

1 SB156
2 118003-3
3 By Senators Dixon and Mitchem
4 RFD: Governmental Affairs
5 First Read: 12-JAN-10

1 SB156

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4 ENROLLED, An Act,

5 Relating to the Alabama Sunset Law; to continue the
6 existence and functioning of the Alabama Surface Mining
7 Commission with certain modifications; to amend Section
8 9-16-81, Code of Alabama 1975, so as to require that
9 applicants for licensure be United States citizens or legally
10 present in the United States.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Pursuant to the Alabama Sunset Law, the
13 Sunset Committee recommends the continuance of the Alabama
14 Surface Mining Commission, with the additional recommendation
15 for statutory change as set out in Section 3.

16 Section 2. The existence and functioning of the
17 Alabama Surface Mining Commission, created and functioning
18 pursuant to Sections 9-16-70 to 9-16-107, inclusive, Code of
19 Alabama 1975, is continued, and those code sections are
20 expressly preserved.

21 Section 3. Section 9-16-81 of the Code of Alabama
22 1975, is amended to read as follows:

23 "§9-16-81.

1 "(a) All surface coal mining operations shall be
2 subject to this article, except as excluded in Section 9-16-99.

3 "(b) No person shall engage in or carry out on lands
4 within the state any surface coal mining operations unless
5 such person is a citizen of the United States or, if not a
6 citizen of the United States, a person who is legally present
7 in the United States with appropriate documentation from the
8 federal government and has first obtained a license in
9 accordance with this section. The term of a license shall be
10 continuous and shall authorize the licensee subject to the
11 other provisions of this article, to engage in surface coal
12 mining operations unless the license shall be suspended or
13 revoked in accordance with this article. Suspension,
14 revocation, or subcontracting shall in no way relieve the
15 licensee of his or her obligation to comply with the
16 reclamation requirement of this article.

17 "(c) An applicant for a license shall file an
18 application in a format prescribed by and satisfactory to the
19 regulatory authority which shall contain, among other things,
20 all of the following information:

21 "(1) The name of the applicant and whether the
22 applicant is an individual, partnership, corporation, or other
23 legal entity.

24 "(2) The legal address of the applicant for service
25 of legal process or notice.

1 "(3) If known, the names and addresses of the
2 agents, subsidiaries, or independent contractors who may be
3 engaged in surface coal mining on behalf of the applicant on
4 land to be affected. Any agent, subsidiary, or independent
5 contractor engaged by the applicant subsequent to issuance of
6 a permit shall be identified to the regulatory authority
7 within 30 days of its engagement. The utilization of an agent,
8 subsidiary, or subcontractor shall not relieve the licensee of
9 its responsibility hereunder.

10 "(4) If the applicant is a partnership, corporation,
11 association, or other business entity, the following where
12 applicable: the names and addresses of every officer, partner,
13 director, or person performing a function similar to a
14 director, of the applicant, together with the name and address
15 of any person owning of record 10 percentum or more of any
16 class of voting stock of the applicant and a list of all names
17 under which the applicant, partner, or principal shareholder
18 previously operated a surface mining operation within the
19 United States within the five-year period preceding the date
20 of submission of the application.

21 "(5) All names under which the applicant and persons
22 listed in the license application previously operated or is
23 engaging in surface coal mining within the State of Alabama,
24 or any other state.

1 "(6) A statement of whether the applicant, any
2 subsidiary, affiliate, or persons controlling, controlled by
3 or under common control with the applicant, or any partner of
4 the applicant, if the applicant is a partnership, or any
5 principal officer or director, if applicant is a corporation,
6 has ever held a federal or any state mining permit which in
7 the five year period prior to the date of submission of the
8 application has been suspended or revoked or has had a mining
9 bond or similar security deposited in lieu of bond forfeited
10 and, if so, a brief explanation of the facts involved.

11 "(d) The applicant shall, as a condition to
12 obtaining a license, satisfy the regulatory authority,
13 pursuant to reasonable standards and regulations to be
14 promulgated by it, of the applicant's ability to comply with
15 this article, which standards shall require the applicant to:

16 "(1) Demonstrate that it has available to it
17 sufficient technical skill to assure compliance with this
18 article and the regulations adopted pursuant hereto.

19 "(2) Demonstrate sufficient financial responsibility
20 to reasonably assure the regulatory authority of the
21 applicant's financial ability to execute the requirements of
22 this article pursuant to regulations promulgated by the
23 regulatory authority.

24 "(3) Certify by notarized statement under oath that
25 the applicant has read and is fully familiar with this article

1 and with all reclamation requirements contained in this
2 article and regulations promulgated by the regulatory
3 authority.

4 "(4) Certify that the applicant shall obtain and
5 shall furnish the regulatory authority evidence of having
6 obtained such permits as may be required prior to commencing
7 operation under any permit which may be issued under this
8 article to the applicant.

9 "(e) The regulatory authority shall have 45 days to
10 investigate and to consider the application and issue the
11 license or an order denying its issuance, setting out
12 deficiencies and reasons why the license was not issued and
13 what corrective action should be taken.

14 "(f) (1) The initial fee for a license shall be one
15 thousand dollars (\$1,000) and shall be submitted with the
16 application. Licenses shall be updated annually pursuant to
17 regulations.

18 "(2) A licensee with a valid license issued by the
19 Alabama Surface Mining Reclamation Commission prior to the
20 effective date of this article and who intends to conduct
21 surface coal mining and reclamation operations pursuant to
22 this article shall reapply to the regulatory authority for a
23 license within 90 days of the effective date of this article.
24 The fee for such application shall be two hundred dollars
25 (\$200) and shall be in lieu of the one thousand dollars

1 (\$1,000) initial licensing. The license shall be granted
2 provided that no prior licensee shall be eligible to receive a
3 license until all outstanding and delinquent fines, fees,
4 penalties, or other debts owed to the Alabama Surface Mining
5 Reclamation Commission by the prior licensee shall have been
6 paid in full to the regulatory authority. Licenses may be
7 granted with specific conditions or restrictions."

8 Section 4. The Legislature concurs in the
9 recommendations of the Sunset Committee as provided in
10 Sections 1, 2, and 3.

11 Section 5. This act shall become effective
12 immediately upon its passage and approval by the Governor, or
13 its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB156

Senate 11-FEB-10

I hereby certify that the within Act originated in and passed the Senate, as amended.

McDowell Lee
Secretary

House of Representatives
Passed: 23-FEB-10

By: Senator Dixon