

1 SB156  
2 118003-2  
3 By Senators Dixon and Mitchem  
4 RFD: Governmental Affairs  
5 First Read: 12-JAN-10

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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11 Relating to the Alabama Sunset Law; to continue the  
12 existence and functioning of the Alabama Surface Mining  
13 Commission with certain modifications; to amend Section  
14 9-16-81, Code of Alabama 1975, so as to require that  
15 applicants for licensure be United States citizens or legally  
16 present in the United States.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Pursuant to the Alabama Sunset Law, the  
19 Sunset Committee recommends the continuance of the Alabama  
20 Surface Mining Commission, with the additional recommendation  
21 for statutory change as set out in Section 3.

22 Section 2. The existence and functioning of the  
23 Alabama Surface Mining Commission, created and functioning  
24 pursuant to Sections 9-16-70 to 9-16-107, inclusive, Code of  
25 Alabama 1975, is continued, and those code sections are  
26 expressly preserved.

1                   Section 3. Section 9-16-81 of the Code of Alabama  
2 1975, is amended to read as follows:

3                   "§9-16-81.

4                   "(a) All surface coal mining operations shall be  
5 subject to ~~the provisions of~~ this article, except as excluded  
6 in Section 9-16-99.

7                   "(b) No person shall engage in or carry out on lands  
8 within the state any surface coal mining operations unless  
9 such person is a citizen of the United States or, if not a  
10 citizen of the United States, a person who is legally present  
11 in the United States with appropriate documentation from the  
12 federal government and has first obtained a license in  
13 accordance with ~~the provisions of~~ this section. The term of a  
14 license shall be continuous and shall authorize the licensee  
15 subject to the other provisions of this article, to engage in  
16 surface coal mining operations unless the license shall be  
17 suspended or revoked in accordance with ~~the provisions of~~ this  
18 article. Suspension, revocation, or subcontracting shall in no  
19 way relieve the licensee of his or her obligation to comply  
20 with the reclamation requirement of this article.

21                   "(c) An applicant for a license shall file an  
22 application in a format prescribed by and satisfactory to the  
23 regulatory authority which shall contain, among other things,  
24 all of the following information:

25                   "(1) The name of the applicant and whether the  
26 applicant is an individual, partnership, corporation, or other  
27 legal entity~~;~~.

1           "(2) The legal address of the applicant for service  
2 of legal process or notice7.

3           "(3) If known, the names and addresses of the  
4 agents, subsidiaries, or independent contractors who may be  
5 engaged in surface coal mining on behalf of the applicant on  
6 land to be affected. Any agent, subsidiary, or independent  
7 contractor engaged by the applicant subsequent to issuance of  
8 a permit shall be identified to the regulatory authority  
9 within 30 days of its engagement. The utilization of an agent,  
10 subsidiary, or subcontractor shall not relieve the licensee of  
11 its responsibility hereunder7.

12           "(4) If the applicant is a partnership, corporation,  
13 association, or other business entity, the following where  
14 applicable: the names and addresses of every officer, partner,  
15 director, or person performing a function similar to a  
16 director, of the applicant, together with the name and address  
17 of any person owning of record 10 percentum or more of any  
18 class of voting stock of the applicant and a list of all names  
19 under which the applicant, partner, or principal shareholder  
20 previously operated a surface mining operation within the  
21 United States within the five-year period preceding the date  
22 of submission of the application7.

23           "(5) All names under which the applicant and persons  
24 listed in the license application previously operated or is  
25 engaging in surface coal mining within the State of Alabama,  
26 or any other state7.

1           "(6) A statement of whether the applicant, any  
2 subsidiary, affiliate, or persons controlling, controlled by  
3 or under common control with the applicant, or any partner of  
4 the applicant, if the applicant is a partnership, or any  
5 principal officer or director, if applicant is a corporation,  
6 has ever held a federal or any state mining permit which in  
7 the five year period prior to the date of submission of the  
8 application has been suspended or revoked or has had a mining  
9 bond or similar security deposited in lieu of bond forfeited  
10 and, if so, a brief explanation of the facts involved.

11           "(d) The applicant shall, as a condition to  
12 obtaining a license, satisfy the regulatory authority,  
13 pursuant to reasonable standards and regulations to be  
14 promulgated by it, of the applicant's ability to comply with  
15 ~~the provisions of~~ this article, which standards shall require  
16 the applicant to:

17           "(1) Demonstrate that it has available to it  
18 sufficient technical skill to assure compliance with ~~the~~  
19 ~~provisions of~~ this article and the regulations adopted  
20 pursuant hereto~~7.~~

21           "(2) Demonstrate sufficient financial responsibility  
22 to reasonably assure the regulatory authority of the  
23 applicant's financial ability to execute the requirements of  
24 this article pursuant to regulations promulgated by the  
25 regulatory authority~~7.~~

26           "(3) Certify by notarized statement under oath that  
27 the applicant has read and is fully familiar with ~~the~~

1 ~~provisions of~~ this article and with all reclamation  
2 requirements contained in this article and regulations  
3 promulgated by the regulatory authority~~r~~.

4 "(4) Certify that the applicant ~~will~~ shall obtain  
5 and ~~will~~ shall furnish the regulatory authority evidence of  
6 having obtained such permits as may be required prior to  
7 commencing operation under any permit which may be issued  
8 under this article to the applicant.

9 "(e) The regulatory authority shall have 45 days to  
10 investigate and to consider the application and issue the  
11 license or an order denying its issuance, setting out  
12 deficiencies and reasons why the license was not issued and  
13 what corrective action should be taken.

14 "(f) (1) The initial fee for a license shall be  
15 ~~\$1,000.00~~ one thousand dollars (\$1,000) and shall be submitted  
16 with the application. Licenses shall be updated annually  
17 pursuant to regulations.

18 "(2) A licensee with a valid license issued by the  
19 Alabama Surface Mining Reclamation Commission prior to the  
20 effective date of this article and who intends to conduct  
21 surface coal mining and reclamation operations pursuant to  
22 this article ~~must~~ shall reapply to the regulatory authority  
23 for a license within 90 days of the effective date of this  
24 article. The fee for such application shall be ~~\$200.00~~ two  
25 hundred dollars (\$200) and shall be in lieu of the ~~\$1,000.00~~  
26 one thousand dollars (\$1,000) initial licensing. The license  
27 shall be granted provided that no prior licensee shall be

1 eligible to receive a license until all outstanding and  
2 delinquent fines, fees, penalties, or other debts owed to the  
3 Alabama Surface Mining Reclamation Commission by the prior  
4 licensee shall have been paid in full to the regulatory  
5 authority. Licenses may be granted with specific conditions or  
6 restrictions."

7 Section 4. The Legislature concurs in the  
8 recommendations of the Sunset Committee as provided in  
9 Sections 1, 2, and 3.

10 Section 5. This act shall become effective  
11 immediately upon its passage and approval by the Governor, or  
12 its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate committee on Governmental Affairs .....	12-JAN-10
Read for the second time and placed on the calen- dar .....	14-JAN-10
Read for the third time and passed as amended ...	11-FEB-10

Yeas 31  
Nays 0

McDowell Lee  
Secretary