



1 deposited with the Treasurer of the State of West Virginia to the  
2 credit of the Abandoned Land Reclamation Fund heretofore created,  
3 and expended pursuant to the requirements of this article.

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

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

23 (A) The protection of public health, safety, general welfare

1 and property from extreme danger of adverse effects of past  
2 surface-mining practices;

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

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

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

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

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

22 (2) (A) The ~~director~~ secretary may expend up to thirty percent  
23 of the funds allocated to the state in any year through the grants

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

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

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

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

16 (c) Except as provided for in this subsection, lands and water  
17 eligible for reclamation or drainage abatement expenditures under  
18 this article are those which were mined for coal or which were  
19 affected by the mining, wastebanks, coal processing or other coal  
20 mining processes, and abandoned or left in an inadequate  
21 reclamation status prior to August 3, 1977, and for which there is  
22 no continuing reclamation responsibility: *Provided*, That moneys  
23 from the funds made available by the Secretary of the United States

1 Department of Interior pursuant to paragraphs (1) and (5),  
2 subsection (g), Section 402 of the federal Surface Mining Control  
3 and Reclamation Act of 1977, as amended, may be expended for the  
4 reclamation or drainage abatement of a site that: (1) The  
5 surface-mining operation occurred during the period beginning on  
6 August 4, 1977, and ending on or before January 21, 1981, and that  
7 any funds for reclamation or abatement which are available pursuant  
8 to a bond or other financial guarantee or from any other source,  
9 and not sufficient to provide for adequate reclamation or abatement  
10 of the site; or (2) the surface-mining operation occurred during  
11 the period beginning on August 4, 1977, and ending on or before  
12 November 5, 1990, and that the surety of the surface-mining  
13 operation became insolvent during that period, and as of November  
14 5, 1990, funds immediately available from proceeding relating to  
15 the insolvency or from any financial guarantees or other sources  
16 are not sufficient to provide for adequate reclamation of the site:  
17 *Provided, however,* That the ~~director~~ secretary, with the  
18 concurrence of the secretary of the United States Department of  
19 Interior, makes either of the above-stated findings, and that the  
20 site is eligible, or more urgent than the reclamation priorities  
21 set forth in paragraphs (A) and (B), subdivision (1), subsection  
22 (b) of this section.

23 (d) One purpose of this article is to provide additional and

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

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

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