

SB3769



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3769

Introduced 2/10/2012, by Sen. Gary Forby

SYNOPSIS AS INTRODUCED:

225 ILCS 720/2.11

from Ch. 96 1/2, par. 7902.11

Amends the Surface Coal Mining Land Conservation and Reclamation Act. Provides that an applicant or any person with an interest that is or may be adversely affected may request a hearing on the reasons for the final determination on the permit application. Provides that the Department of Natural Resources shall hold a hearing within 30 days after the request unless a prehearing conference is requested. Provides that no person who presides at a public comment hearing shall preside at a hearing or participate in the decision at the hearing. Makes other changes. Effective immediately.

LRB097 13876 CEL 58446 b

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 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
17 120 days after receipt by the Department of a complete
18 application and shall promptly notify the applicant, local
19 government officials in the area of the affected land, and
20 persons who have submitted written comments on the application
21 of the Department's decision with the written findings of the
22 Department and stating the specific reasons for its decision.

23 (c) Within 30 days after the applicant is notified of the

1 final decision of the Department on the permit application, the
2 applicant or any person with an interest that is or may be
3 adversely affected may request a hearing on the reasons for the
4 final determination on the permit application. The Department
5 shall hold a hearing within 30 days after this request unless a
6 prehearing conference is requested and notify all interested
7 parties at the time that the applicant is notified. The notice
8 shall be published in a newspaper of general circulation
9 published in each county in which any part of the area of the
10 affected land is located. The notice shall appear no more than
11 14 days nor less than 7 days prior to the date of the hearing.
12 The notice shall be no less than one eighth page in size, and
13 the smallest type used shall be twelve point and shall be
14 enclosed in a black border no less than 1/4 inch wide. The
15 notice shall not be placed in that portion of the newspaper
16 where legal notices and classified advertisements appear. The
17 hearing shall be of record and adjudicatory in nature. No
18 person who presided at a public comment hearing under Section
19 2.04 shall either preside at the hearing or participate in the
20 decision on the hearing. Within 30 days after the hearing, the
21 hearing officer ~~Department~~ shall issue, and furnish the
22 applicant, local government officials in the area of the
23 affected land, and all persons who participated in the hearing,
24 the hearing officer's ~~its~~ written decision granting or denying
25 the permit in whole or in part and stating the reasons for the
26 ~~its~~ decision, which shall constitute the final administrative

1 decision on the permit. No party to a formal adjudicatory
2 hearing under this subsection may seek judicial review of the
3 Department's final decision on the permit application until
4 after the issuance of the hearing officer's written decision
5 granting or denying the permit.

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

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

20 (f) If final action on an application does not occur within
21 the times prescribed in subsections (a) or (b) of this Section,
22 whichever applies, the applicant may deem the application
23 denied, and such denial shall constitute final action. The
24 applicant may waive these time limits.

25 (g) For the purpose of hearings under this Section, the
26 Department may administer oaths, subpoena witnesses or written

1 or printed materials, compel attendance of the witnesses or
2 production of the materials, and take evidence including but
3 not limited to site inspections of the land to be affected and
4 other mining operations carried on by the applicant in the
5 general vicinity of the proposed operation. A verbatim record
6 of each hearing under this Section shall be made, and a
7 transcript shall be made available on the motion of any party
8 or by order of the Department.

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

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.