

E N R O L L E D

H. B. 2626

(BY DELEGATE(S) ASHLEY, IRELAND AND FRICH)

[**BY REQUEST OF THE ENVIRONMENTAL
PROTECTION, DEPARTMENT OF**]

[Passed March 9, 2015;
in effect ninety days from passage.]

AN ACT to amend and reenact §22-2-4 of the Code of West Virginia, 1931, as amended, relating to use of the Abandoned Land Reclamation Fund.

Be it enacted by the Legislature of West Virginia:

That §22-2-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. ABANDONED MINE LANDS AND RECLAMATION ACT.

**§22-2-4. Abandoned land reclamation fund and objectives of fund;
lands eligible for reclamation.**

- 1 (a) All abandoned land reclamation funds available under
- 2 Title IV of the federal Surface Mining Control and Reclamation

3 Act of 1977, as amended, private donations received, any state
4 appropriated or transferred funds, or funds received from the sale
5 of land by the secretary under this article shall be deposited with
6 the Treasurer of the State of West Virginia to the credit of the
7 abandoned land reclamation fund heretofore created, and
8 expended pursuant to the requirements of this article.

9 (b) Moneys in the fund may be used by the secretary for the
10 following:

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

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

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

34 (C) The restoration of land and water resources and
35 environment previously degraded by adverse effects of past coal
36 surface-mining practices, including measures for the
37 conservation and development of soil, water (excluding
38 channelization), woodland, fish and wildlife, recreation
39 resources and agricultural productivity;

40 (D) Research and demonstration projects relating to the
41 development of surface-mining reclamation and water quality
42 control program methods and techniques;

43 (E) The protection, repair, replacement, construction or
44 enhancement of public facilities such as utilities, roads,
45 recreation and conservation facilities adversely affected by past
46 coal surface-mining practices; and

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

52 (2) (A) The secretary may expend the funds allocated to the
53 state in any year through the grants made available under
54 paragraphs (1) and (5), subsection (g) of Section 402 of the
55 federal Surface Mining Control and Reclamation Act of 1977, as
56 amended, for the purpose of protecting, repairing, replacing,
57 constructing or enhancing facilities relating to water supply,
58 including water distribution facilities and treatment plants, to
59 replace water supplies adversely affected by coal surface-mining
60 practices.

61 (B) If the adverse effects on water supplies referred to in this
62 subdivision occurred both prior to and after the August 3, 1977,
63 subsection (c) of this section does not prohibit the state from
64 using funds for the purposes of this subdivision if the secretary

65 determines that the adverse effects occurred predominantly prior
66 to August 3, 1977.

67 (3) The secretary may receive and retain up to thirty percent
68 of the total of the grants made annually to the state under
69 paragraphs (1) and (5), subsection (g) of Section 402 of the
70 federal Surface Mining Control and Reclamation Act of 1977, as
71 amended, if the amounts are deposited to the credit of either:

72 (A) The special account in the State Treasury designated the
73 "Reclamation and Restoration Fund" is hereby continued.
74 Moneys in the fund may be expended by the secretary to achieve
75 the priorities stated in subdivision (1) of this subsection after
76 September 30, 1995 and for associated administrative and
77 personnel expenses; or

78 (B) The special account in the State Treasury designated the
79 "Acid Mine Drainage Abatement and Treatment Fund" is hereby
80 continued. Moneys in the fund may be expended by the secretary
81 to implement, in consultation with the United States soil
82 conservation service, acid mine drainage abatement and
83 treatment plans approved by the secretary of the United States
84 department of interior and for associated administrative and
85 personnel expenses. The plans shall provide for the
86 comprehensive abatement of the causes and treatment of the
87 effects of acid mine drainage within qualified hydrologic units
88 affected by coal surface-mining practices. The moneys accrued
89 in this fund, any earnings thereon, and yield from investments by
90 the State Treasurer or West Virginia Investment Management
91 Board are reserved solely and exclusively for the purposes set
92 forth in this section of the code. Any interest accrued on any
93 moneys deposited into the Acid Mine Drainage Abatement and
94 Treatment Fund which previously defaulted from that account
95 into general revenue shall be credited back to the fund on or
96 before July 1, 2014.

97 (c) Except as provided for in this subsection, lands and water
98 eligible for reclamation or drainage abatement expenditures
99 under this article are those which were mined for coal or which
100 were affected by the mining, wastebanks, coal processing or
101 other coal mining processes, and abandoned or left in an
102 inadequate reclamation status prior to August 3, 1977, and for
103 which there is no continuing reclamation responsibility:
104 *Provided*, That moneys from the funds made available by the
105 secretary of the United States department of interior pursuant to
106 paragraphs (1) and (5), subsection (g), Section 402 of the federal
107 Surface Mining Control and Reclamation Act of 1977, as
108 amended, may be expended for the reclamation or drainage
109 abatement of a site that: (1) The surface-mining operation
110 occurred during the period beginning on August 4, 1977, and
111 ending on or before January 21, 1981, and that any funds for
112 reclamation or abatement which are available pursuant to a bond
113 or other financial guarantee or from any other source, and not
114 sufficient to provide for adequate reclamation or abatement of
115 the site; or (2) the surface-mining operation occurred during the
116 period beginning on August 4, 1977, and ending on or before
117 November 5, 1990, and that the surety of the surface-mining
118 operation became insolvent during that period, and as of
119 November 5, 1990, funds immediately available from
120 proceeding relating to the insolvency or from any financial
121 guarantees or other sources are not sufficient to provide for
122 adequate reclamation of the site: *Provided, however*, That the
123 secretary, with the concurrence of the secretary of the United
124 States department of interior, makes either of the above-stated
125 findings, and that the site is eligible, or more urgent than the
126 reclamation priorities set forth in paragraphs (A) and (B),
127 subdivision (1), subsection (b) of this section.

128 (d) One purpose of this article is to provide additional and
129 cumulative remedies to abate the pollution of the waters of the
130 state, and nothing contained in this article abridges or alters

131 rights of action or remedies now or hereafter existing, nor do any
132 provisions in this article or any act done by virtue of this article
133 estop the state, municipalities, public health officers or persons
134 as riparian owners or otherwise in the exercise of their rights to
135 suppress nuisances or to abate any pollution now or hereafter
136 existing or to recover damages.

137 (e) Where the Governor certifies that the above objectives of
138 the fund have been achieved and there is a need for construction
139 of specific public facilities in communities impacted by coal
140 development, and other sources of federal funds are inadequate
141 and the secretary of the United States department of interior
142 concurs, then the secretary may expend money from the fund for
143 the construction.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2015.

Governor

