



1995 ASSEMBLY BILL 1101

May 7, 1996 - Introduced by COMMITTEE ON ASSEMBLY ORGANIZATION. Referred to Calendar.

1 **AN ACT to renumber and amend** 144.86 (1m) and 144.86 (4); **to amend** 144.86
2 (3), 144.90 (2) to (4) and 293.63 (2) to (4); and **to create** 144.86 (1m), 144.86 (4)
3 (a), 144.90 (6) and 144.90 (6) of the statutes; **relating to:** requiring a bond for
4 certain remedial action associated with metallic mineral mines or mine waste
5 disposal facilities.

Analysis by the Legislative Reference Bureau

Under current law, after the department of natural resources (DNR) approves an application for a metallic mining permit and before mining begins, the mine operator must post a bond with DNR to ensure performance of the requirements of this state's mining laws. Instead of the bond, a mining operator may deposit cash, certificates of deposit or government securities with DNR.

This bill requires a mine operator to post another bond with DNR. This bond is to ensure the performance of any remedial action necessary as the result of a discharge of a hazardous substance for which DNR has not issued a permit. Instead of a bond, a mining operator may deposit cash, certificates of deposit or government securities with DNR. Under the bill, the amount of the required bond or other security is the amount determined by DNR to be necessary for remedial action related to discharges that are reasonably likely to occur in connection with the mining site or a solid waste facility that is part of the mining site.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 144.86 (1m) of the statutes is created to read:

2 144.86 **(1m)** For a mining operation for which the mining permit is issued on
3 or after the effective date of this subsection [revisor inserts date], upon
4 notification that the application for the mining permit has been approved by the
5 department but prior to commencing mining, the operator shall file with the
6 department a bond conditioned on performance of any remedial action necessary as
7 the result of a discharge of a hazardous substance for which the operator has not been
8 issued a permit by the department. The bond shall be furnished by a surety company
9 licensed to do business in this state. In lieu of a bond, the operator may deposit cash,
10 certificates of deposit or government securities with the department. Interest
11 received on certificates of deposit and government securities shall be paid to the
12 operator. The bond or other security shall be in an amount determined by the
13 department as necessary for remedial action related to discharges that are
14 reasonably likely to occur in connection with a mining site or a solid waste facility
15 regulated under s. 144.44 that is part of a mining site. The department may reduce
16 the amount of the bond to reflect any separate agreements between the department
17 and the applicant regarding the operation of the mining site and the mining waste
18 facility.

19 **SECTION 2.** 144.86 (1m) of the statutes, as created by 1995 Wisconsin Act
20 (this act), is renumbered 293.51 (1m) and amended to read:

21 293.51 **(1m)** For a mining operation for which the mining permit is issued on
22 or after the effective date of this subsection [revisor inserts date], upon
23 notification that the application for the mining permit has been approved by the
24 department but prior to commencing mining, the operator shall file with the
25 department a bond conditioned on performance of any remedial action necessary as

1 the result of a discharge of a hazardous substance for which the operator has not been
2 issued a permit. The bond shall be furnished by a surety company licensed to do
3 business in this state. In lieu of a bond, the operator may deposit cash, certificates
4 of deposit or government securities with the department. Interest received on
5 certificates of deposit and government securities shall be paid to the operator. The
6 bond or other security shall be in an amount determined by the department as
7 necessary for remedial action related to discharges that are reasonably likely to
8 occur in connection with a mining site or a solid waste facility regulated under s.
9 144.44 subch. III of ch. 289 that is part of a mining site. The department may reduce
10 the amount of the bond to reflect any separate agreements between the department
11 and the applicant regarding the operation of the mining site and the mining waste
12 facility.

13 **SECTION 3.** 144.86 (3) of the statutes is amended to read:

14 144.86 (3) Upon approval of the operator's bond or bonds, mining application
15 and certificate of insurance, the department shall issue written authorization to
16 commence mining at the permitted mining site in accordance with the approved
17 mining and reclamation plans.

18 **SECTION 4.** 144.86 (4) of the statutes is renumbered 144.86 (4) (b) and amended
19 to read:

20 144.86 (4) (b) Any operator who obtains mining permits from the department
21 for 2 or more mining sites may elect, at the time the 2nd or any subsequent site is
22 approved, to post a single bond in lieu of separate bonds on each site. Any single bond
23 so posted shall be in an amount equal to the ~~estimated cost to the state~~ amounts of
24 the bonds determined under ~~sub. subs.~~ subs. (1) ~~of reclaiming and (1m) for~~ all sites the
25 operator has under mining permits. When an operator elects to post a single bond

1 in lieu of separate bonds previously posted on individual sites, the separate bonds
2 may not be released until the new bond has been accepted by the department.

3 **SECTION 5.** 144.86 (4) (a) of the statutes is created to read:

4 144.86 (4) (a) The applicant may elect to combine the bonds under subs. (1) and
5 (1m) into a single bond.

6 **SECTION 6.** 144.90 (2) to (4) of the statutes are amended to read:

7 144.90 (2) Upon the issuance of any certificate of completion under sub. (1) for
8 any portion of the mining site, but not for the entire mining site, the department shall
9 allow the operator to reduce the amount of the bond under s. 144.86 (1) to an amount
10 which shall equal the estimated cost of reclamation of the portion of the mining site
11 which is disturbed or for which reclamation has been completed but no certificate of
12 completion has been issued.

13 (3) Upon issuance of a certificate or certificates of completion of reclamation
14 for the entire mining site, the department shall require that the operator maintain
15 a bond under s. 144.86 (1) equal to at least 10% of the cost to the state of reclamation
16 of the entire mining site if mining of the site was wholly underground, and at least
17 20% of the cost to the state of reclamation of the entire mining site if any surface
18 mining was conducted. Where the mining site in the mining plan is less than 10
19 acres, the department may release the bond under s. 144.86 (1) after issuance of the
20 certificate under sub. (1).

21 (4) After 20 years after the issuance of a certificate or certificates of completion
22 for the entire mining site, the department shall release the bond under s. 144.86 (1)
23 if the department finds that the reclamation plan has been complied with.

24 **SECTION 7.** 144.90 (6) of the statutes is created to read:

1 144.90 (6) Upon petition of the operator after completion of the reclamation
2 plan, if the department finds after conducting a hearing that there is no significant
3 possibility of a discharge of a hazardous substance from the mining site or the mine
4 waste disposal facility, the department shall release the bond under s. 144.86 (1m).

5 **SECTION 8.** 144.90 (6) of the statutes, as created by 1995 Wisconsin Act ... (this
6 act), is renumbered 293.63 (6) and amended to read:

7 293.63 (6) Upon petition of the operator after completion of the reclamation
8 plan, if the department finds after conducting a hearing that there is no significant
9 possibility of a discharge of a hazardous substance from the mining site or the mine
10 waste disposal facility, the department shall release the bond under s. ~~144.86~~ 293.51
11 (1m).

12 **SECTION 9.** 293.63 (2) to (4) of the statutes, as affected by 1995 Wisconsin Acts
13 227 and ... (this act), are amended to read:

14 293.63 (2) Upon the issuance of any certificate of completion under sub. (1) for
15 any portion of the mining site, but not for the entire mining site, the department shall
16 allow the operator to reduce the amount of the bond under s. ~~144.86~~ 293.51 (1) to an
17 amount which shall equal the estimated cost of reclamation of the portion of the
18 mining site which is disturbed or for which reclamation has been completed but no
19 certificate of completion has been issued.

20 (3) Upon issuance of a certificate or certificates of completion of reclamation
21 for the entire mining site, the department shall require that the operator maintain
22 a bond under s. ~~144.86~~ 293.51 (1) equal to at least 10% of the cost to the state of
23 reclamation of the entire mining site if mining of the site was wholly underground,
24 and at least 20% of the cost to the state of reclamation of the entire mining site if any
25 surface mining was conducted. Where the mining site in the mining plan is less than

1 10 acres, the department may release the bond under s. ~~144.86~~ 293.51 (1) after
2 issuance of the certificate under sub. (1).

3 (4) After 20 years after the issuance of a certificate or certificates of completion
4 for the entire mining site, the department shall release the bond under s. ~~144.86~~
5 293.51 (1) if the department finds that the reclamation plan has been complied with.

6 **SECTION 10. Effective dates.** This act takes effect on the day after
7 publication, except as follows:

8 (1) The treatment of section 293.63 (2) to (4) of the statutes and the
9 renumbering and amendment of sections 144.86 (1m) and 144.90 (6) of the statutes
10 take effect on January 1, 1997.

11 (END)