

1981 Assembly Bill 800

Date published: November 27, 1981

CHAPTER 86 , Laws of 1981
(Vetoed in Part)

AN ACT to repeal 70.38 (2) (b), 70.395 (2) (a) and (d) 3. b and 107.05 (title), (1) (b), (3) (title), (5) (title) and (6) (title); to renumber 25.17 (1) (a), 107.05 (1) (title), (2) (title) and (b) to (g) and (3) (c); to renumber and amend 70.38 (2) (a), 107.05 (1) (a), (2) (a), (3) (a), (b) and (d) to (f) and (4) to (6) and 144.441 (3) (g) (intro.), 1 and 2; to amend 15.435 (1), 20.566 (7) (dz) and (v), 32.02 (5), 70.375 (2), (3) (a) and (4) (intro.), (b) and (L), 70.38 (1), (3) and (4) (a), 70.385 (1), 70.395 (2) (c) 1, (d) 1 and 2 and (i), 71.04 (3), 107.31 (5) (a) 1, 140.56 (2), 144.44 (2) (b), 144.441 (2), 144.87 (1), 144.91 (1) and (4) (b) and (c) and 144.925 (1) (c); to repeal and recreate 70.375 (1) (b), (3) (intro.), (4) (e) and (k) (intro.) and (5) and 70.395 (1) (a) and (b) and (2) (d) (intro.) and (e); and to create 15.431 (2), 15.435 (2), 20.255 (1) (t), 20.370 (2) (cr) and (4) (br), 25.17 (1) (a), 25.28, 70.375 (1) (ag), (ai), (am), (ar) and (as), (4) (m) to (q) and (6), 70.395 (1) (c), (1m) and (2) (d) 1m, 2m, 4 and 5, (dg) and (j), 144.441 (2) (a) 1 and (3) (g) 3, 144.83 (4) (i) to (L) and 144.855 (title), (4) (title), (a) and (g) and (5) (c) of the statutes, relating to the net proceeds tax on mining of metallic minerals, the membership of the investment and local impact fund board and the environmental effects of mining, making appropriations, granting rule-making authority and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.435 (1) of the statutes is amended to read:

15.435 (1) INVESTMENT AND LOCAL IMPACT FUND BOARD. (a) (title) *Creation; membership.* There is created an investment and local impact fund board, attached to the department of revenue under s. 15.03, consisting of the following members:

1. The secretaries of development and revenue or their designees; 2;
2. Three public members;
3. Five local officials consisting of 2 municipal officials, 2 county officials and one school board member; and
4. One Native American.

(b) (title) Terms. The public members, local officials and Native American shall be appointed for staggered 4-year terms.

(c) (title) Vacancies. If a municipal or county official or a school board member leaves office while serving on the board, the member's position on the board shall be considered vacant until a successor is appointed under s. 15.07 (1) (b).

(d) (title) Qualifications. 1. One of the public members shall reside in a town in which a metalliferous mineral ore body is known to exist.

2. One of the public members shall reside in a county in which metalliferous mineral development is occurring or in an adjacent county.

3. One of the public members and one of the local officials shall reside in a county or school district in which metalliferous mineral development is occurring or in an adjacent county or school district; and one

4. One local official shall reside in a county or school district in which metalliferous minerals are extracted or an adjacent county or school district.

5. The Native American shall reside in a municipality in which a metalliferous mineral ore body is known to exist.

(e) (title) Recommendations. 1. One public member shall be recommended by the town boards in towns in which a metalliferous mineral ore body is known to exist. Preference shall be given to the appointment of a public member who resides in a township in which the development of a metalliferous mineral ore body is occurring.

2. One municipal official member shall be recommended by the league of Wisconsin municipalities.

3. One municipal official member shall be recommended by the Wisconsin towns association.

4. The school board member shall be recommended by the Wisconsin association of school boards.

5. The county officials official members shall be recommended by the Wisconsin county boards association.

6. The Native American member shall be recommended by the Great Lakes tribal counsel. Preference should be given to the appointment of a Native American who resides in a township in which the development of a metalliferous mineral ore body is occurring.

(f) (title) Executive secretary. An executive secretary shall be appointed to serve at the pleasure of the board.

(g) (title) Assistance; advice. The executive secretary may request of any state agency such assistance as may be necessary for the board to fulfill its duties. The board may request advice from the legislative council mining committee on any matter relating to the board's duties.

(h) (title) Meetings. The board shall meet at least twice per year at a time and place determined by the chairperson.

SECTION 2. 15.431 (2) of the statutes is created to read:

15.431 (2) BADGER BOARD. The badger board shall have the program responsibilities specified for the board under ss. 25.28 and 70.395 (1m).

SECTION 3. 15.435 (2) of the statutes is created to read:

15.435 (2) BADGER BOARD. There is created a badger board, attached to the department of revenue under s. 15.03, consisting of the secretaries of development, revenue and natural resources or their designees, the governor in his or her capacity as chairperson of the state building commission, or his or her designee, and the board of commissioners of public lands under section 7 of article X of the constitution.

SECTION 4. 20.255 (1) (t) of the statutes is created to read:

20.255 (1) (t) *School aids from the badger fund.* From the badger fund, 50% of the interest on moneys in that fund for the payment of educational aids provided in subch. II of ch. 121.

SECTION 5. 20.370 (2) (cr) of the statutes is created to read:

20.370 (2) (cr) *Solid waste management — investment and local impact fund.* From the investment and local impact fund, all moneys received under s. 70.395 (2) (j) for the purpose of making payments for the long-term care of mining waste sites under s. 144.441 (3) (g).

SECTION 6. 20.370 (4) (br) of the statutes is created to read:

20.370 (4) (br) *Recreation aids — badger fund.* From the badger fund, 50% of the interest on moneys in that fund to be used for grants under s. 25.28 (2).

SECTION 7. 20.566 (7) (dz) and (v) of the statutes are amended to read:

20.566 (7) (dz) *General fund loan to the investment and local impact fund board.* As a continuing appropriation, the amounts in the schedule to be disbursed as a general fund loan to the investment and local impact board for the purposes of s. 70.395 whenever the unencumbered balances of the appropriations under pars. (e) and (v) are zero. Beginning with fiscal year 1983-84 and ending with fiscal year 1985-86, the amounts in the schedule shall be \$250,000. On July 1, 1988, the unencumbered balance of this appropriation shall lapse to the general fund and the investment and local impact fund board shall pay to the general fund from the investment and local impact fund an amount equal to the amount of the general fund loan made under this paragraph, or the unencumbered balance in the appropriation under par. (v), whichever is greater. If there are insufficient funds in the investment and local impact fund to repay in full the principal and interest on the general fund loan made under this paragraph on such date, interest of 3% per year on the balance due shall accrue to the general fund. Commencing on July 1, 1988, the board shall pay quarterly to the general fund any amounts in the investment and local impact fund or the balance due on the general fund loan made under this paragraph including interest, whichever is less, until the general fund loan made under this paragraph is repaid in full.

(v) *Investment and local impact fund.* From the investment and local impact fund, all moneys received under ss. 70.395 (1) ~~(b)~~ (a) and 70.40 (3), less the moneys appropriated under s. 20.370 (2) (cr), to be disbursed under ss. 70.395, 107.05 (4) (2) (d) to (g), 144.855 (5) (a) and 144.838 (4).

SECTION 8. 25.17 (1) (a) of the statutes is renumbered 25.17 (1) (am).

SECTION 9. 25.17 (1) (a) of the statutes is created to read:

25.17 (1) (a) Badger fund (s. 25.28);

SECTION 10. 25.28 of the statutes is created to read:

25.28 Badger fund. (1) The moneys that are deposited under s. 70.395 (1) (b) and any moneys transferred under s. 70.395 (1m) constitute the badger fund.

(2) Fifty percent of the interest from the moneys in the badger fund shall be granted by the badger board to cities, towns, villages and counties that apply for such funds. Grants may be made for capital costs, but not operating or maintenance costs, for recreational facilities that include, but are not limited to, picnic and camping grounds, nature trails, snowmobile trails and areas, beaches and bath houses, toilets, shelters, wells and pumps, fireplaces, tennis courts, softball diamonds, baseball diamonds, soccer fields, playgrounds and playground equipment and for purchases of land for any of these purposes. The badger board shall promulgate rules establishing the criteria under which grants may be made from the interest on the fund under this section. The board may not establish rules that, for the purpose of making grants, take into account the equalized

valuation of, or any income data relative to, the city, village, town or county that applies for the grant. The badger board does not have any powers of condemnation.

(3) Fifty percent of the interest from the moneys in the badger fund shall be appropriated under s. 20.255 (1) (t).

SECTION 11. 32.02 (5) of the statutes is amended to read:

32.02 (5) Any Wisconsin corporation engaged in the business of transmitting or furnishing heat, power or electric light for the public, ~~or any corporation holding a valid permit issued under s. 107.05,~~ for the construction and location of its lines or for ponds or reservoirs or any dam, dam site, flowage rights or undeveloped water power.

SECTION 12. 70.375 (1) (ag), (ai), (am), (ar) and (as) of the statutes are created to read:

70.375 (1) (ag) "Extraction of ores or minerals from the ground" includes the extraction, by owners or operators of mines, of ores or minerals from the waste or residue of prior mining unless the extraction is made by a purchaser of waste or residue or by a purchaser of the rights to extract ores or minerals from the waste or residue.

(ai) "Gross income from mining" means that amount of income which is attributable to the processes of extraction of ores or minerals from the ground and the application of mining processes, including mining transportation and as further defined in 26 CFR section 1.613-3. In this paragraph "income" means the actual amount for which ore or mineral, less trade and cash discounts actually allowed, is sold if the taxpayer sells the ore or mineral after the application of mining processes. If ore or minerals are sold after the application of nonmining processes, gross income from mining shall be computed as provided in 26 CFR section 1.613-3.

(am) "Gross proceeds" means gross income from mining except as provided under sub. (3).

(ar) "Internal revenue code", for taxable year 1981 and thereafter, means the internal revenue code and regulations as amended to December 31, 1981.

(as) "Mine" means an excavation in or at the earth's surface made to extract metalliferous minerals for which a permit has been issued under s. 144.85.

SECTION 13. 70.375 (1) (b) of the statutes is repealed and recreated to read:

70.375 (1) (b) 1. "Mining" has the meaning under section 613 (c) of the internal revenue code and includes the extraction of ores or minerals from the ground, the transportation of ores or minerals from the point of extraction to the plants or mills at which the treatment processes are applied and the following treatment processes applied to an ore or mineral for which the owner or operator is entitled to a deduction for depletion under section 611 of the internal revenue code:

a. In the case of iron ore, bauxite and other ores or minerals that are customarily sold in the form of a crude mineral product; sorting, concentrating, sintering and substantially equivalent processes that bring the ore or mineral to shipping grade and form, and loading for shipment.

b. In the case of lead, zinc, copper, gold, silver, uranium and other ores or minerals that are not customarily sold in the form of the crude mineral product; crushing, grinding and beneficiation by concentration by means of gravity, flotation, amalgamation, electrostatic or magnetic processes, cyanidation, leaching, crystallization or precipitation (not including electrolytic deposition, roasting, thermal or electric smelting or refining) or by substantially equivalent processes or by a combination of processes used in the separation or extraction of the products from other material taken out of the mine or out of another natural deposit.

c. The furnacing of quicksilver ores.

d. Treatment processes necessary or incidental to the processes under subd. 1. a to c.

e. Any treatment processes provided for by rules promulgated by the department.

2. For purposes of this section, "mining" does not include the extraction or beneficiation of sand or gravel or the following treatment processes unless they are provided for under subd. 1. d: electrolytic deposition, roasting, calcining, thermal or electric smelting, refining, polishing, fine pulverization, blending with other materials, treatment effecting a chemical change, thermal action, molding and shaping.

SECTION 14. 70.375 (2) of the statutes is amended to read:

70.375 (2) TAX IMPOSED. (a) There is imposed upon persons engaged in mining metalliferous minerals in this state a net proceeds occupation tax effective on the date on which extraction begins to compensate the state and municipalities for the loss of valuable, irreplaceable metalliferous minerals. The amount of the tax shall be determined by applying the rates established under sub. (5) to ~~the average of the net proceeds of the person for the preceding 3-year period. Any month in which there has been no production or in which production has been insignificant shall be omitted and the average shall be computed on those months in which there was production each mine.~~ The net proceeds of ~~a person each mine for each year shall be~~ are the difference between the gross proceeds, ~~computed under sub. (3) for the year,~~ and the deductions allowed under sub. (4) for the year.

(b) The secretary may promulgate any rules necessary to implement the tax under ss. 70.37 to 70.39 and 70.395 (1). Section 71.11 (4), (7m), (8) ~~and~~, (20) to (22) ~~and~~ (42) to (49) applies to the administration of this section.

SECTION 15. 70.375 (3) (intro.) of the statutes is repealed and recreated to read:

70.375 (3) ALTERNATE COMPUTATION OF GROSS PROCEEDS. (intro.) If products are sold or transferred to a smelting, refining or other processing or marketing facility which is located outside of the United States or which is owned by, or is directly or indirectly controlled by, the taxpayer or which owns or directly or indirectly controls the taxpayer and if the secretary determines that the gross proceeds under sub. (1) (am) do not reflect or demonstrate the gross proceeds that would have been received from an unrelated purchaser for the product under similar circumstances, the gross proceeds shall be computed under this subsection. For the purpose of this subsection "control" means direct or indirect ownership of at least 50% of the total combined voting stock of the corporation. The gross proceeds shall be computed by multiplying that part of the production of recovered metalliferous minerals which were sold or transferred during the taxable year by the average price of that mineral for the taxable year and then subtracting the cost of postmining processes, including the cost of capital (interest and earnings) imputed to that production. The average price shall be computed from the monthly prices published in the engineering and mining journal as follows:

SECTION 16. 70.375 (3) (a) and (4) (intro.) and (b) of the statutes are amended to read:

70.375 (3) (a) Taconite pellets, lower lake ports price, net of unloading charges.

(4) DEDUCTIONS. (intro.) ~~There~~ If the costs are not excluded in determining gross proceeds and are actually incurred or accrued, there shall be allowed to persons subject to the tax under sub. (1) ~~(2)~~ (2) the following deductions:

(b) The actual and necessary expenses for mining including extracting, transporting, milling, concentrating, smelting, refining, reducing, assaying and, sampling, inventorying and handling the ore and for further processing required and transferring related to obtain the product to which the published price applies for which gross proceeds are received, including the cost of capital (interest and earnings) imputed to smelting and refining expenses.

SECTION 17. 70.375 (4) (e) and (k) (intro.) of the statutes are repealed and recreated to read:

70.375 (4) (e) Federal and state income taxes paid, property taxes, sales taxes and use taxes paid and other taxes paid and allowed as a deduction under s. 71.04 (3) which are allocable to the mine, excluding the tax under this section.

(k) (intro.) Depreciation on property used in connection with mining. With respect to property first eligible for depreciation before January 1, 1981, the deduction shall be limited to the deduction under s. 70.375 (4) (k), 1979 stats. With respect to property first eligible for depreciation on or after January 1, 1981, the deduction shall be limited to the amount allowable under s. 71.04 (15).

SECTION 18. 70.375 (4) (L) of the statutes is amended to read:

Vetoed in Part 70.375 (4) (L) ~~If metalliferous minerals were extracted at the mine 5 or more years prior to July 7, 1977, royalties~~ Royalties paid before July 1, 1987, to owners of the mineral rights to the lands where the mine or an extension of the mine is located. In this paragraph, "mine" means an excavation in or at the earth's surface made for the purpose of extracting metalliferous minerals "owners" does not include the person mining or a person in which the person mining has an ownership or equity interest ~~of a person who has an ownership or equity interest in the person mining.~~

SECTION 19. 70.375 (4) (m) to (q) of the statutes are created to read:

70.375 (4) (m) Amortization by a straight-line method over the life of the mine commencing with production of premining costs, including costs for drilling, geological and engineering studies, design of facilities, pilot mines, mine testing, environmental surveys, facilities siting surveys and other exploration and development activities.

(n) Expenses under par. (m) incurred after mining begins, those costs to be expensed currently.

(o) Actual and necessary reclamation and restoration costs associated with a mine in this state, including payments for future reclamation and postmining costs which are required by law or by department of natural resources order and fees and charges under ch. 144 not otherwise deductible under this section. Any refunds of escrowed or reserve fund payments allowed as a deduction under this paragraph shall be taxed as net proceeds at the average effective tax rate for the years the deduction was taken.

(p) Interest determined as follows:

1. If the interest is specifically allocable to the development or operation of a mine or beneficiation facility from which net proceeds are derived, all of the interest is deductible.

2. If the interest is not specifically allocable to the development or operation of a mine or beneficiation facility, the proportion of the interest that equals the proportion of the capital investment in the mine and beneficiation facilities as compared to the taxpayer's total capital investment.

Vetoed in Part 3. If a mine is owned by a corporation that is part of an affiliated group of corporations ~~eligible to file a consolidated federal income tax return,~~ "interest" means the interest paid to nonmembers of the group.

4. The deduction for interest under this paragraph shall not exceed 5% of the total gross proceeds for the taxable year.

(q) An allowance for depletion of ores on the basis of their actual original cost in cash or the equivalent of cash.

SECTION 20. 70.375 (5) of the statutes is repealed and recreated to read:

70.375 (5) RATES. The tax to be assessed, levied and collected upon persons engaging in mining metalliferous minerals in this state shall be computed at the following rates:

(a) On the amount from \$250,001 to \$5,000,000, at a rate of 3%.

- (b) On the amount from \$5,000,001 to \$10,000,000, at a rate of 7%.
- (c) On the amount from \$10,000,001 to \$15,000,000, at a rate of 10%.
- (d) On the amount from \$15,000,001 to \$20,000,000, at a rate of 13%.
- (e) On the amount from \$20,000,001 to \$25,000,000, at a rate of 14%.
- (f) On the amount exceeding \$25,000,000, at a rate of 15%.

SECTION 21. 70.375 (6) of the statutes is created to read:

70.375 (6) INDEXING. For calendar year 1983 and corresponding fiscal years and thereafter, the dollar amounts in sub. (5) and s. 70.395 (1) to (2) (i) shall be changed to reflect the percentage change between the gross national product deflator for June of the current year and the gross national product deflator for June of the previous year, as determined by the U.S. department of commerce as of December 30 of the year for which the taxes are due, except that no annual increase may be more than 10%. The revised amounts shall be rounded to the nearest whole number divisible by 100 and shall not be reduced below the amounts under sub. (5) on the effective date of this subsection (1981). Annually, the department shall adopt any changes in dollar amounts required under this subsection and incorporate them into the appropriate tax forms.

SECTION 22. 70.38 (1) of the statutes is amended to read:

70.38 (1) REPORTS. On or before ~~February~~ April 10, persons mining metalliferous minerals shall file with the department a report which sets forth the data required by the department to administer the tax under s. 70.375. The books and records of the person shall be open to inspection and examination to employees of the department designated by the secretary and to the state geologist.

SECTION 23. 70.38 (2) (a) of the statutes is renumbered 70.38 (2) and amended to read:

70.38 (2) If the same person extracts metalliferous minerals from different sites in this state, the net proceeds ~~of the person~~ for each site for which a permit has been issued under s. 144.85 shall be combined reported separately for the purposes of computing the amount of the tax under s. 70.375 (5).

SECTION 24. 70.38 (2) (b) of the statutes is repealed.

SECTION 25. 70.38 (3) and (4) (a) of the statutes are amended to read:

70.38 (3) ASSESSMENT NOTICE. On ~~April~~ May 25, the department shall notify the person by registered mail of the person's liability under s. 70.375.

(4) (a) Any person feeling aggrieved by the assessment notice shall, within ~~30~~ 60 days after the receipt ~~thereof of the notice~~, file with the department ~~an abatement application a petition for redetermination~~ setting forth the person's objections to the assessment. The person may request an informal conference with representatives of the department prior to ~~June~~ September 15. The request shall be indicated in the ~~abatement application petition~~. The secretary shall act on the application petition on or before ~~June 20~~. ~~The October 1. On or before November 1, the person shall pay the amount determined by the secretary pursuant to the secretary's action on the abatement application on or before June 30~~ petition. If the person is aggrieved by the secretary's denial, ~~in total or in part, of the abatement application petition~~ the person may appeal to the tax appeals commission providing if the appeal is filed with the commission on or before August ~~December~~ 1. ~~The commission shall hear the appeal before September 1, and shall decide the case before October 1. Any portion of the tax not admitted shall be refunded by the department to the person on or before November 30.~~

SECTION 26. 70.385 (1) of the statutes is amended to read:

70.385 (1) All taxes as evidenced by the notice of tax liability dated ~~April~~ May 25 shall be due and payable to the department on or before June 30, and shall be deposited by the department with the state treasurer.

SECTION 27. 70.395 (1) (a) and (b) of the statutes are repealed and recreated to read:

70.395 (1) (a) 1. To the investment and local impact fund, an amount equal to the first-dollar payment or 60% of the taxes collected under ss. 70.38 to 70.39, whichever is greater.

2. In this paragraph, except as provided in subd. 3, "first-dollar payment" means an amount equal to \$100,000 for each county, Native American community or municipality eligible to receive a payment under sub. (2) (d) 1, 2 or 2m.

3. If the tax collected under ss. 70.38 to 70.39 in any year is less than the first-dollar payment as defined in subd. 2, "first-dollar payment" for that year means the amount of taxes collected under ss. 70.38 to 70.39.

(b) After the transfers under par. (a), the undistributed portion of the amount of taxes collected under ss. 70.38 to 70.39 shall be deposited to the badger fund under s. 25.28.

SECTION 28. 70.395 (1) (c) of the statutes is created to read:

70.395 (1) (c) Annually, the dollar amounts under par. (a) 2 shall be adjusted as specified under s. 70.375 (6).

SECTION 29. 70.395 (1m) of the statutes is created to read:

70.395 (1m) LIMIT ON INVESTMENT AND LOCAL IMPACT FUND. If the fund under sub. (1) (a) has a balance of more than \$20 million on January 1 of any year, the excess over \$20 million shall be transferred to a separate account to be administered under s. 25.28. The badger board may not commingle the moneys transferred under this subsection with the other moneys constituting the badger fund. The interest on the moneys transferred under this subsection shall be used for the purposes under s. 25.28. If the investment and local impact fund does not have sufficient moneys to make the payments under this section for any year, or if the balance in the fund under sub. (1) (a) falls below a level of \$20 million on any January 1, the investment and local impact fund board may transfer from the funds under s. 25.28, up to the amount of the moneys previously transferred under this subsection for all prior years, sufficient funds to make the payments under this section or to provide a balance in the investment and local impact fund of \$20 million.

SECTION 29m. 70.395 (2) (a) of the statutes is repealed.

SECTION 30. 70.395 (2) (c) 1 of the statutes is amended to read:

70.395 (2) (c) 1. Certify to the department of administration the amount of funds to be distributed to municipalities under pars. (d) to (g) and to be paid under par. (j).

SECTION 31. 70.395 (2) (d) (intro.) of the statutes is repealed and recreated to read:

70.395 (2) (d) (intro.) Annually on the first Monday in January, the department of administration shall distribute, upon certification by the board:

SECTION 32. 70.395 (2) (d) 1 and 2 and (i) of the statutes are amended to read:

70.395 (2) (d) 1. To each county in which metalliferous minerals are extracted, ~~20% of the tax collected annually under ss. 70.38 to 70.39 from persons extracting metalliferous minerals in the county, or the maximum guaranteed payment, whichever is less, to be used for metalliferous mining related purposes listed under par. (g) and s. 70.396, and other metalliferous mining related purposes as defined by the board. The maximum guaranteed payment shall be \$750,000. If any county receives the \$750,000 maximum guaranteed payment in any year, then in subsequent years the maximum guaranteed payment with respect to all counties that may be eligible therefor shall be \$750,000 plus \$750,000 multiplied by the percentage difference between the consumer price index for the previous taxable year and the consumer price index for the base period. The base period is the calendar year that a county first receives the \$750,000 maximum guaranteed payment.~~

~~In this subdivision, "consumer price index" means the average consumer price index over each 12-month period (all item—U.S. city average) as determined by the bureau of labor statistics of the U.S. department of labor. A payment to which a county would otherwise be entitled under this subdivision may be reduced at any time if the board determines that the payment would create a tax island or public service expenditure island or that the funds are being used for non-mining related purposes. The board shall establish guidelines to determine when a tax island or public service expenditure island exists. The board shall consider factors such as per capita income, property tax rates, tax bases, per capita and total expenditures, the manner in which the payment is used and other appropriate information in making a determination. If a county is otherwise entitled to receive the maximum guaranteed payment in any year in the amount of \$750,000, or a larger amount, then under no circumstances may the maximum guaranteed payment be reduced to an amount less than \$300,000. Any county receiving payments under this subdivision is required to file an expenditure report with the board by March 1 of the year following the year that the funds are received. The expenditure report shall detail the purposes for which the funds were used and the amount appropriated to each purpose. By June 1 of the year following the year that the funds are received, the board shall notify the county of any reductions in the payment to be made the following year. The county shall have until the following July 1 to appeal any reductions to the board. If, after decision on the appeal by the board, the county still feels aggrieved, further appeals shall be made to the circuit court of the county the first-dollar payment under sub. (1) (a).~~

2. To each city, town or village in which metalliferous minerals are extracted, ~~10% of the tax collected under ss. 70.38 to 70.39 from persons extracting metalliferous minerals in the city, town or village, or \$75,000, whichever is less~~ the first-dollar payment under sub. (1) (a) minus any payment during that year under par. (d) (intro.) or 5. If the minable ore body is located in 2 contiguous municipalities and if at least 15% of the minable ore body is in each municipality, each qualifying municipality shall receive a full payment specified in this subdivision as if the ore body were located solely within that municipality. The department of revenue shall annually change the dollar amount specified in this subdivision as specified in s. 70.375 (6) except that the dollar amount may not be reduced below the dollar amount under this subdivision on the effective date of this subdivision (1981).

(i) ~~The board may require financial audits of all recipients of payments made under this section pars. (d) to (g). The board shall require that all funds received from the board under pars. (d) to (g) be placed in a segregated account. The financial audit may be conducted as part of a municipality's or county's annual audit, if one is conducted. The cost of the audits shall be paid by the board from the appropriation under s. 20.566 (7) (a).~~

SECTION 33. 70.395 (2) (d) 1m, 2m, 4 and 5 and (dg) of the statutes are created to read:

70.395 (2) (d) 1m. To each county in which metalliferous minerals are extracted, 20% of the tax collected annually under ss. 70.38 to 70.39 from persons extracting metalliferous minerals in the county or \$250,000, whichever is less, to be used for metalliferous mining related purposes listed under par. (g) and s. 70.396, and other metalliferous mining related purposes as defined by the board.

2m. To any Native American community that has tribal lands within a municipality qualified to receive a payment under this section, an amount equal to \$100,000 minus any payments during that year under par. (d) (intro.) or subd. 5. Annually, the dollar amount in this subdivision shall be adjusted as specified under s. 70.375 (6).

4. To the investment and local impact fund an amount equal to 10% of the taxes paid by each mine plus all accrued interest on that amount for a project reserve fund. The funds shall be withdrawn by the investment and local impact fund board to be used for the

following purposes in respect to the municipality or municipalities in which the mine is located:

a. To ensure an annual payment to each municipality under sub. (1) (a) in an amount equal to the average payment for the 3 previous years to that municipality.

b. To reimburse municipalities for costs associated with the cessation of mining operations.

c. To indemnify municipalities for reclamation expenses.

5. To each municipality that contains a metalliferous mining site in respect to which an application for a mining permit has been made prior to January 1, 1986, until a final decision is made on that application or for 4 years, whichever is the shorter period, \$100,000 annually. To each municipality that contains a metalliferous mining site at which construction has begun prior to January 1, 1989, but at which extraction has not been engaged in for at least 3 years, \$100,000 annually. The funds under this subdivision shall be used only for mining-related purposes. Payments under this subdivision are payable 30 days following submission of the application or commencement of construction. Payments shall be made on a project fiscal year basis commencing on the date of submission or commencement of construction. In this subdivision, "municipality" means a city, town or village and any Native American community contained within such a city, town or village.

(dg) Each person constructing a metalliferous mining site shall annually pay to the department of revenue for deposit in the investment and local impact fund, as a construction fee, an amount sufficient to make the construction period payments under par. (d) 5 in respect to that site. Any person paying a construction fee under this paragraph may credit against taxes due under s. 70.375 an amount equal to the payments that the taxpayer has made under this paragraph, provided that the credit does not reduce the taxpayer's liability under s. 70.375 below the amount needed to make the first-dollar payments as defined under par. (d) (intro.) for that year in respect to the taxpayer's mine. Any amount not creditable because of that limitation in any year may be carried forward.

SECTION 34. 70.395 (2) (d) 3. b of the statutes is repealed.

SECTION 35. 70.395 (2) (e) of the statutes is repealed and recreated to read:

70.395 (2) (e) If the appropriations under ss. 20.566 (7) (e) and (v) in any year are insufficient to make all payments under par. (d), full payments shall be made in the order listed in subs. 1 to 4, except that construction period payments under par. (d) 5 for which a person mining has made a construction fee payment under par. (dg) shall be made first. If funds are insufficient to pay the full amounts payable at a particular priority level listed in subs. 1 to 4, payments shall be prorated among the entities entitled to payments at that level:

1. Payments under par. (d) 1, 2 and 2m.
2. Payments under par. (d) 1m.
3. Payments under par. (d) 4.
4. Mining permit application payments under par. (d) 5.

SECTION 36. 70.395 (2) (j) of the statutes is created to read:

70.395 (2) (j) Prior to the beginning of a fiscal year, the board shall certify to the department of administration for payment from the investment and local impact fund any sum necessary for the department of natural resources to make payments under s. 144.441 (3) (g) 4 and 5 for the long-term care of mining waste sites, if moneys in the waste management fund are insufficient to make complete payments during that fiscal year, but this sum may not exceed the balance in the waste management fund at the beginning of that fiscal year or 50% of the balance in the investment and local impact fund at the beginning of that fiscal year, whichever amount is greater.

SECTION 37. 71.04 (3) of the statutes, as affected by chapter 20, laws of 1981, is amended to read:

71.04 (3) Taxes other than special improvement taxes paid during the year upon the business or property from which the income taxed is derived, including therein taxes imposed by this state as income taxes, and taxes on all real property which is owned and held for business purposes whether income producing or not. Income taxes imposed by this state shall accrue for the purpose of this subsection only in the year in which such taxes are assessed. Sales and use taxes paid during the taxable year which under s. 71.043 (2) and (3) may be used to reduce a corporation's income or franchise tax shall not be deductible from gross income. Income, excess profits, war profits and capital stock taxes imposed by the federal government are not deductible from gross income. For taxable year 1981 and thereafter, real property taxes that are related to a definite period of time may be accrued ratably over that period by accrual basis taxpayers, and the windfall profit tax under section 4986 of the internal revenue code is not deductible from gross income. For the taxable year 1981 and thereafter, taxes imposed by this or any other state, or the District of Columbia on or measured by net income, gross income, gross receipts or capital stock are not deductible. However, gross receipts taxes assessed in lieu of property taxes and the tax imposed under s. 70.375 are deductible from gross income.

SECTION 38. 107.05 (title) of the statutes is repealed.

SECTION 39. 107.05 (1) (title) of the statutes is renumbered 144.855 (1) (title).

SECTION 40. 107.05 (1) (a) of the statutes is renumbered 144.855 (1) and amended to read:

144.855 (1) This section shall ~~govern~~ governs the withdrawal or diversion of ground groundwaters or surface waters by persons engaged in prospecting or mining as defined in s. 144.81 (5). Discharges of waters are subject to ch. 147, construction of necessary dams or other structures is subject to chs. 30 and 31 and construction of wells is subject to ch. 162, to the extent applicable.

SECTION 41. 107.05 (1) (b) of the statutes is repealed.

SECTION 42. 107.05 (2) (title) of the statutes is renumbered 144.855 (2) (title).

SECTION 43. 107.05 (2) (a) of the statutes is renumbered 144.855 (2) (a) and amended to read:

144.855 (2) (a) Any person intending to divert surface waters for prospecting or mining shall apply to the department for a permit. The forms and procedures used under s. 30.18 shall apply to the extent practicable.

SECTION 44. 107.05 (2) (b) to (g) of the statutes are renumbered 144.855 (2) (b) to (g).

SECTION 45. 107.05 (3) (title) of the statutes is repealed.

SECTION 46. 107.05 (3) (a) of the statutes is renumbered 144.855 (3) and amended to read:

144.855 (3) (title) WITHDRAWAL OF GROUNDWATER; DEWATERING; PERMIT REQUIREMENTS. (a) ~~No permit or~~ An approval may be under s. 144.025 (2) (e) is required to withdraw ground water groundwater or to dewater mines, except as governed by s. 144.025 (2) (e), or to if the capacity and rate of withdrawal of all wells involved in the withdrawal of groundwater or the dewatering of mines exceeds 100,000 gallons each day. A permit under ch. 147 is required to discharge pollutants resulting from the dewatering of mines, except as governed by ch. 147. No.

(b) ~~The department may not issue an approval under s. 144.025 (2) (e) if the withdrawal of ground water groundwater for prospecting or mining purposes or the dewatering of mines, with or without a permit, may be made to will result in the unreasonable detriment of public or private water supplies or the unreasonable detriment of public~~

rights in the waters of the state. No withdrawal of groundwater or dewatering of mines may be made to the unreasonable detriment of public or private water supplies or the unreasonable detriment of public rights in the waters of the state.

SECTION 47. 107.05 (3) (b) of the statutes is renumbered 144.855 (4) (b) and amended to read:

144.855 (4) (b) ~~Persons~~ A person claiming damage to ~~their~~ the quantity or quality of his or her private water supplies as a result of mining-related water withdrawals supply caused by prospecting or mining may file a complaint with the department and, if there is a need for an immediate alternative source of water, with the municipality in which town, village or city where the private water supplies are supply is located. The department shall conduct an investigation, and if the department concludes that there is reason to believe that the prospecting or mining operation is interrelated to the condition giving rise to the complaint, it shall schedule a hearing. In this paragraph, "persons" does not include municipalities claiming damage to their water supplies as a result of mining-related or nonmining-related water withdrawals.

SECTION 48. 107.05 (3) (c) of the statutes is renumbered 144.855 (4) (c).

SECTION 49. 107.05 (3) (d) to (f) of the statutes are renumbered 144.855 (4) (d) to (f) and amended to read:

144.855 (4) (d) If, after hearing, the department concludes after the hearing that the prospecting or mining operation is the principal cause of such the damage as is found to the private water supplies supply, it shall issue an order to the operator requiring the provision of reasonable amounts of water to those persons the person found to be damaged in a like quantity and quality to that previously obtained by the person and for a period of time that the water supply, if undamaged, would be expected to provide a beneficial use, requiring reimbursement to the town, village or city for the cost of supplying water under par. (c), if any, and requiring the payment of compensation for any damages unreasonably inflicted on such persons the person as a result of damage to ~~their~~ his or her water supplies. Compensatory supply. The department shall order the payment of full compensatory damages awarded may not exceed \$25,000 up to \$75,000 per claimant. The department shall issue its written findings and order within 60 days after the close of the hearing. Any judgment awarded in a subsequent action for damages occasioned by the disruption of to a private water supplies supply caused by metallic prospecting or mining shall be reduced by any award of compensatory damages previously made under this section subsection for the same injury and paid by the operator. The dollar amount under this paragraph shall be changed annually according to the method under s. 70.375 (6). Pending the final decision on any appeal from an order issued under this paragraph, the operator shall provide water as ordered by the department. The existence of the relief under this section is not a bar to any other statutory or common law remedy for damages.

(e) If the department concludes after the hearing that the prospecting or mining operation is not the cause of any damage found, reimbursement to the town, village or city for the costs of supplying water under par. (c), if any, shall be is the responsibility of the person who filed the complaint.

(f) Failure of an operator to comply with an order under par. (d) shall be is grounds for suspension or revocation of a prospecting or mining permit.

SECTION 50. 107.05 (4) of the statutes is renumbered 144.855 (5) and amended to read:

144.855 (5) COSTS REIMBURSED. (a) Costs incurred by ~~municipalities~~ a town, village or city in monitoring the effects of a prospecting or mining operation on surface water and ground-water groundwater resources, in providing water to persons claiming damage to ~~their private domestic water supplies~~ under sub. (3) (4) (c), or in retaining legal counsel or technical consultants to represent and assist municipalities the town, village or city

appearing at the hearing under sub. ~~(3)~~ (4) (b) shall be are reimbursable through the investment and local impact fund under s. 15.435.

(b) Any costs paid to a town, village or city through the investment and local impact fund under par. (a) shall be reimbursed to the fund by ~~a municipality to which fund moneys have been paid under par. (a)~~ the town, village or city if the municipality town, village or city receives funds from any other source for the costs incurred under par. (a).

SECTION 51. 107.05 (5) (title) of the statutes is repealed.

SECTION 52. 107.05 (5) of the statutes is renumbered 144.855 (2) (h) and amended to read:

144.855 (2) (h) Hearings on applications for diversion permits under this ~~section~~ subsection shall be preceded by mailed notice to all parties or affected persons and by publication in the affected area of a class 2 notice, under ch. 985. Hearings may be conducted as part of a hearing on an application for a mining permit under s. 144.85.

SECTION 53. 107.05 (6) (title) of the statutes is repealed.

SECTION 54. 107.05 (6) of the statutes is renumbered 144.855 (2) (i) and amended to read:

144.855 (2) (i) If a hearing on the application for a permit is conducted as a part of a hearing under s. 144.836, the notice and hearing provisions in that section supersede the notice and hearing provisions of this ~~section~~ subsection.

SECTION 55. 107.31 (5) (a) 1 of the statutes is amended to read:

107.31 (5) (a) 1. ~~Ten~~ Four percent of all moneys distributed under s. 70.395 (1) ~~(a)~~ beginning on May 22, 1980; and

SECTION 56. 140.56 (2) of the statutes is amended to read:

140.56 (2) The department shall, on the recommendation of the council, shall promulgate a radiation protection code. Other departments and agencies of state government and local governmental units may adopt the identical code, but no other ~~codes or ordinances~~ rule, code or ordinance relating to this subject shall may be promulgated or enacted except as provided under s. 144.83 (4) (i).

SECTION 57. 144.44 (2) (b) of the statutes is amended to read:

144.44 (2) (b) 1. The feasibility report shall be submitted by a registered professional engineer, if ~~deemed necessary~~ required by the department. The report shall include a general summary of the site characteristics ~~as well as~~ and any specific data the department by rule requires regarding the site's topography, soils, geology, ~~ground~~ groundwaters and surface waters and other features of the site and surrounding area. The report shall include preliminary engineering design concepts including the proposed design capacity of the site and an indication of the quantities and characteristics of the wastes to be disposed of. The department, ~~by rule,~~ shall specify by rule the minimum contents of feasibility reports and no report ~~may be deemed~~ is complete unless the specified information is provided ~~by the applicant~~. The rules may specify special requirements for feasibility reports relating to sites for the treatment, storage or disposal of hazardous waste. If the proposed site is for the land disposal of mining waste, the feasibility report shall include a discussion of alternatives to the land disposal of that waste. This discussion shall include an analysis of the practicability of the reuse, sale, recovery or processing of these wastes.

2. The applicant shall send a copy of the report to the clerk of any county, city, village or town with zoning jurisdiction over the proposed site, to the clerk of any county, city, village or town within whose boundaries any portion of the proposed site will be located, and to the main public library of each county or municipality with zoning jurisdiction over the proposed site, within whose boundaries any portion of the proposed site will be located.

3. Within 60 days after a feasibility report is submitted, the department shall either publish notice under par. (d) or notify the applicant in writing that the report is not complete, specifying the information which ~~must~~ is required to be submitted before the report is deemed complete.

SECTION 58. 144.441 (2) of the statutes is amended to read:

144.441 (2) OWNER RESPONSIBILITY; TERMINATION. (a) In this subsection, ~~“site”~~ refers:

2. ~~“Site” means only to a site for the disposal of hazardous waste or the land disposal of solid waste with an approved plan of operation under s. 144.44 (3), or a site for the land disposal of solid waste initially licensed within 3 years prior to May 21, 1978, whose owner successfully applies, within 2 years after May 21, 1978, for a determination by the department that the site’s design and plan of operation comply substantially with the requirements necessary for plan approval under s. 144.44 (3).~~

(b) The owner of a mining waste site shall be ~~is~~ responsible for the long-term care of the site for 30 years after closing of the site unless the responsibility is terminated earlier under par. (d). ~~The owner of any site except a mining waste site is responsible for the long-term care of the site for 30 years after closing of the site unless the responsibility is terminated earlier under par. (c) or (d).~~

(c) If the approved plan of operation for a site indicates, or if the owner of a site requests and the department approves, the owner’s responsibility for long-term care of the site ~~shall terminate~~ terminates 20 years after closing of the site unless the owner’s responsibility is terminated sooner under par. (d). This paragraph does not apply to the owner’s responsibility for the long-term care of a mining waste site.

(d) The owner of a site may apply to the department for termination of the owner’s responsibility for long-term care at any time after the site has been closed for at least 10 years. Upon receipt of ~~such~~ this application the department ~~shall~~, using the procedure applicable to feasibility reports under s. 144.44 (2) (d), shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden ~~shall be~~ is on the applicant to prove by a preponderance of the evidence that additional long-term care is not necessary for adequate protection of public health or the environment. Within 120 days after posting notice of the pending termination or within 60 days after any hearing is adjourned, whichever is later, the department shall determine either that long-term care of the site is no longer required, in which case the applicant ~~shall be~~ is relieved of ~~such~~ this responsibility; or that additional long-term care of the site as specified in the plan of operation is still required, in which case further application under this subsection ~~shall~~ is not be permitted until at least 5 years have elapsed since the previous application. The department may establish separate procedures and requirements in terminating an owner’s responsibility for the long-term care of a mining waste site under this paragraph.

SECTION 59. 144.441 (2) (a) 1 of the statutes is created to read:

144.441 (2) (a) 1. “Mining waste site” means that part of a mining site, as defined under s. 144.81 (8), used for the disposal of waste resulting from mining, as defined under s. 144.81 (5), or prospecting, as defined under s. 144.81 (12).

SECTION 60. 144.441 (3) (g) (intro.) of the statutes is renumbered 144.441 (3) (g) 1 and amended to read:

144.441 (3) (g) 1. In this paragraph, “mining waste site” and “site” has the meaning given in ~~have their respective meanings designated under~~ sub. (2) (a).

2. The department may expend moneys in the waste management fund shall be expended by the department exclusively only for the following purposes: specified under subs. 4 and 5.

SECTION 61. 144.441 (3) (g) 1 and 2 of the statutes are renumbered 144.441 (3) (g) 4 and 5 and amended to read:

144.441 (3) (g) 4. ~~Payment~~ The department may make payments for all costs of long-term care of a site accruing after the responsibility of the owner ~~has been~~ is terminated under sub. (2). The department shall by rule provide for the method of payment.

5. ~~Payment of~~ The department may make payments for the costs of repairing a site, and the costs of repairing environmental damage caused by a site, as a result of occurrence not anticipated in the plan of operation which poses a substantial hazard to public health or welfare.

6. Prior to making any expenditure under ~~this subdivision~~ subd. 5, the department shall publish a class 1 notice, under ch. 985, of its intent to do so, specifying the amount and purpose of the proposed expenditure and shall afford a hearing to any person who so demands within 30 days for the purpose of determining whether the proposed expenditure meets the requirements of ~~this subdivision~~ subd. 5. If an expenditure made under ~~this subdivision~~ subd. 5 would not have been necessary had the person responsible for the operation or long-term care of the site substantially complied with the requirements of the plan of operation, a right of action ~~in favor of the fund~~ shall accrue to the state against ~~such~~ the person, and the attorney general shall take ~~such~~ the action as is appropriate to enforce this right of action by recovering any amounts so expended. ~~The~~ If the payment under subd. 5 was made from the waste management fund, the net proceeds of any such recovery in the action shall be paid into the waste management fund. If the payment under subd. 5 was made from the investment and local impact fund, the net proceeds of any recovery in the action shall be paid into the investment and local impact fund.

SECTION 62. 144.441 (3) (g) 3 of the statutes is created to read:

144.441 (3) (g) 3. The department may expend moneys received from the investment and local impact fund only for the purposes specified under subs. 4 and 5, only for mining waste sites, only if moneys in the waste management fund are insufficient to make complete payments and only if the amount expended does not exceed the balance in the waste management fund at the beginning of that fiscal year or 50% of the balance in the investment and local impact fund at the beginning of that fiscal year, whichever amount is greater.

SECTION 63. 144.83 (4) (i) to (L) of the statutes are created to read:

144.83 (4) (i) Promulgate rules regulating the production, storage and disposal of radioactive waste from exploration, prospecting or mining after seeking comments from the department of health and social services. At a minimum, rules promulgated under this paragraph shall achieve the margin of safety provided in applicable federal statutes and regulations. If the department promulgates rules under this paragraph, the department shall investigate the need for standards more restrictive than [than] the applicable federal statutes and regulations.

(j) Promulgate rules by which the department may grant an exemption, modification or variance, either making a requirement more or less restrictive, from any rule promulgated under subch. IV and this subchapter, if the exemption, modification or variance does not result in the violation of any federal or state environmental law or endanger public health, safety or welfare or the environment.

(k) Promulgate rules with respect to minimizing, segregating, backfilling and marketing of mining waste.

(L) Notwithstanding ss. 144.43 to 144.47 and 144.60 to 144.74, promulgate rules establishing groundwater quality standards or groundwater quantity standards, or both, for any prospecting or mining activity, including standards for any mining waste site.

SECTION 64. 144.855 (title), (4) (title), (a) and (g) and (5) (c) of the statutes are created to read:

144.855 (title) Diversion of surface waters; withdrawal of groundwater; damage claims.

(4) (title) DAMAGE CLAIMS. (a) As used in this subsection, "person" does not include a town, village or city.

(g) This subsection applies to any claim for damages to a private water supply occurring after June 3, 1978.

(5) (c) If an order under sub. (4) (d) requiring the operator to provide water or to reimburse the town, village or city for the cost of supplying water is appealed and is not upheld, the court shall order the cost incurred by the operator in providing water or in reimbursing the town, village or city pending the final decision to be reimbursed from the investment and local impact fund under s. 15.435.

SECTION 65. 144.87 (1) of the statutes is amended to read:

144.87 (1) (a) (title) *Application*. An operator at any time may apply for amendment or cancellation of a mining permit or for a change in the mining or reclamation plans for any mining operation which the operator owns or leases. The operator shall submit any application for the amendment, cancellation or change ~~shall be submitted by the operator~~ on a form provided by the department and shall identify the tract of land to be added to or removed from the permitted mining site or to be affected by a change in the mining or reclamation plans.

(b) (title) *Procedure*. The department shall process the application for an increase or decrease in the area of a mining site, or for a substantial change in the mining or reclamation plans ~~shall be processed in the same manner as an original application for a mining permit except as provided under par. (d).~~

(c) (title) *Substantial changes*. The department shall determine if any change in the mining or reclamation plans is substantial and provide notice of its determination in the same manner as specified under s. 144.836 (3) (b) 1 to 3.

(d) (title) *Notice*. The department shall provide notice of any modification which involves an increase or decrease in the area of a mining site or a substantial change in the mining or reclamation plan in the same manner as an original application for a mining permit under s. 144.836 (3). ~~If 5 or more interested persons do not request a hearing in writing within 30 days of notice under s. 144.836 (3), which notice shall include a statement to this effect, no hearing need be held is required on the modification.~~ The notice shall include a statement to this effect.

(e) (title) *Hearing*. If a hearing is held, testimony and exhibits from the hearing on either the original applications for a mining permit or from previous modification hearings which are relevant to the instant modification may be adopted, subject to cross-examination and rebuttal if not unduly repetitious.

(f) (title) *Removal*. If the application is to cancel any or all of the unmined part of a mining site, the department shall ascertain, by inspection, ~~that no if~~ mining has occurred on the land. After so finding If the department finds that no mining has occurred, the department shall order release of the bond or the security posted on the land being removed from the permitted mining site and cancel or amend the operator's written authorization to conduct mining on the mining site. No land where mining has occurred may be removed from a permitted mining site or released from bond or security under this subsection, unless reclamation has been completed to the satisfaction of the department.

SECTION 66. 144.91 (1) of the statutes is amended to read:

144.91 (1) (a) (title) *Violations; order or other action required*. ~~Whenever~~ If the department finds a violation of law or any unapproved deviation from the mining or reclamation plan at a mining site under a mining permit including unapproved deviation from the mining or reclamation plan, or any of the department's rules, it:

1. The department shall issue an order requiring the operator to comply with the statute, rule or plan within a specified time;

2. The department shall require the alleged violator to appear before the department for a hearing and answer the charges complained of; or

3. The department shall request the department of justice to initiate action under s. 144.93.

(b) (title) *Effective dates of orders.* Any order issued under par. (a) 1 following a hearing takes effect immediately. Any such other order shall become effective unless the person named in the order requests in writing within takes effect 10 days after the date the order is served unless the person named in the order requests in writing a hearing before the department. Upon such request and after due notice within the 10-day period.

(c) (title) *Hearing on orders.* If no hearing on an order issued under par. (a) 1 was held and if the department receives a request for a hearing within 10 days after the date the order is served, the department shall provide due notice and hold a hearing. In lieu of an order, the department may require that the alleged violator appear before the department for a hearing and answer the charges complained of, or the department may request that the department of justice initiate action under s. 144.93.

(d) (title) *Enforcement of orders.* The department shall cancel the mining permit for a mining site held by an operator who fails to comply with the an order issued under par. (a) 1. The department shall within 14 days inform the department of justice of the cancellation within 14 days. Within 30 days thereafter after the department of justice is informed, it shall commence an action under s. 144.93.

SECTION 67. 144.91 (4) (b) and (c) of the statutes are amended to read:

144.91 (4) (b) The If no hearing on the stop order was held, the department shall schedule a hearing on the stop order, to be held within 5 days of after issuance of the order, and shall incorporate notice of the hearing in the copy of the order served upon the operator. Notice The department also shall also be given give notice to any other persons who have previously requested notice of such proceedings.

(c) Within 72 hours after commencement of the any hearing under par. (b), unless waived by agreement of the parties, the department shall issue a decision affirming, modifying or setting aside the stop order. The department may apply to the circuit court for an order extending the time, for not more than 10 days, within which the stop order must shall be affirmed, modified or set aside.

SECTION 68. 144.925 (1) (c) of the statutes is amended to read:

144.925 (1) (c) "Prospecting data" means data, records and other information furnished to or obtained by the department or held by the applicant or operator in connection with the application for a prospecting permit.

SECTION 69. **Initial terms of additional members of the investment and local impact fund board.** (1) The term of the additional public member appointed to the investment and local impact fund board under this act expires on May 1, 1983.

(2) The term of the Native American member appointed to the investment and local impact fund board under this act expires on May 1, 1985.

SECTION 70. **Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.251 (intro.)	144.441 (3)(g) 2	144.441 (3)(g) 6
15.341 (intro.)	107.05	none

SECTION 71. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
13.83 (5)(b)	70.395 (1)(b)	70.395 (1)(a)
20.566 (7)(e)	107.05 (4)(a)	144.855 (5)(a)
70.395 (2)(g)(intro.)	sub. (1)(b)	sub. (1)(a)
144.435 (1m)	chs. 30, 144, 147 and s. 107.05	chs. 30, 144 and 147

SECTION 72. Initial applicability. (1) (a) The treatment of sections 70.375 (1) (ag), (ai), (am), (ar), (as) and (b), (2), (3) (intro.) and (a), (4) (intro.), (b), (e), (k) (intro.) and (L) to (q), (5) and (6), 70.38 (1), (2) (a) and (b), (3) and (4) (a) and 71.04 (3) of the statutes by this act first applies to taxable year 1981.

(b) The treatment of sections 70.375 (2), 70.395 (1) (a), (b) and (c) and (2) (c) 1, (d) (intro.), 2, 2m, 3, b, 4 and 5, (dg), (e) and (j) and 107.31 (5) (a) 1 of the statutes by this act first applies to distributions from mines that begin operations on the effective date of this act. Sections 70.375 (2) and 70.395 (1) (a) and (b), 1979 stats., applies until January 1, 1991, to mines in operation on the effective date of this act and after that date is void.
