

1991 Assembly Bill 661

Date of enactment: April 28, 1992
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1991 Wisconsin Act 259 (Vetoed in Part)

AN ACT to repeal 20.143 (1) (v); to amend 20.566 (7) (v), 25.65 (3), 70.395 (2) (c) 1, 70.395 (2) (hg) and (hr), 70.395 (2) (hw), 70.396 (2), 144.836 (3) (b) (intro.), 144.838 (4), 144.839 (1) and 144.85 (5) (a) 1. e.; and to create 70.395 (2) (dc), 70.395 (2) (fm), 144.839 (5) and 144.852 of the statutes, relating to regulation of mining, the investment and local impact fund and making an appropriation.

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

SECTION 1. 20.143 (1) (v) of the statutes, as created by 1991 Wisconsin Act 39, is repealed.

SECTION 2. 20.566 (7) (v) of the statutes, as affected by 1991 Wisconsin Act 39, is amended to read:

20.566 (7) (v) *Investment and local impact fund.* From the investment and local impact fund, all moneys received under s. 70.395 (1) (a) and, (1g) (b) and (2) (dc) and (dg), less the moneys appropriated under ~~ss. 20.143 (1) (v) and s.~~ 20.370 (2) (gr), to be disbursed under ss. 70.395 (2) (d) to (g), 144.855 (5) (a) and 144.838 (4).

SECTION 3. 25.65 (3) of the statutes is amended to read:

25.65 (3) COUNTY GOVERNMENTS AUTHORIZED TO PLACE COUNTY FUNDS IN FUND. With the consent of the county board a county official may transfer ~~a maximum of 10% of any county funds received in a year~~ under s. 70.395 (2) (d) 1 to the state treasurer for deposit in the fund. A county official may authorize the investment and local impact fund board to transfer the county funds to the state treasurer for the county.

SECTION 4. 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 5. 70.395 (2) (dc) of the statutes is created to read:

70.395 (2) (dc) 1. Each person intending to submit an application for a mining permit shall pay \$50,000 to the department of revenue for deposit in the investment and local impact fund at the time that the person notifies the department of natural resources under s. 144.831 (1) of that intent.

2. A person making a payment under subd. 1 shall pay an additional \$50,000 upon notification by the board that the board has distributed 50% of the payment under subd. 1.

3. A person making a payment under subd. 2 shall pay an additional \$50,000 upon notification by the board that the board has distributed all of the payment under subd. 1 and 50% of the payment under subd. 2.

4. Six months after the signing of a local agreement under s. 144.839 for the proposed mine for which the payment is made, the board shall refund any funds paid under this paragraph but not distributed under par. (fm) from the investment and local impact fund to the person making the payment under this paragraph.

SECTION 6. 70.395 (2) (fm) of the statutes is created to read:

70.395 (2) (fm) The board may distribute a payment received under par. (dc) to a county, town, village, city, tribal government or local impact committee authorized under s. 144.839 (3) only for legal counsel, qualified technical experts in the areas of transportation, utilities, economic and social impacts, environmental impacts and municipal services and other reasonable and necessary expenses incurred by the recipient that directly relate to the good faith negotiation of a local agreement under s. 144.839 for the proposed mine for which the payment is made.

SECTION 7. 70.395 (2) (hg) and (hr) of the statutes are amended to read:

70.395 (2) (hg) The board shall, by rule, establish fiscal guidelines and accounting procedures for the use of payments under pars. (d), (f), (fm) and (g), sub. (3) and s. 144.855 (5).

(hr) The board shall, by rule, establish procedures to recoup payments made, and to withhold payments to be made, under pars. (d), (f), (fm) and (g), sub. (3) and s. 144.855 (5) for noncompliance with this section or rules adopted under this section.

SECTION 8. 70.395 (2) (hw) of the statutes is amended to read:

70.395 (2) (hw) A recipient of a discretionary payment under par. (f) or (g), sub. (3) or s. 144.855 (5) or any payment under par. (d) ~~which that~~ is restricted to mining-related purposes who uses the payment for attorney fees may do so only for the purposes under par. (g) 6 and for processing mining-related permits or other approvals required by the municipality. The board shall recoup or withhold payments ~~which that~~ are used or proposed to be used by the recipient for attorney fees except as authorized under this paragraph. The board may not limit the hourly rate of attorney fees for which the recipient uses the payment to a level below the hourly rate that is commonly charged for similar services.

SECTION 9. 70.396 (2) of the statutes is amended to read:

70.396 (2) ~~A maximum of 10% of an annual payment~~ Funds may be placed in the county mining investment fund for investment by the state investment board or it may be placed in a segregated account with a financial institution located in the state. The funds may be withdrawn only at a later date to alleviate impacts associated with the closing of a metalliferous mine in the county or the curtailment of metalliferous mining activity in the county. If a county deposits mining impact funds in the county mining investment fund, withdrawals from the fund shall be subject to the restrictions described under s. 25.65 (4). If a county deposits mining impact funds with a financial institution located in this state, withdrawals made within 10 years of deposit shall be subject to the review and approval of the investment and local impact fund board. The county shall notify the board of withdrawals made 10 years after deposit.

The county shall report annually to the impact board any deposits, withdrawals and use of mining impact funds in that year.

SECTION 10. 144.836 (3) (b) (intro.) of the statutes is amended to read:

144.836 (3) (b) (intro.) If it is determined that a statement under s. 1.11 is required, or if an environmental impact statement is required under s. 144.852, the department shall hold at least one informational meeting regarding the preliminary environmental report within 60 days of its issuance. The meeting shall be held not sooner than 30 days nor later than 60 days after the issuance of the report. The scheduling and providing of notice of the meeting shall be completed not later than 10 days following the issuance of the preliminary environmental report. A hearing referred to under sub. (1) shall be scheduled for a date not less than 120 days nor more than 180 days after the issuance of the environmental impact statement. The scheduling and providing of notice of the hearing shall be completed within 30 days from the date of issuance of the environmental impact statement. The providing of notice shall be accomplished by:

SECTION 11. 144.838 (4) of the statutes is amended to read:

144.838 (4) Committees established under sub. (1) or (2) may be funded by their appointing authority, and may, through their appointing authority, submit a request for operating funds to the investment and local impact fund board under s. 70.395. Committees established under sub. (1) shall be eligible for funds only if the county, town, village or city is also a participant in a joint committee, if any, established under sub. (2). The investment and local impact fund board may not grant funds for the use of more than one committee established under sub. (1) in relation to a particular mining proposal unless a joint committee has been established under sub. (2). The investment and local impact fund board shall grant operating funds to any committee that submits a request and is eligible under this subsection and s. 70.395 (2) (fm). Committees may hire staff, enter into contracts with private firms or consultants or contract with a regional planning commission or other agency for staff services for mining-related purposes or the purposes under s. 70.395 (2) (fm).

SECTION 12. 144.839 (1) of the statutes is amended to read:

144.839 (1) A county, town, village, city or tribal government ~~which that~~ requires an operator to obtain an approval or permit under a zoning or land use ordinance and a county, town, village or city in which any portion of a proposed mining site is located may, individually or in conjunction with other counties, towns, villages, cities, or tribal governments, enter into one or more agreements with an operator for the development of a mining operation.

SECTION 13. 144.839 (5) of the statutes is created to read:

144.839 (5) A state agency shall assist a county, town, village, city or tribal government in enforcing those provisions of a local agreement that are within the expertise of the state agency.

SECTION 14. 144.85 (5) (a) 1. e. of the statutes is amended to read:

144.85 (5) (a) 1. e. The proposed mine will ~~not~~ result in a net ~~substantial adverse~~ positive economic impact in the area reasonably expected to be most impacted by the activity.

SECTION 15. 144.852 of the statutes is created to read:

144.852 Environmental impact statement. (1) The department shall prepare an environmental impact statement for every mining permit under s. 144.85. In preparing the environmental impact statement, the department shall comply with sub. (2) and s. 1.11 (2).

(2) A statement prepared under sub. (1) shall include a description of the significant long-term and short-term impacts, including impacts after the mining has ended, on all of the following:

- (a) Tourism.
- (b) Employment.

- (c) Schools and medical care facilities.
- (d) Private and public social services.
- (e) The tax base.
- (f) The local economy.
- (g) Other significant factors.

SECTION 16. **Nonstatutory provisions.** If a person notifies the department of natural resources under section 144.831 (1) of the statutes of the intent to apply for a mining permit on or before the effective date of this SECTION and the department of natural resources has not issued or denied the mining permit before the effective date of this SECTION, the person shall make the payment under section 70.395 (2) (dc) 1 of the statutes, as created by this act, on or before the first day of the 7th month beginning after the effective date of this SECTION.

SECTION 17. **Initial applicability.** ~~The treatment of sections 144.839 (5) and 144.852 of the statutes first applies to a mining proposal for which a mining permit has not been issued on the effective date of this SECTION.~~ **Vetoed in Part**