

1 HB169
2 208270-2
3 By Representative Garrett
4 RFD: State Government
5 First Read: 02-FEB-21
6 PFD: 01/28/2021

1
2 ENROLLED, An Act,

3 Relating to the Department of Labor; to amend
4 Sections 9-16-2, 9-16-8 and 9-16-135, Code of Alabama 1975,
5 relating to the Alabama Surface Mining Act of 1969, and
6 abandoned mine reclamation, to update definitions; to correct
7 references to the Secretary of Labor; to specify that a
8 departmental employee, rather than a registered forester,
9 perform certain inspections; and to increase the amount of
10 funds retained in the Special Abandoned Mine Reclamation Trust
11 Fund in the State Treasury, from appropriated funds granted
12 annually by the U.S. Department of the Interior, from 10 to 30
13 percent; to amend Section 25-4-72, as amended by Act 2019-204,
14 2019 Regular Session, Code of Alabama 1975, relating to
15 unemployment compensation, to conform language relating to
16 benefit years beginning on or after July 2, 2006; to add
17 Sections 25-4-59 and 25-4-153 to the Code of Alabama 1975, to
18 provide that procedures provided in Article 3 and Article 7 of
19 Chapter 4, of Title 25 are exclusive; and to require the
20 department, during a statewide state of emergency proclaimed
21 by the Governor or the Legislature, to work with the federal
22 government in maximizing unemployment compensation benefits.
23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 9-16-2, 9-16-8, 9-16-135, and
2 25-4-72, as amended by Act 2019-204, 2019 Regular Session, of
3 the Code of Alabama 1975, are amended to read as follows:

4 "§9-16-2.

5 "Unless clearly indicated otherwise by the context,
6 as used in this article, the following terms have the
7 following meanings:

8 "(1) AFFECTED LAND. The area of land from which
9 overburden has been removed or upon which overburden has been
10 deposited after October 1, 1970.

11 "(2) CONTEMPORANEOUS. Occurring at the same time as
12 a surface mining operation and in conjunction with the grading
13 activities at the site.

14 "(3) CONTIGUOUS. In actual contact, touching, as
15 contrasted with being near but not in contact.

16 "(4) DEPARTMENT. The Department of ~~Industrial~~
17 ~~Relations~~ Labor of the State of Alabama or any department,
18 bureau, or commission as may lawfully succeed to the powers
19 and duties of the department relating to mining operations.

20 "(5) DIRECT SEEDING. The planting of seeds by hand
21 sowing, machine sowing, or aerial seeding.

22 "~~(6) DIRECTOR. Director of the department or~~
23 ~~officer, bureau, or commission as may lawfully succeed to the~~
24 ~~powers and duties of the director.~~

1 "~~(7)~~(6) HIGHWALL. The unexcavated face of exposed
2 overburden or mineral in an opencast mine or the face or bank
3 on the uphill side of a contour surface mine excavation.

4 "~~(8)~~(7) INSPECTOR. Any authorized employee of the
5 department under the direction of the director.

6 "~~(9)~~(8) OPERATOR. Any person, firm, partnership,
7 association, or corporation engaged in or controlling one or
8 more surface mining operations.

9 "~~(10)~~(9) OVERBURDEN. All of the earth and other
10 materials which lie above natural deposits of clay, sand,
11 gravel, ores, and other minerals except limestone, marble, and
12 dolomite, and also the earth and other materials disturbed
13 from their natural state in the process of surface mining.

14 "~~(11)~~(10) PEAK. A projected point of overburden
15 created in the process of surface mining.

16 "~~(12)~~(11) PERMIT PERIOD. A one-year period
17 commencing on the issuance of a permit to engage in surface
18 mining.

19 "~~(13)~~(12) PERSON. Any natural person, firm,
20 corporation, association, partnership, joint venture, or
21 representative of any kind or any other group acting as a
22 unit.

23 "~~(14)~~(13) PIT. A tract of land from which overburden
24 has been or is being removed for the purpose of surface
25 mining.

1 "~~(15)~~ (14) RECLAMATION. The reconditioning or
 2 rehabilitation of affected land in accordance with the
 3 requirements of this article.

4 "~~(16)~~ (15) REFUSE. All waste material, exclusive of
 5 overburden, directly connected with the mining, cleaning, or
 6 preparation of substances mined by surface mining.

7 "~~(17)~~ (16) RIDGE. A lengthened elevation of
 8 overburden created in the process of surface mining.

9 "(17) SECRETARY. The Secretary of the Department of
 10 Labor or officer, bureau, or commission as may lawfully
 11 succeed to the powers and duties of the secretary.

12 "(18) SETBACK. An undisturbed buffer strip adjacent
 13 to watercourses, lakes, easements, adjoining property,
 14 perimeter property lines, road rights-of-way, residences, or
 15 other features which could be adversely affected by mining.

16 "(19) SURFACE MINING. The mining of clay, sand,
 17 gravel, ores, and other minerals except chert (or similar type
 18 pits from which construction materials are obtained, which
 19 involve five acres or less and do not involve excavation below
 20 the surrounding area in such a way as to create a pit that
 21 will accumulate water), limestone, marble, dolomite, and coal,
 22 by removing the overburden lying above natural deposits
 23 thereof and mining directly from the natural deposits thereby
 24 exposed or by mining directly from deposits lying exposed in
 25 their natural state.

1 "§9-16-8.

2 "(a) (1) Any bond provided in this article to be
3 filed with the department by the operator shall be in the form
4 as the ~~director~~ secretary prescribes, payable to the State of
5 Alabama and conditioned that the operator shall faithfully
6 perform all applicable requirements of this article and comply
7 with all applicable rules of the department made in accordance
8 with the provisions of this article. The bond shall be signed
9 by the operator, as principal, and by a good and sufficient
10 corporate surety licensed to do business in the State of
11 Alabama, as surety. The penalty of the bond shall be two
12 thousand five hundred dollars (\$2,500) for each acre covered
13 by the permit.

14 "(2) In lieu of a bond, the operator may elect to
15 deposit cash or negotiable bonds of the United States
16 government or the State of Alabama or any municipality within
17 the state with the department in lieu of a corporate surety.
18 The cash deposit or market value of the securities shall be
19 equal at least to the sum of the bond.

20 "(3) The department ~~shall~~, upon receipt of any
21 deposit of cash or securities, shall immediately place the
22 same with the State Treasurer, whose duty it shall be to
23 receive and hold the same in the name of the state, in trust,
24 for the purposes for which the deposit is made. The State
25 Treasurer shall at all times be responsible for the custody

1 and safekeeping of the deposits. The operator making the
2 deposit shall be entitled from time to time to demand and
3 receive from the State Treasurer, on the written order of the
4 ~~director~~ secretary, the whole or any portion of any securities
5 so deposited, upon depositing with the State Treasurer in lieu
6 thereof other negotiable securities of the classes specified
7 in this section having a market value at least equal to the
8 sum of the cash deposits or securities deposited. When the
9 securities mature or are called, the State Treasurer, at the
10 request of the operator, shall convert the securities into
11 other negotiable securities of the classes specified in this
12 section as may be designated by the operator. The total
13 penalty of the bond or amount of cash and securities shall be
14 increased or reduced from time to time as land is added to or
15 withdrawn from the permit as provided in this article.

16 "(b) Whenever an operator shall have completed all
17 applicable requirements under the provisions of this article
18 as to any affected land, the operator shall notify the
19 department. The department shall within 30 days after
20 notification by the operator inspect the affected land
21 completed by the operator and, if the land has been reclaimed
22 as required by this article, shall release the operator from
23 further obligations regarding the affected land and reduce or
24 release the bond or substituted cash or securities of the
25 operator. Inspections by the department under this subsection

1 shall include inspection by a ~~registered forester~~ departmental
2 mining and reclamation employee.

3 "(c) A bond filed as above prescribed shall be
4 conditioned so that it cannot be cancelled by the surety
5 except after not less than 90 days written notice to the
6 department. If a bond is cancelled after the notice, the
7 operator shall, on or before the effective date of the
8 cancellation, substitute for the bond another bond, or cash,
9 or securities as provided in this section.

10 "(d) If the license to do business in the state of a
11 surety upon a bond filed with the department pursuant to this
12 article shall be suspended or revoked, the operator, within 30
13 days after receiving written notice thereof from the
14 department, shall substitute for the surety a good and
15 sufficient corporate surety licensed to do business in the
16 State of Alabama or another bond, or cash, or securities in
17 lieu thereof as provided in this section.

18 "(e) The failure of the operator to make
19 substitution of surety as provided in subsections (c) and (d)
20 of this section shall result in the automatic suspension of
21 the permit of the operator to conduct mining operations on the
22 land described in the permit, and the operator shall not
23 conduct further or additional mining operations on the land
24 described in the permit until substitution as provided in this
25 section has been made on the surety.

1 "§9-16-135.

2 "There is hereby created in the State Treasury a
3 Special Abandoned Mine Reclamation Trust Fund to receive and
4 retain up to ~~10~~ 30 percent of the appropriated funds granted
5 annually by the Secretary of the U.S. Department of Interior
6 for the reclamation of abandoned mine lands in Alabama. All
7 moneys so deposited by the ~~Director~~ Secretary of the
8 Department of Labor shall accrue interest, and together with
9 all interest earned, shall be available for expenditure by the
10 ~~Director~~ Secretary of the Department of Labor after August 3,
11 1992, solely to accomplish the purposes set forth in Section
12 9-16-122(b). All moneys in this fund shall be deposited,
13 administered and disbursed in the same manner and under the
14 same conditions and requirements as provided by law for other
15 special trust funds in the State Treasury. Moneys in this
16 special trust fund shall be separately accounted for and
17 continuously available to the ~~Director~~ Secretary of the
18 Department of Labor for expenditure as herein provided and
19 shall not lapse at any time.

20 "§25-4-72.

21 "(a) For weeks of unemployment during benefit years
22 which begin before the effective date of subsection (b), an
23 individual's weekly benefit amount shall be as prescribed by
24 this section as amended through July 6, 1997.

1 "(b) For weeks of unemployment during benefit years
2 beginning on or after July 2, 2006, an individual's weekly
3 benefit amount shall be an amount ~~based on an equal division~~
4 ~~of the current weeks compensated~~ equal to one twenty-sixth of
5 the average of the wages for insured work paid to the
6 individual during the two quarters of his or her base period
7 in which the total wages were the highest; except, that:

8 "(1) If the amount thus derived is not a multiple of
9 one dollar (\$1), fractional parts of one dollar (\$1) in excess
10 of fifty cents (\$.50) shall be rounded to the next higher
11 multiple of one dollar (\$1) and fractional parts of one dollar
12 (\$1) which are fifty cents (\$.50) or less shall be dropped to
13 the next lower multiple of one dollar (\$1).

14 "(2) If the amount derived before the application of
15 subdivision (1) is not in excess of forty-four dollars fifty
16 cents (\$44.50), there shall be no weekly benefit amount.

17 "(3) Effective with benefit years beginning on or
18 after July 6, 2008, if the amount thus derived is more than
19 two hundred fifty-four dollars fifty cents (\$254.50), the
20 weekly maximum benefit amount shall be two hundred fifty-five
21 dollars (\$255).

22 "(4) Effective with benefit years beginning on or
23 after July 5, 2009, if the amount thus derived is more than
24 two hundred sixty-four dollars fifty cents (\$264.50), the

1 weekly maximum benefit shall be two hundred sixty-five dollars
2 (\$265).

3 "(5) Effective with benefit years beginning on or
4 after January 1, 2020, if the amount thus derived is more than
5 two hundred seventy-four dollars fifty cents (\$274.50), the
6 weekly maximum benefit shall be two hundred seventy-five
7 dollars (\$275).

8 "(c) If, as a condition for approval of this section
9 for full tax credit against the tax imposed by the federal
10 Unemployment Tax Act, federal law should require a greater
11 maximum weekly benefit amount than that provided herein, then
12 the maximum weekly benefit amount shall be the minimum
13 required by any such federal law for such approval.

14 "(d) Nothing herein shall serve to deprive any
15 individual of any benefit for which he or she had qualified in
16 any benefit year beginning before the effective date of
17 subsection (b).

18 "(e) There is hereby appropriated out of funds made
19 available to this state under Section 903 of the Social
20 Security Act, as amended by Title II, Section 209, "Special
21 Reed Act Transfer in Fiscal Year 2002," of the "Temporary
22 Extended Unemployment Compensation Act of 2002," as contained
23 in the "Job Creation and Worker Assistance Act of 2002," an
24 amount not to exceed 15 percent of the funds, or so much
25 thereof to be used as may be necessary, under the direction of

1 the State of Alabama, Department of Labor, for the expenses
2 incurred for the administration of this state's unemployment
3 compensation law and public employment offices.

4 Notwithstanding the foregoing, the additional amount of up to
5 \$7,940,119 of "Reed Act" funds may be withdrawn from the
6 Unemployment Compensation Trust Fund and used for
7 administrative purposes from May 29, 2008, until September 30,
8 2009. Furthermore, whatever amount is withdrawn during this
9 time period, that amount shall not change the Employer Tax
10 Schedules pursuant to Section 25-4-54 for the calendar year
11 beginning January 1, 2010."

12 Section 2. Sections 25-4-59 and 25-4-153 are added
13 to the Code of Alabama 1975, to read as follows:

14 §25-4-59.

15 The procedures provided for in this article and
16 Article 7, commencing with Section 25-4-130, for the making of
17 determinations with respect to contribution rates and
18 payments, and for appealing from such determinations, shall be
19 exclusive.

20 §25-4-153.

21 The procedures provided for in this article and
22 Article 3, commencing with Section 25-4-50, for the making of
23 determinations with respect to contribution rates and
24 payments, and for appealing from such determinations, shall be
25 exclusive.

1 Section 3. (a) If the Governor or the Legislature
2 proclaims a statewide state of emergency pursuant to Section
3 31-9-8, Code of Alabama 1975, the Alabama Department of Labor
4 shall work with the federal government in maximizing
5 unemployment compensation benefits.

6 (b) The Alabama Department of Labor shall adopt
7 rules as necessary to implement this section.

8 Section 4. This act shall become effective July 1,
9 2021, following its passage and approval by the Governor, or
10 its otherwise becoming law.

