

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

8 SYNOPSIS: Under existing law, the Department of Labor
9 is responsible for surface mining reclamation,
10 abandoned mine reclamation, and unemployment
11 compensation.

12 This bill would update definitions and
13 correct references to the Secretary of Labor, would
14 specify that a departmental employee, rather than a
15 registered forester, perform certain inspections,
16 and would increase the amount of funds retained in
17 the Special Abandoned Mine Reclamation Trust Fund
18 in the State Treasury, from appropriated funds
19 granted annually by the U.S. Department of the
20 Interior, from 10 to 30 percent.

21 This bill would conform language relating to
22 unemployment compensation benefit years beginning
23 on or after July 2, 2006.

24 This bill would also require the department,
25 during a statewide state of emergency proclaimed by
26 the Governor or the Legislature, to work with the

federal government in maximizing unemployment compensation benefits.

A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§9-16-2.

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

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

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

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

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

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

~~"(6) DIRECTOR. Director of the department or officer, bureau, or commission as may lawfully succeed to the 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.

26 "§9-16-8.

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

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

19 "(3) The department ~~shall~~, upon receipt of any
20 deposit of cash or securities, shall immediately place the
21 same with the State Treasurer, whose duty it shall be to
22 receive and hold the same in the name of the state, in trust,
23 for the purposes for which the deposit is made. The State
24 Treasurer shall at all times be responsible for the custody
25 and safekeeping of the deposits. The operator making the
26 deposit shall be entitled from time to time to demand and
27 receive from the State Treasurer, on the written order of the

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

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

25 "(c) A bond filed as above prescribed shall be
26 conditioned so that it cannot be cancelled by the surety
27 except after not less than 90 days written notice to the

1 department. If a bond is cancelled after the notice, the
2 operator shall, on or before the effective date of the
3 cancellation, substitute for the bond another bond, or cash,
4 or securities as provided in this section.

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

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

21 "§9-16-135.

22 "There is hereby created in the State Treasury a
23 Special Abandoned Mine Reclamation Trust Fund to receive and
24 retain up to ~~10~~ 30 percent of the appropriated funds granted
25 annually by the Secretary of the U.S. Department of Interior
26 for the reclamation of abandoned mine lands in Alabama. All
27 moneys so deposited by the ~~Director~~ Secretary of the

1 Department of Labor shall accrue interest, and together with
2 all interest earned, shall be available for expenditure by the
3 Director Secretary of the Department of Labor after August 3,
4 1992, solely to accomplish the purposes set forth in Section
5 9-16-122(b). All moneys in this fund shall be deposited,
6 administered and disbursed in the same manner and under the
7 same conditions and requirements as provided by law for other
8 special trust funds in the State Treasury. Moneys in this
9 special trust fund shall be separately accounted for and
10 continuously available to the Director Secretary of the
11 Department of Labor for expenditure as herein provided and
12 shall not lapse at any time.

13 "§25-4-72.

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

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

25 "(1) If the amount thus derived is not a multiple of
26 one dollar (\$1), fractional parts of one dollar (\$1) in excess
27 of fifty cents (\$.50) shall be rounded to the next higher

1 multiple of one dollar (\$1) and fractional parts of one dollar
2 (\$1) which are fifty cents (\$.50) or less shall be dropped to
3 the next lower multiple of one dollar (\$1).

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

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

12 "(4) Effective with benefit years beginning on or
13 after July 5, 2009, if the amount thus derived is more than
14 two hundred sixty-four dollars fifty cents (\$264.50), the
15 weekly maximum benefit shall be two hundred sixty-five dollars
16 (\$265).

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

22 "(c) If, as a condition for approval of this section
23 for full tax credit against the tax imposed by the federal
24 Unemployment Tax Act, federal law should require a greater
25 maximum weekly benefit amount than that provided herein, then
26 the maximum weekly benefit amount shall be the minimum
27 required by any such federal law for such approval.

1 "(d) Nothing herein shall serve to deprive any
2 individual of any benefit for which he or she had qualified in
3 any benefit year beginning before the effective date of
4 subsection (b).

5 "(e) There is hereby appropriated out of funds made
6 available to this state under Section 903 of the Social
7 Security Act, as amended by Title II, Section 209, "Special
8 Reed Act Transfer in Fiscal Year 2002," of the "Temporary
9 Extended Unemployment Compensation Act of 2002," as contained
10 in the "Job Creation and Worker Assistance Act of 2002," an
11 amount not to exceed 15 percent of the funds, or so much
12 thereof to be used as may be necessary, under the direction of
13 the State of Alabama, Department of Labor, for the expenses
14 incurred for the administration of this state's unemployment
15 compensation law and public employment offices.

16 Notwithstanding the foregoing, the additional amount of up to
17 \$7,940,119 of "Reed Act" funds may be withdrawn from the
18 Unemployment Compensation Trust Fund and used for
19 administrative purposes from May 29, 2008, until September 30,
20 2009. Furthermore, whatever amount is withdrawn during this
21 time period, that amount shall not change the Employer Tax
22 Schedules pursuant to Section 25-4-54 for the calendar year
23 beginning January 1, 2010."

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

26 §25-4-59.

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

§25-4-153.

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

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

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

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