approval from the appropriate

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federal agencies.

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Section 2. The department of environmental quality

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shall draft, and the environmental quality council shall

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promulgate, any rules necessary to implement this act.

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