



Rep. John E. Bradley

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09700HB4697ham002

LRB097 19396 CEL 66852 a

1 AMENDMENT TO HOUSE BILL 4697

2 AMENDMENT NO. _____. Amend House Bill 4697 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Surface Coal Mining Land Conservation and
5 Reclamation Act is amended by changing Section 2.11 as follows:

6 (225 ILCS 720/2.11) (from Ch. 96 1/2, par. 7902.11)

7 Sec. 2.11. Procedures for Approval.

8 (a) If a hearing has been held under Section 2.04, the
9 Department shall within 60 days after the last such hearing
10 make its decision on the application and shall promptly furnish
11 the applicant, local government officials in the area of the
12 affected land, and persons who are parties to the
13 administrative proceedings, with the written findings of the
14 Department and stating the specific reasons for its decision.

15 (b) If no hearing has been held under Section 2.04, the
16 Department shall make its decision on the application within

1 120 days after receipt by the Department of a complete
2 application and shall promptly notify the applicant, local
3 government officials in the area of the affected land, and
4 persons who have submitted written comments on the application
5 of the Department's decision with the written findings of the
6 Department and stating the specific reasons for its decision.

7 (c) Within 30 days after the applicant is notified of the
8 final decision of the Department on the permit application, the
9 applicant or any person with an interest that is or may be
10 adversely affected may request a hearing on the reasons for the
11 final determination. The Department shall hold a hearing within
12 30 days after this request and notify all interested parties at
13 the time that the applicant is notified. The notice shall be
14 published in a newspaper of general circulation published in
15 each county in which any part of the area of the affected land
16 is located. The notice shall appear no more than 14 days nor
17 less than 7 days prior to the date of the hearing. The notice
18 shall be no less than one eighth page in size, and the smallest
19 type used shall be twelve point and shall be enclosed in a
20 black border no less than 1/4 inch wide. The notice shall not
21 be placed in that portion of the newspaper where legal notices
22 and classified advertisements appear. The hearing shall be of
23 record and adjudicatory in nature. No person who presided at a
24 hearing under Section 2.04 shall either preside at the hearing
25 or participate in the decision on the hearing. Once a hearing
26 has started, the hearing officer may issue interim orders

1 allowing the Department or the applicant to correct or alter
2 the permit or application. Within 30 days after the hearing,
3 the Department shall issue, and furnish the applicant, local
4 government officials in the area of the affected land, and all
5 persons who participated in the hearing, its written decision
6 granting or denying the permit in whole or in part and stating
7 the reasons for its decision. No party to a formal adjudicatory
8 hearing under this subsection may seek judicial review of the
9 Department's final decision on the permit application until
10 after the issuance of the hearing officer's written decision
11 granting or denying the permit.

12 (d) If the application is approved under either subsection
13 (a) or (b) of this Section, the permit shall be issued.

14 (e) If a hearing is requested under subsection (c) of this
15 Section, the Department may, under such conditions as it may
16 prescribe, grant such temporary relief as it deems appropriate
17 pending final determination of the proceedings if all parties
18 to the proceedings have been notified and given an opportunity
19 to be heard on a request for temporary relief, the person
20 requesting such relief shows that there is a substantial
21 likelihood that he will prevail on the merits of the final
22 determination of the proceeding, and such relief will not
23 adversely affect the public health or safety or cause
24 significant imminent environmental harm to land, air, or water
25 resources.

26 (f) If final action on an application does not occur within

1 the times prescribed in subsections (a) or (b) of this Section,
2 whichever applies, the applicant may deem the application
3 denied, and such denial shall constitute final action. The
4 applicant may waive these time limits.

5 (g) For the purpose of hearings under this Section, the
6 Department may administer oaths, subpoena witnesses or written
7 or printed materials, compel attendance of the witnesses or
8 production of the materials, and take evidence including but
9 not limited to site inspections of the land to be affected and
10 other mining operations carried on by the applicant in the
11 general vicinity of the proposed operation. A verbatim record
12 of each hearing under this Section shall be made, and a
13 transcript shall be made available on the motion of any party
14 or by order of the Department.

15 (Source: P.A. 88-63; 88-185; 88-670, eff. 12-2-94.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."