

1 1977, as amended, private donations received, any state
2 appropriated or transferred funds, or funds received from the sale
3 of land by the ~~director~~ secretary under this article shall be
4 deposited with the Treasurer of the State of West Virginia to the
5 credit of the Abandoned Land Reclamation Fund heretofore created,
6 and expended pursuant to the requirements of this article.

7 (b) Moneys in the fund may be used by the ~~director~~ secretary
8 for the following:

9 (1) Reclamation and restoration of land and water resources
10 adversely affected by past coal surface-mining operations,
11 including, but not limited to, reclamation and restoration of
12 abandoned surface mine areas, abandoned coal processing areas and
13 abandoned coal processing waste areas; sealing and filling
14 abandoned deep mine entries and voids; planting of land adversely
15 affected by past coal surface-mining operations to prevent erosion
16 and sedimentation; prevention, abatement, treatment and control of
17 water pollution created by coal mine drainage, including
18 restoration of stream beds and construction and operation of water
19 treatment plants; prevention, abatement and control of burning coal
20 processing waste areas and burning coal in situ; prevention,
21 abatement and control of coal mine subsidence; and payment of
22 administrative expenses and all other necessary expenses incurred
23 to accomplish the purpose of this article: *Provided*, That all
24 expenditures from this fund shall reflect the following priorities

1 in the order stated:

2 (A) The protection of public health, safety, general welfare
3 and property from extreme danger of adverse effects of past
4 surface-mining practices;

5 (B) The protection of public health, safety and general
6 welfare from adverse effects of past coal surface-mining practices;

7 (C) The restoration of land and water resources and
8 environment previously degraded by adverse effects of past coal
9 surface-mining practices, including measures for the conservation
10 and development of soil, water (excluding channelization),
11 woodland, fish and wildlife, recreation resources and agricultural
12 productivity;

13 (D) Research and demonstration projects relating to the
14 development of surface-mining reclamation and water quality control
15 program methods and techniques;

16 (E) The protection, repair, replacement, construction or
17 enhancement of public facilities such as utilities, roads,
18 recreation and conservation facilities adversely affected by past
19 coal surface-mining practices; and

20 (F) The development of publicly owned land adversely affected
21 by past coal surface-mining practices, including land acquired as
22 provided in this article for recreation and historic purposes,
23 conservation and reclamation purposes and open space benefits.

24 (2) (A) The ~~director~~ secretary may expend up to thirty percent

1 of the funds allocated to the state in any year through the grants
2 made available under paragraphs (1) and (5), subsection (g) of
3 Section 402 of the federal Surface Mining Control and Reclamation
4 Act of 1977, as amended, for the purpose of protecting, repairing,
5 replacing, constructing or enhancing facilities relating to water
6 supply, including water distribution facilities and treatment
7 plants, to replace water supplies adversely affected by coal
8 surface-mining practices.

9 (B) If the adverse effects on water supplies referred to in
10 this subdivision occurred both prior to and after August 3, 1977,
11 subsection (c) of this section does not prohibit the state from
12 using funds for the purposes of this subdivision if the ~~director~~
13 secretary determines that the adverse effects occurred
14 predominantly prior to August 3, 1977.

15 (3) The ~~director~~ secretary may receive and retain up to ten
16 percent of the total of the grants made annually to the state under
17 paragraphs (1) and (5), subsection (g) of Section 402 of the
18 federal Surface Mining Control and Reclamation Act of 1977, as
19 amended, if the amounts are deposited to the credit of either:

20 (A) The special account in the State Treasury designated the
21 "Reclamation and Restoration Fund" is hereby continued. Moneys in
22 the fund may be expended by the ~~director~~ secretary to achieve the
23 priorities stated in subdivision (1) of this subsection after
24 September 30, 1995, and for associated administrative and personnel

1 expenses; or

2 (B) The special account in the State Treasury designated the
3 "Acid Mine Drainage Abatement and Treatment Fund" is hereby
4 continued. Moneys in the fund may be expended by the ~~director~~
5 secretary to implement, in consultation with the United States soil
6 conservation service, acid mine drainage abatement and treatment
7 plans approved by the secretary of the United States Department of
8 Interior and for associated administrative and personnel expenses.
9 The plans shall provide for the comprehensive abatement of the
10 causes and treatment of the effects of acid mine drainage within
11 qualified hydrologic units affected by coal surface-mining
12 practices. The moneys accrued in this fund, any earnings thereon,
13 and yield from investments by the State Treasurer or West Virginia
14 Investment Management Board are reserved solely and exclusively for
15 the purposes set forth in this section of the code. Any interest
16 accrued on any moneys deposited into the Acid Mine Drainage
17 Abatement and Treatment Fund which previously defaulted from that
18 account into general revenue shall be credited back to the fund on
19 or before July 1, 2014.

20 (c) Except as provided for in this subsection, lands and water
21 eligible for reclamation or drainage abatement expenditures under
22 this article are those which were mined for coal or which were
23 affected by the mining, wastebanks, coal processing or other coal
24 mining processes, and abandoned or left in an inadequate

1 reclamation status prior to August 3, 1977, and for which there is
2 no continuing reclamation responsibility: *Provided*, That moneys
3 from the funds made available by the Secretary of the United States
4 Department of Interior pursuant to paragraphs (1) and (5),
5 subsection (g), Section 402 of the federal Surface Mining Control
6 and Reclamation Act of 1977, as amended, may be expended for the
7 reclamation or drainage abatement of a site that: (1) The
8 surface-mining operation occurred during the period beginning on
9 August 4, 1977, and ending on or before January 21, 1981, and that
10 any funds for reclamation or abatement which are available pursuant
11 to a bond or other financial guarantee or from any other source,
12 and not sufficient to provide for adequate reclamation or abatement
13 of the site; or (2) the surface-mining operation occurred during
14 the period beginning on August 4, 1977, and ending on or before
15 November 5, 1990, and that the surety of the surface-mining
16 operation became insolvent during that period, and as of November
17 5, 1990, funds immediately available from proceeding relating to
18 the insolvency or from any financial guarantees or other sources
19 are not sufficient to provide for adequate reclamation of the site:
20 *Provided, however*, That the ~~director~~ secretary, with the
21 concurrence of the secretary of the United States Department of
22 Interior, makes either of the above-stated findings, and that the
23 site is eligible, or more urgent than the reclamation priorities
24 set forth in paragraphs (A) and (B), subdivision (1), subsection

1 (b) of this section.

2 (d) One purpose of this article is to provide additional and
3 cumulative remedies to abate the pollution of the waters of the
4 state, and nothing contained in this article abridges or alters
5 rights of action or remedies now or hereafter existing, nor do any
6 provisions in this article or any act done by virtue of this
7 article estop the state, municipalities, public health officers or
8 persons as riparian owners or otherwise in the exercise of their
9 rights to suppress nuisances or to abate any pollution now or
10 hereafter existing or to recover damages.

11 (e) Where the Governor certifies that the above objectives of
12 the fund have been achieved and there is a need for construction of
13 specific public facilities in communities impacted by coal
14 development, and other sources of federal funds are inadequate and
15 the secretary of the United States Department of Interior concurs,
16 then the ~~director~~ secretary may expend money from the fund for the
17 construction.

NOTE: The purpose of this bill is to authorize the Department of Environmental Protection's Office of Abandoned Mine Lands and Reclamation to retain the earnings on the investment of the Acid Mine Drainage Abatement and Treatment Fund, and requiring restoration of investment earnings which were previously defaulted into the general revenue fund.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.