

1 **SURETY REQUIREMENTS FOR MINING**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Dennis E. Stowell**

5 House Sponsor: Susan Duckworth

7 **LONG TITLE**

8 **Committee Note:**

9 The Natural Resources, Agriculture, and Environment Interim Committee
10 recommended this bill.

11 **General Description:**

12 This bill addresses surety requirements for mining operations.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ requires the Board of Oil, Gas, and Mining to annually adopt a figure representing
- 16 the average cost of reclamation per acre; and
- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **40-8-14**, as last amended by Laws of Utah 2003, Chapter 35

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **40-8-14** is amended to read:



28 **40-8-14. Surety requirement -- Liability of small mining operations for failure to**
29 **reclaim -- Forfeiture of surety.**

30 (1) (a) After receiving notification that a notice of intention for mining operations has
31 been approved, but prior to commencement of those operations, the operator shall provide
32 surety to the division, in a form and amount determined by the division or board as provided in
33 this section.

34 (b) In determining the amount of surety under this section, the division may use the
35 average cost of reclamation per acre.

36 (c) The board shall annually establish a figure representing the average cost of
37 reclamation per acre after receiving a presentation from the division concerning the average
38 cost of reclamation per acre and providing opportunity for public comment.

39 (2) (a) Except as provided in Subsection (3), the division shall approve the amount and
40 form of surety.

41 (b) In determining the amount of surety to be provided, the division shall consider:

42 (i) the magnitude, type, and costs of approved reclamation activities planned for the
43 land affected; and

44 (ii) the nature, extent, and duration of operations under the approved notice.

45 (c) The division shall approve a fixed amount estimated to be required to complete
46 reclamation at any point in time covered by the notice of intent.

47 (d) (i) The division shall determine the amount of surety required for notices of
48 intention, by using cost data from current large mining sureties.

49 (ii) The costs shall be adjusted to reflect the nature and scope of activities in the
50 affirmative statement filed under Subsection 40-8-18(4).

51 (e) (i) In determining the form of surety to be provided by the operator, the division
52 shall approve a method acceptable to the operator consistent with the requirements of this
53 chapter.

54 (ii) The form of surety that the operator may provide includes, but is not limited to, the
55 following:

56 [~~(i)~~] (A) collateral;

57 [~~(ii)~~] (B) a bond or other form of insured guarantee;

58 [~~(iii)~~] (C) deposited securities; or

59 [~~(iv)~~] (D) cash.

60 (3) (a) If the operator proposes reclamation surety in the form of a written contractual
61 agreement, the board shall approve the form of surety.

62 (b) In making this decision, the board shall consider:

63 (i) the operator's:

64 (A) financial status;

65 (B) assets within the state;

66 (C) past performance in complying with contractual agreements; and

67 (D) facilities available to carry out the planned work;

68 (ii) the magnitude, type, and costs of approved reclamation activities planned for the
69 land affected; and

70 (iii) the nature, extent, and duration of operations under the approved notice.

71 (4) In determining the amount and form of surety to be provided under this section,
72 consideration shall be given to similar requirements made on the operator by landowners,
73 governmental agencies, or others, with the intent that surety requirements shall be coordinated
74 and not duplicated.

75 (5) The liability under surety provisions shall continue until liability, in part, or in its
76 entirety, is released by the division.

77 (6) (a) If the operator of a mining operation, including a small mining operation, fails
78 or refuses to carry out the necessary land reclamation as outlined in the approved notice of
79 intention, the board may, after notice and hearing, declare any surety filed for this purpose
80 forfeited.

81 (b) With respect to the surety filed with the division, the board shall request the
82 attorney general to take the necessary legal action to enforce and collect the amount of liability.

83 (c) If surety or a bond has been filed with the Division of Forestry, Fire, and State
84 Lands, the School and Institutional Trust Lands Administration, or any agency of the federal
85 government, the board shall certify a copy of the transcript of the hearing and transmit it to the
86 agency together with a request that the necessary forfeiture action be taken.

87 (d) The forfeited surety shall be used only for the reclamation of the land to which it
88 relates, and any residual amount returned to the rightful claimant.

Legislative Review Note
as of 11-17-10 12:29 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 15, 2011 General Session

SHORT TITLE: **Surety Requirements for Mining**

SPONSOR: **Stowell, D.**

STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.