

1999 ASSEMBLY BILL 459

September 14, 1999 – Introduced by Representatives BLACK, BOCK, MILLER, LA FAVE, HUBER, PLOUFF, J. LEHMAN, BALOW, POCAN and BERCEAU, cosponsored by Senators DECKER, BURKE and BAUMGART. Referred to Committee on Environment.

1 **AN ACT** *to repeal* 293.49 (2) (d) 3.; and *to create* 293.37 (2) (e) 1. e. and f. and
2 293.49 (2) (g) of the statutes; **relating to:** information concerning persons who
3 intend to engage in mining and related entities and denial of mining permits.

Analysis by the Legislative Reference Bureau

Under current law, a person must obtain a mining permit from the department of natural resources (DNR) before beginning to mine for metallic minerals. A person who applies for a mining permit must provide DNR with specified information concerning the forfeiture in the United States of mining reclamation bonds by the applicant or related persons, felony convictions of the applicant or a related person for mining-related violations of state or federal environmental protection laws, financial problems of the applicant or related persons that resulted in failure to reclaim a mining site in the United States and revocations of mining permits in the United States because of failure to reclaim a mining site. Related persons include parent corporations and certain subsidiaries and affiliates of applicants for mining permits.

This bill requires a person who applies for a mining permit to provide additional information to DNR. The bill requires the applicant to furnish information concerning any civil penalty or requirement to pay restitution in an amount of more than \$10,000 or to expend more than \$10,000 to remedy environmental pollution that is imposed on the applicant or a related person for a mining-related violation of a state or federal environmental protection law. The bill also requires the applicant to furnish information concerning any criminal penalty or civil penalty of

ASSEMBLY BILL 459

more than \$10,000 Canadian, or any requirement to pay restitution in an amount of more than \$10,000 Canadian or to expend more than \$10,000 Canadian to remedy environmental pollution, that is imposed on the applicant or a related person for a violation of an environmental protection law arising out of the operation of a mining site in Canada.

Under current law, DNR is required to deny a permit to mine for metallic minerals under specified circumstances related to the conduct of the applicant or related persons. DNR is required to deny a mining permit if the applicant or a related person has, within 10 years before applying, been convicted of more than one felony for mining-related violations of state or federal environmental protection laws unless the person convicted has been pardoned, the applicant terminates its relationship with the convicted person or the applicant submits a plan to prevent the occurrence of events similar to those that resulted in the convictions.

This bill eliminates the provision that allows an applicant that has committed more than one mining-related felony, or that is related to a person that has committed more than one mining-related felony, to obtain a mining permit upon submission to DNR of a plan to prevent similar occurrences. This bill also requires DNR to deny a mining permit if the applicant or a related person has demonstrated, by a pattern of the occurrences required to be reported to DNR, an unwillingness or inability to comply with environmental protection laws.

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.** 293.37 (2) (e) 1. e. and f. of the statutes are created to read:

2 293.37 **(2)** (e) 1. e. Any forfeiture or other civil penalty of more than \$10,000
3 or any requirement to pay restitution in an amount of more than \$10,000 or to
4 remedy environmental pollution, if the cost of the remedy was more than \$10,000,
5 imposed by a court or an administrative agency on the applicant, a related person
6 or an officer or director of the applicant at the conclusion of a contested judicial or
7 administrative proceeding or by consent decree or other agreement among the
8 parties as the result of a violation of a law for the protection of the natural
9 environment arising out of the operation of a mining site in the United States.

ASSEMBLY BILL 459

1 f. Any criminal penalty or any civil penalty of more than \$10,000 Canadian or
2 any requirement to pay restitution in an amount of more than \$10,000 Canadian or
3 to remedy environmental pollution, if the cost of the remedy was more than \$10,000
4 Canadian, imposed by a court or an administrative agency on the applicant, a related
5 person or an officer or director of the applicant at the conclusion of a contested
6 judicial or administrative proceeding or by consent decree or other agreement among
7 the parties as the result of a violation of a law for the protection of the natural
8 environment arising out of the operation of a mining site in Canada.

9 **SECTION 2.** 293.49 (2) (d) 3. of the statutes is repealed.

10 **SECTION 3.** 293.49 (2) (g) of the statutes is created to read:

11 293.49 (2) (g) That the applicant, a related person or an officer or director of
12 the applicant has demonstrated, by a pattern of behavior that resulted in
13 occurrences that are required to be reported under s. 293.37 (2) (e) 1., an
14 unwillingness or inability to comply with environmental protection laws.

15 **SECTION 4. Nonstatutory provisions.**

16 (1) If a person has applied for a mining permit under section 293.37 of the
17 statutes before the effective date of this subsection and the department of natural
18 resources has not approved or denied the application before the effective date of this
19 subsection, the person shall submit the information required by section 293.37 (2)
20 (e) 1. e. and f. of the statutes, as created by this act, no later than the first day of the
21 3rd month beginning after the effective date of this subsection and the department
22 may not approve the application before the person submits the information.

23 **SECTION 5. Initial applicability.**

