1	H. B. 4283
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3	(By Delegates Ferro and Barker)
4 5	[By Request of the Department of Environmental Protection]
6	[Introduced January 25, 2012; referred to the
7	Committee on the Judiciary then Finance.]
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10	A BILL to amend the Code of West Virginia, 1931, as amended, by
11	adding thereto a new section, designated §22-3-33, relating to
12	the award of attorney fees and costs by the Surface Mine Board
13	and courts.
14	Be it enacted by the Legislature of West Virginia:
15	That the Code of West Virginia, 1931, as amended, be amended
16	by adding thereto a new section, designated \$22-3-33, to read as
17	follows:
18	ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.
19	§22-3-33. Attorney fees and costs.
20	(a) As a result of any administrative proceeding under this
21	article, at the request of any person, a sum equal to the aggregate
22	amount of all costs and expenses, including attorney fees, as
23	determined by the court or the Surface Mine Board to have been
24	reasonably incurred by the requesting person for or in connection

- 1 with his or her participation in the administrative proceeding,
- 2 including any judicial review of agency actions, may be assessed
- 3 against either party as the court, resulting from judicial review
- 4 or the Surface Mine Board, resulting from administrative
- 5 proceedings, considers proper.
- 6 (b) On a finding that a claim was brought in bad faith or for
- 7 the purposes of harassment, the Surface Mine Board or the court,
- 8 whichever is appropriate, may award to the defendant or respondent,
- 9 however designated, a sum equal to the aggregate amount of all
- 10 costs and expenses, including attorney fees, as determined to have
- 11 been reasonably incurred.
- 12 (c) The secretary shall propose rules for legislative approval
- 13 in accordance with the provisions of article three, chapter twenty-
- 14 nine-a of this code that are necessary to implement the provisions
- 15 of this section.

NOTE: The purpose of this bill is to authorize the Surface Mine Board or the reviewing circuit court to award attorney fees and costs in administrative proceedings arising under the West Virginia Surface Coal Mining and Reclamation Act.

This section is new; therefore, it has been completely underscored.