

HOUSE BILL REPORT

HB 1467

As Reported By House Committee On:

Natural Resources

Title: An act relating to surface mining.

Brief Description: Specifying where reclamation performance security must be posted.

Sponsors: Representatives Sump, Sheldon, Chandler, Grant, Alexander, Hatfield, Delvin and Pennington.

Brief History:

Committee Activity:

Natural Resources: 2/12/97, 3/4/97 [DPS].

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Buck, Chairman; Sump, Vice Chairman; Thompson, Vice Chairman; Regala, Ranking Minority Member; Butler, Assistant Ranking Minority Member; Alexander; Anderson; Chandler; Hatfield; Pennington and Sheldon.

Staff: Linda Byers (786-7129).

Background: Before engaging in surface mining, a miner must obtain a reclamation permit from the Department of Natural Resources. Before the department can issue the permit, the applicant must provide an acceptable reclamation plan and must deposit performance security to guarantee that appropriate reclamation is completed. No other state agency or local government may require deposit of a performance security for surface mine reclamation.

Other government entities may or must obtain a performance bond or security for surface mining activities for purposes other than surface mine reclamation. For example, the Department of Ecology requires a remediation bond for metals mining operations, and some state agencies may require a private company to post performance security if that private company is extracting materials from state lands.

Summary of Substitute Bill: It is further clarified that only the Department of Natural Resources holds the performance security for surface mine reclamation.

When acting in its capacity as a regulator, no state agency or local government may require a surface mining operation to post performance security unless that state agency or local government has express statutory authority to do so. A state agency's or local government's general authority to protect public health, safety, and welfare does not constitute express statutory authority to require a performance security. However, when a state agency or local government is acting in its capacity as a landowner, nothing in this bill prohibits a state agency or local government from requiring a performance security when contracting for extraction-related activities on state or local government property.

Substitute Bill Compared to Original Bill: The original bill provides that only the Department of Natural Resources may require performance security for any surface mine. The substitute bill clarifies that only the department holds a performance security for surface mine reclamation. When acting as a regulator, no other state agency or local government may require a performance security from a surface mine unless that agency or government has express statutory authority to do so. This does not prohibit a state agency or local government from requiring a performance security for extraction-related activities on lands owned by the state or local government.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (original bill) The industry is concerned that other agencies may ask for a reclamation bond or other performance security. If a local government wants to inject criteria, the department can take care of the local government's concerns.

Testimony Against: None.

Testified: Mark Triplett, Washington Aggregate & Concrete Association.