

1999 DRAFTING REQUEST

Bill

Received: 11/13/98

Received By: traderc

Wanted: As time permits

Identical to LRB:

For: Spencer Black (608) 266-7521

By/Representing:

This file may be shown to any legislator: NO

Drafter: traderc

May Contact:

Alt. Drafters:

Subject: Environment - mining

Extra Copies:

Topic:

Denial of metallic mining permits because of applicant's past acts

Instructions:

1997 AB 835

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc 11/17/98	gilfokm 11/17/98		_____			State
/1			ismith 11/18/98	_____	lrb_docadmin 11/18/98	lrb_docadmin 11/20/98	

FE Sent For:

<END>

09-13-99
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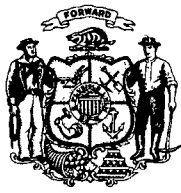
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1?	traderc	11/17/98	IS 11/18	IS/JF 11/18			

FE Sent For:

<END>





State of Wisconsin
1997-1998 LEGISLATURE

0856/1
LRB-0227A

RCT: [unclear]

1999 Bill

PK

~~1997 ASSEMBLY BILL 835~~

DNote

February 25, 1998 - Introduced by Representative BLACK, cosponsored by Senator CLAUSING. Referred to Committee on Environment.

regenerate
↓

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.

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 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

Related persons include parent corporations and certain subsidiaries and affiliates of applicants for mining permits.

ASSEMBLY BILL 835

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.

10 f. Any criminal penalty or any civil penalty of more than \$10,000 Canadian or
11 any requirement to pay restitution in an amount of more than \$10,000 Canadian or

ASSEMBLY BILL 835

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

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 of the statutes is repealed.

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

9 293.49 (2) (g) That the applicant, a related person or an officer or director of
10 the applicant has demonstrated, by a pattern of behavior that resulted in ~~the~~
11 *that are required to be* occurrences reported under s. 293.37 (2) (e) 1., an unwillingness or inability to
12 comply with environmental protection laws.

Insert A

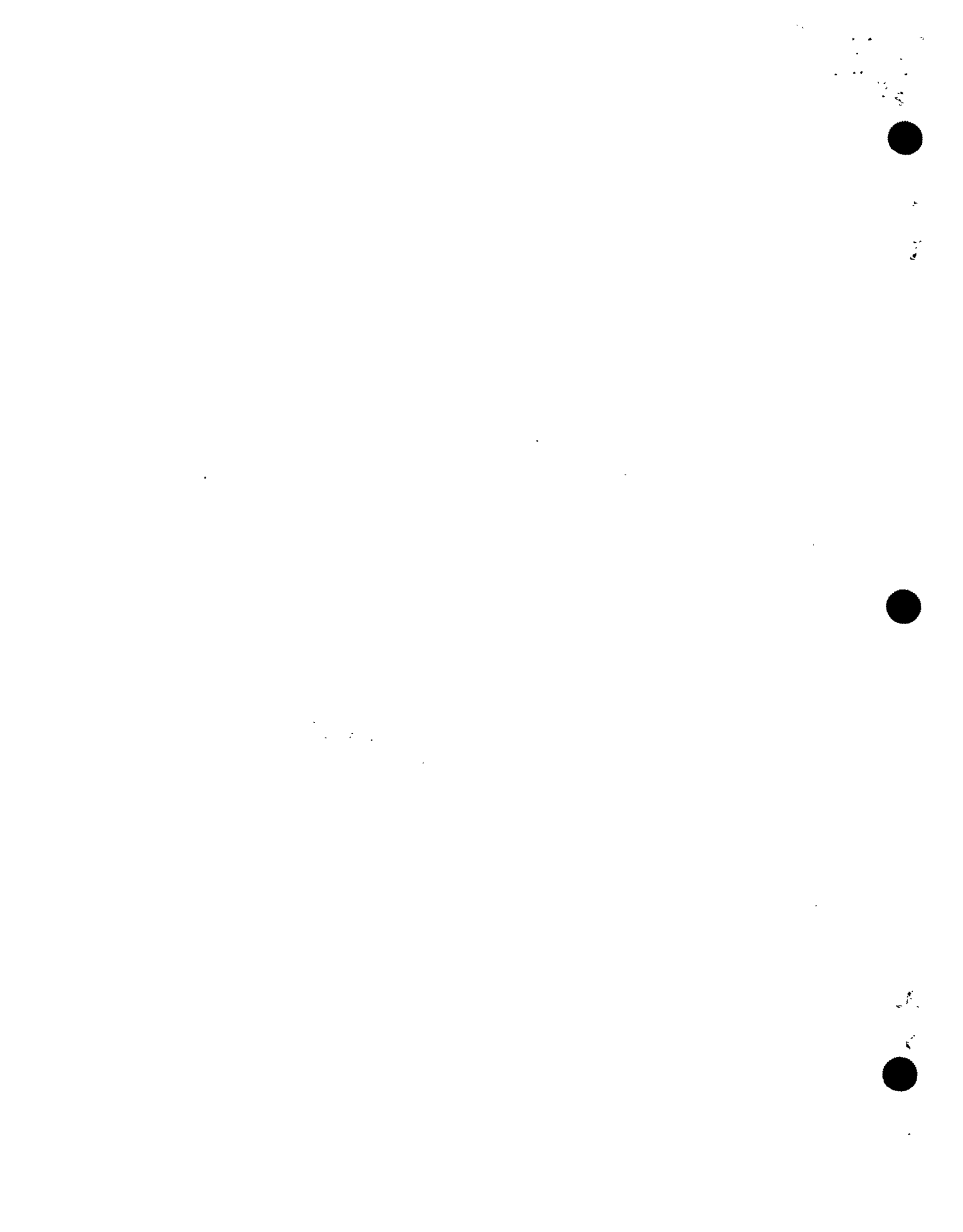
13 **SECTION 4. Initial applicability.**

14 (1) This act first applies to an ^{application} ~~applicant~~ for a mining permit to whom a mining
15 ~~permit has not been issued before~~ the effective date of this subsection.

16 (END)

of natural resources
that the department approves or denies on

D-note



NONSTAT SESSLAW

1. In the component bar:

For the action phrase, execute: create → action: → *NS: → nonstat

For the budget action phrase, execute: create → action: → *NS: → 91XX

For a subsection, execute: create → text: → *NS: → sub

For a paragraph, execute: create → text: → *NS: → par

For a subdivision, execute: create → text: → *NS: → subd

For a subdivision paragraph, execute: create → text: → *NS: → subpar

2. Nonstatutory subunits are numbered automatically if "(#1)", "(#a)", etc., is filled in. Below, for the budget, fill in the 9100 department code; and fill in "___" or "()" only if a "frozen" number is needed.

SECTION # **[91** **]**. **Nonstatutory provisions; ...**

.....

(#1)

IF a person has applied for a mining permit under section 293.37 of the statutes before the effective date of this subsection and the department of natural resources has not approved or denied the application before the effective date of this subsection, the person shall submit the information required by section 293.37 (2) (e) i.e. and f. of the statutes, as created

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by this act, no later than the first day of the
3rd month beginning after the effective date of this
subsection
~~act~~ and the department may not approve
the application before the person submits the
information.

(end of ins A)

ONote

- 0856/ldn

RCT:

Representative Black:

Please let me know if you would like to change s. 293.49
(8) in this draft.

RCT

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0856/1dn
RCT:pk:ijs

November 18, 1998

Representative Black:

Please let me know if you would like to change s. 293.49 (8) in this draft.

Rebecca C. Tradewell
Assistant Chief Counsel
266-7290

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 11/18/98

To: Representative Black

Relating to LRB drafting number: LRB-0856

Topic

Denial of metallic mining permits because of applicant's past acts

Subject(s)

Environment - mining

1. **JACKET** the draft for introduction _____

in the **Senate** _____ or the **Assembly** _____ (check only one). Only the requester under whose name the

drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please

allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or

increases or decreases existing appropriations or state or general local government fiscal liability or

revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to

introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon

introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to

introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions

relating to the attached draft, please feel free to call me.

Rebecca C. Tradewell, Assistant Chief Counsel
Telephone: (608) 266-7290