

SB0217



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0217

Introduced 2/3/2009, by Sen. Gary Forby

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.719 new
30 ILCS 105/8h
225 ILCS 720/2.02

from Ch. 96 1/2, par. 7902.02

Amends the Surface Coal Mining Land Conservation and Reclamation Act to require the Department of Natural Resources to provide for the expedited review of any permit application upon request by the permit applicant. Sets forth certain conditions for obtaining expedited permits from the Department. Creates the Mining Operations Expedited Permit Fund. Amends the State Finance Act to provide that the Fund is not subject to sweeps. Effective immediately.

LRB096 04080 ASK 14119 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding
5 Section 5.719 and changing Section 8h as follows:

6 (30 ILCS 105/5.719 new)

7 Sec. 5.719. The Mining Operations Expedited Permit Fund.

8 (30 ILCS 105/8h)

9 Sec. 8h. Transfers to General Revenue Fund.

10 (a) Except as otherwise provided in this Section and
11 Section 8n of this Act, and notwithstanding any other State law
12 to the contrary, the Governor may, through June 30, 2007, from
13 time to time direct the State Treasurer and Comptroller to
14 transfer a specified sum from any fund held by the State
15 Treasurer to the General Revenue Fund in order to help defray
16 the State's operating costs for the fiscal year. The total
17 transfer under this Section from any fund in any fiscal year
18 shall not exceed the lesser of (i) 8% of the revenues to be
19 deposited into the fund during that fiscal year or (ii) an
20 amount that leaves a remaining fund balance of 25% of the July
21 1 fund balance of that fiscal year. In fiscal year 2005 only,
22 prior to calculating the July 1, 2004 final balances, the

1 Governor may calculate and direct the State Treasurer with the
2 Comptroller to transfer additional amounts determined by
3 applying the formula authorized in Public Act 93-839 to the
4 funds balances on July 1, 2003. No transfer may be made from a
5 fund under this Section that would have the effect of reducing
6 the available balance in the fund to an amount less than the
7 amount remaining unexpended and unreserved from the total
8 appropriation from that fund estimated to be expended for that
9 fiscal year. This Section does not apply to any funds that are
10 restricted by federal law to a specific use, to any funds in
11 the Motor Fuel Tax Fund, the Intercity Passenger Rail Fund, the
12 Hospital Provider Fund, the Medicaid Provider Relief Fund, the
13 Teacher Health Insurance Security Fund, the Reviewing Court
14 Alternative Dispute Resolution Fund, the Voters' Guide Fund,
15 the Foreign Language Interpreter Fund, the Lawyers' Assistance
16 Program Fund, the Supreme Court Federal Projects Fund, the
17 Supreme Court Special State Projects Fund, the Supplemental
18 Low-Income Energy Assistance Fund, the Good Samaritan Energy
19 Trust Fund, the Low-Level Radioactive Waste Facility
20 Development and Operation Fund, the Horse Racing Equity Trust
21 Fund, the Metabolic Screening and Treatment Fund, or the
22 Hospital Basic Services Preservation Fund, or to any funds to
23 which Section 70-50 of the Nurse Practice Act applies. No
24 transfers may be made under this Section from the Pet
25 Population Control Fund. Notwithstanding any other provision
26 of this Section, for fiscal year 2004, the total transfer under

1 this Section from the Road Fund or the State Construction
2 Account Fund shall not exceed the lesser of (i) 5% of the
3 revenues to be deposited into the fund during that fiscal year
4 or (ii) 25% of the beginning balance in the fund. For fiscal
5 year 2005 through fiscal year 2007, no amounts may be
6 transferred under this Section from the Road Fund, the State
7 Construction Account Fund, the Criminal Justice Information
8 Systems Trust Fund, the Wireless Service Emergency Fund, or the
9 Mandatory Arbitration Fund.

10 In determining the available balance in a fund, the
11 Governor may include receipts, transfers into the fund, and
12 other resources anticipated to be available in the fund in that
13 fiscal year.

14 The State Treasurer and Comptroller shall transfer the
15 amounts designated under this Section as soon as may be
16 practicable after receiving the direction to transfer from the
17 Governor.

18 (a-5) Transfers directed to be made under this Section on
19 or before February 28, 2006 that are still pending on May 19,
20 2006 (the effective date of Public Act 94-774) shall be
21 redirected as provided in Section 8n of this Act.

22 (b) This Section does not apply to: (i) the Ticket For The
23 Cure Fund; (ii) any fund established under the Community Senior
24 Services and Resources Act; or (iii) on or after January 1,
25 2006 (the effective date of Public Act 94-511), the Child Labor
26 and Day and Temporary Labor Enforcement Fund.

1 (c) This Section does not apply to the Demutualization
2 Trust Fund established under the Uniform Disposition of
3 Unclaimed Property Act.

4 (d) This Section does not apply to moneys set aside in the
5 Illinois State Podiatric Disciplinary Fund for podiatric
6 scholarships and residency programs under the Podiatric
7 Scholarship and Residency Act.

8 (e) Subsection (a) does not apply to, and no transfer may
9 be made under this Section from, the Pension Stabilization
10 Fund.

11 (f) Subsection (a) does not apply to, and no transfer may
12 be made under this Section from, the Illinois Power Agency
13 Operations Fund, the Illinois Power Agency Facilities Fund, the
14 Illinois Power Agency Debt Service Fund, and the Illinois Power
15 Agency Trust Fund.

16 (g) This Section does not apply to the Veterans Service
17 Organization Reimbursement Fund.

18 (h) This Section does not apply to the Supreme Court
19 Historic Preservation Fund.

20 (i) This Section does not apply to, and no transfer may be
21 made under this Section from, the Money Follows the Person
22 Budget Transfer Fund.

23 (j) This Section does not apply to the Mining Operations
24 Expedited Permit Fund.

25 (Source: P.A. 94-91, eff. 7-1-05; 94-120, eff. 7-6-05; 94-511,
26 eff. 1-1-06; 94-535, eff. 8-10-05; 94-639, eff. 8-22-05;

1 94-645, eff. 8-22-05; 94-648, eff. 1-1-06; 94-686, eff.
2 11-2-05; 94-691, eff. 11-2-05; 94-726, eff. 1-20-06; 94-773,
3 eff. 5-18-06; 94-774, eff. 5-19-06; 94-804, eff. 5-26-06;
4 94-839, eff. 6-6-06; 95-331, eff. 8-21-07; 95-410, eff.
5 8-24-07; 95-481, eff. 8-28-07; 95-629, eff. 9-25-07; 95-639,
6 eff. 10-5-07; 95-695, eff. 11-5-07; 95-744, eff. 7-18-08;
7 95-876, eff. 8-21-08.)

8 Section 10. The Surface Coal Mining Land Conservation and
9 Reclamation Act is amended by changing Section 2.02 as follows:

10 (225 ILCS 720/2.02) (from Ch. 96 1/2, par. 7902.02)

11 Sec. 2.02. Contents of Permit Application.

12 (a) Each permit application, and each application for
13 revision of a permit, submitted under this Act shall contain
14 all information, maps, surveys, data and other materials which
15 the Department by rule requires, in a form prescribed by the
16 Department by rule. Such rules shall satisfy the requirements
17 for permit applications and for applications for revision of a
18 permit under the Federal Act and Regulations.

19 (b) If the Department finds that the probable total annual
20 production at all locations of an operation will not exceed
21 300,000 tons, the Department shall provide assistance under
22 this subsection to that operator to the extent required under
23 the Federal Act. The following shall be performed for such
24 operator by a qualified public or private laboratory designated

1 by the Department to the extent required by the Department by
2 rule to be part of such operator's application, and if such
3 operator requests such assistance in writing:

4 (1) the determination of probable hydrologic
5 consequences, including the engineering analyses and
6 designs necessary for the determination;

7 (2) the development of cross-section maps and plans;

8 (3) the geologic drilling and statement of results of
9 test borings and core samplings;

10 (4) the collection of archaeological information and
11 any other archaeological and historical information
12 required by the Department, and the preparation of plans
13 necessitated thereby;

14 (5) pre-blast surveys; and

15 (6) the collection of site-specific resource
16 information and production of protection and enhancement
17 plans for fish and wildlife habitats and other
18 environmental values required by the Department under this
19 Act.

20 The cost of the preparation of such determinations, test
21 borings, core samplings and statements for such operator shall
22 be paid by the Department to the extent required under the
23 Federal Act. A coal operator that has received assistance
24 pursuant to this subsection shall reimburse the regulatory
25 authority for the cost of the services rendered if the program
26 administrator finds that the operator's actual and attributed

1 annual production of coal for all locations exceeds 300,000
2 tons during the 12 months immediately following the date on
3 which the operator is issued the surface coal mining and
4 reclamation permit.

5 (c) With respect to applications for surface mining
6 operations in cases where the private mineral estate has been
7 severed from the private surface estate, the applicant shall
8 submit to the Department with the application either (1) the
9 written consent of the surface owner to the extraction of coal
10 by surface mining operations, (2) a conveyance that expressly
11 grants or reserves the right to extract the coal by surface
12 mining operations, or (3) if the conveyance does not expressly
13 grant the right to extract coal by surface mining operations, a
14 determination in accordance with State law of the
15 surface-subsurface legal relationship.

16 (d) The Department must provide for the expedited review of
17 any permit application upon request by the permit applicant.
18 The Department must enter into contracts or agreements as it
19 deems necessary to expedite permit application reviews. If the
20 Department provides for the expedited review of a permit
21 application, the permit applicant shall pay to the Department
22 all reasonable costs incurred by the Department that are
23 related to the expedited review. The Department shall provide
24 the applicant with the task and roles that any third party
25 reviewers shall perform and shall also provide suitable
26 evidence to support all third party charges. Such costs shall

1 be in addition to any other costs or fees required by law or
2 regulation. Prior to conducting an expedited review, the
3 Department may require the permit applicant to make an advance
4 payment for costs related to the review, not to exceed the
5 lesser of \$5,000 or one-half of the Department's total
6 anticipated additional review costs. The Department may cease
7 an expedited review if the permit applicant fails to pay the
8 Department's costs when due.

9 All amounts paid to the Department under this subsection
10 (d) shall be deposited into the Mining Operations Expedited
11 Permit Fund, which is hereby created as a special fund in the
12 State treasury. Moneys in the Mining Operations Expedited
13 Permit Fund shall be used by the Department, subject to
14 appropriation, only for the costs resulting from expedited
15 review under this subsection. The Mining Operations Expedited
16 Permit Fund shall not be subject to sweeps, administrative
17 charges, or charge backs, including, but not limited to, those
18 authorized under Section 8h of the State Finance Act, or any
19 other fiscal or budgetary maneuver that would in any way
20 transfer any funds from the Mining Operations Expedited Permit
21 Fund into any other fund of the State.

22 A permit applicant that has requested an expedited review
23 may withdraw its request at any time by providing the
24 Department with written notification of its withdrawal,
25 provided that the applicant shall remain liable for all
26 expedited review costs incurred by the Department through the

1 date of the Department's receipt of the withdrawal. The final
2 decision on whether to approve or deny any expedited permit
3 application must be made by the Department and may not be
4 delegated to any third party. The Department shall adopt rules
5 for the administration of this subsection (d).

6 (Source: P.A. 88-599, eff. 9-1-94.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.