



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4434

by Rep. Lawrence M. Walsh, Jr.

SYNOPSIS AS INTRODUCED:

225 ILCS 715/8

from Ch. 96 1/2, par. 4509

Amends the Surface-Mined Land Conservation and Reclamation Act. Changes certain provisions concerning the amount of any bond that is required to be filed with the Department of Natural Resources by an operator. Provides that the penalty of such bond shall be determined by the Director for lands to be affected by surface mining, including slurry and gob disposal areas (rather than the penalty of such bond shall be an amount between \$600 and \$5,000 per acre as determined by the Director for lands to be affected by surface mining, including slurry and gob disposal areas). Further provides that bond amounts shall be sufficient to ensure the completion of the reclamation plan specified in the approved permit if the work has to be performed by the Department in the event of forfeiture and that the Department shall prescribe standards for the determination of the amount of bonds. Establishes certain criteria which the Department shall consider in establishing such standards. Provides that in no case shall the bond for the entire area under one permit be less than \$600 per acre or \$3,000, whichever is greater.

LRB098 18015 ZMM 53142 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Surface-Mined Land Conservation and
5 Reclamation Act is amended by changing Section 8 as follows:

6 (225 ILCS 715/8) (from Ch. 96 1/2, par. 4509)

7 Sec. 8. Bond of operator; amount; sufficiency of surety;
8 violations; compliance. Any bond herein provided to be filed
9 with the Department by the operator shall be in such form as
10 the Director prescribes, payable to the People of the State of
11 Illinois, conditioned that the operator shall faithfully
12 perform all requirements of this Act and comply with all rules
13 of the Department made in accordance with the provisions of
14 this Act. Such bond shall be signed by the operator as
15 principal, and by a good and sufficient corporate surety,
16 licensed to do business in Illinois, as surety. The penalty of
17 such bond shall be ~~an amount between \$600 and \$5,000 per acre~~
18 ~~as~~ determined by the Director for lands to be affected by
19 surface mining, including slurry and gob disposal areas. Bond
20 amounts shall be sufficient to ensure the completion of the
21 reclamation plan specified in the approved permit if the work
22 has to be performed by the Department in the event of
23 forfeiture. The Department shall by rule prescribe standards

1 for determination of the amount of bonds. Such standards shall
2 include the probable difficulty of reclamation, topography,
3 geology, hydrology, revegetation potential, and other
4 standards related to the purposes of this Act. In no case shall
5 the bond for the entire area under one permit be less than \$600
6 per acre or \$3,000, whichever is greater. Areas used for the
7 disposal of slurry and gob shall continue under bond so long as
8 they are in active use. In lieu of such bonds, the operator may
9 deposit any combination of cash, certificates of deposits,
10 government securities, or irrevocable letters of credit with
11 the Department in an amount equal to that of the required
12 surety bond on conditions as prescribed in this Section. The
13 penalty of the bond or amount of other security shall be
14 increased or reduced from time to time as provided in this Act.
15 Such bond or security shall remain in effect until the affected
16 lands have been reclaimed, approved and released by the
17 Department except that when the Department determines that
18 grading and covering with materials capable of supporting
19 vegetation in accordance with the plan has been satisfactorily
20 completed, the Department shall release the bond or security
21 except the amount of \$100 per acre which shall be retained by
22 the Department until the reclamation according to Section 6 of
23 this Act has been completed. Where an anticipated water
24 impoundment has been approved by the Department in the
25 reclamation plan, and the Department determines the
26 impoundment will be satisfactorily completed upon completion

1 of the operation, the bond covering such anticipated water
2 impoundment area shall be released.

3 A bond filed as above prescribed shall not be cancelled by
4 the surety except after not less than 90 days' notice to the
5 Department.

6 If the license to do business in Illinois of any surety
7 upon a bond filed with the Department pursuant to this Act
8 shall be suspended or revoked, the operator, within 30 days
9 after receiving notice thereof from the Department, shall
10 substitute for such surety a good and sufficient corporate
11 surety licensed to do business in Illinois. Upon failure of the
12 operator to make substitution of surety as herein provided, the
13 Department shall have the right to suspend the permit of the
14 operator until such substitution has been made.

15 The Department shall give written notice to the operator of
16 any violation of this Act or non-compliance with any of the
17 rules and regulations promulgated by the Department hereunder
18 and if corrective measures, approved by the Department, are not
19 commenced within 45 days, the Department may proceed as
20 provided in Section 11 of this Act to request forfeiture of the
21 bond or security. The forfeiture shall be the amount of bond or
22 security in effect at the time of default for each acre or
23 portion thereof with respect to which the operator has
24 defaulted. Such forfeiture shall fully satisfy all obligations
25 of the operator to reclaim the affected land under the
26 provisions of this Act.

1 The Department shall have the power to reclaim, in keeping
2 with the provisions of this Act, any affected land with respect
3 to which a bond has been forfeited.

4 Whenever an operator shall have completed all requirements
5 under the provisions of this Act as to any affected land, he
6 shall notify the Department thereof. If the Department
7 determines that the operator has completed reclamation
8 requirements and refuse disposal requirements and has achieved
9 results appropriate to the use for which the area was
10 reclaimed, the Department shall release the operator from
11 further obligations regarding such affected land and the
12 penalty of the bond shall be reduced proportionately.

13 Bonding aggregate mining operations under permit by the
14 State is an exclusive power and function of the State. A home
15 rule unit may not require bonding of aggregate mining
16 operations under permit by the State. This provision is a
17 denial and limitation of home rule powers and functions under
18 subsection (h) of Section 6 of Article VII of the Illinois
19 Constitution of 1970.

20 (Source: P.A. 91-938, eff. 1-11-01.)