

1 HB351  
2 205593-1  
3 By Representative Garrett  
4 RFD: State Government  
5 First Read: 27-FEB-20

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8 SYNOPSIS: Under existing law, the Department of Labor  
9 is responsible for surface mining reclamation,  
10 abandoned mine reclamation, and unemployment  
11 compensation.

12 This bill would update definitions and  
13 correct references to the Secretary of Labor, would  
14 specify that a departmental employee, rather than a  
15 registered forester, perform certain inspections,  
16 and would increase the amount of funds retained in  
17 the Special Abandoned Mine Reclamation Trust Fund  
18 in the State Treasury, from appropriated funds  
19 granted annually by the U.S. Department of the  
20 Interior, from 10 to 30 percent.

21 This bill would also conform language  
22 relating to unemployment compensation benefit years  
23 beginning on or after July 2, 2006.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

1  
2           Relating to the Department of Labor; to amend  
3 Sections 9-16-2, 9-16-8 and 9-16-135, Code of Alabama 1975,  
4 relating to the Alabama Surface Mining Act of 1969, and  
5 abandoned mine reclamation, to update definitions; to correct  
6 references to the Secretary of Labor; to specify that a  
7 departmental employee, rather than a registered forester,  
8 perform certain inspections; and to increase the amount of  
9 funds retained in the Special Abandoned Mine Reclamation Trust  
10 Fund in the State Treasury, from appropriated funds granted  
11 annually by the U.S. Department of the Interior, from 10 to 30  
12 percent; and would amend Section 25-4-72, as amended by Act  
13 2019-204, 2019 Regular Session, Code of Alabama 1975, relating  
14 to unemployment compensation; to conform language relating to  
15 benefit years beginning on or after July 2, 2006; and to add  
16 Sections 25-4-59 and 25-4-153 to the Code of Alabama 1975, to  
17 provide that procedures provided in Article 3 and Article 7 of  
18 Chapter 4, of Title 25 are exclusive.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20           Section 1. Sections 9-16-2, 9-16-8, 9-16-135, and  
21 25-4-72, as amended by Act 2019-204, 2019 Regular Session, of  
22 the Code of Alabama 1975, are amended to read as follows:

23           "§9-16-2.

24           "Unless clearly indicated otherwise by the context,  
25 as used in this article, the following terms have the  
26 following meanings:

1           "(1) AFFECTED LAND. The area of land from which  
2 overburden has been removed or upon which overburden has been  
3 deposited after October 1, 1970.

4           "(2) CONTEMPORANEOUS. Occurring at the same time as  
5 a surface mining operation and in conjunction with the grading  
6 activities at the site.

7           "(3) CONTIGUOUS. In actual contact, touching, as  
8 contrasted with being near but not in contact.

9           "(4) DEPARTMENT. The Department of ~~Industrial~~  
10 ~~Relations~~ Labor of the State of Alabama or any department,  
11 bureau, or commission as may lawfully succeed to the powers  
12 and duties of the department relating to mining operations.

13           "(5) DIRECT SEEDING. The planting of seeds by hand  
14 sowing, machine sowing, or aerial seeding.

15           "~~(6) DIRECTOR. Director of the department or~~  
16 ~~officer, bureau, or commission as may lawfully succeed to the~~  
17 ~~powers and duties of the director.~~

18           "~~(7)~~ (6) HIGHWALL. The unexcavated face of exposed  
19 overburden or mineral in an opencast mine or the face or bank  
20 on the uphill side of a contour surface mine excavation.

21           "~~(8)~~ (7) INSPECTOR. Any authorized employee of the  
22 department under the direction of the director.

23           "~~(9)~~ (8) OPERATOR. Any person, firm, partnership,  
24 association, or corporation engaged in or controlling one or  
25 more surface mining operations.

26           "~~(10)~~ (9) OVERBURDEN. All of the earth and other  
27 materials which lie above natural deposits of clay, sand,

1 gravel, ores, and other minerals except limestone, marble, and  
2 dolomite, and also the earth and other materials disturbed  
3 from their natural state in the process of surface mining.

4 "~~(11)~~(10) PEAK. A projected point of overburden  
5 created in the process of surface mining.

6 "~~(12)~~(11) PERMIT PERIOD. A one-year period  
7 commencing on the issuance of a permit to engage in surface  
8 mining.

9 "~~(13)~~(12) PERSON. Any natural person, firm,  
10 corporation, association, partnership, joint venture, or  
11 representative of any kind or any other group acting as a  
12 unit.

13 "~~(14)~~(13) PIT. A tract of land from which overburden  
14 has been or is being removed for the purpose of surface  
15 mining.

16 "~~(15)~~(14) RECLAMATION. The reconditioning or  
17 rehabilitation of affected land in accordance with the  
18 requirements of this article.

19 "~~(16)~~(15) REFUSE. All waste material, exclusive of  
20 overburden, directly connected with the mining, cleaning, or  
21 preparation of substances mined by surface mining.

22 "~~(17)~~(16) RIDGE. A lengthened elevation of  
23 overburden created in the process of surface mining.

24 "(17) SECRETARY. The Secretary of the Department of  
25 Labor or officer, bureau, or commission as may lawfully  
26 succeed to the powers and duties of the secretary.

1           "(18) SETBACK. An undisturbed buffer strip adjacent  
2 to watercourses, lakes, easements, adjoining property,  
3 perimeter property lines, road rights-of-way, residences, or  
4 other features which could be adversely affected by mining.

5           "(19) SURFACE MINING. The mining of clay, sand,  
6 gravel, ores, and other minerals except chert (or similar type  
7 pits from which construction materials are obtained, which  
8 involve five acres or less and do not involve excavation below  
9 the surrounding area in such a way as to create a pit that  
10 will accumulate water), limestone, marble, dolomite, and coal,  
11 by removing the overburden lying above natural deposits  
12 thereof and mining directly from the natural deposits thereby  
13 exposed or by mining directly from deposits lying exposed in  
14 their natural state.

15           "§9-16-8.

16           "(a) (1) Any bond provided in this article to be  
17 filed with the department by the operator shall be in the form  
18 as the ~~director~~ secretary prescribes, payable to the State of  
19 Alabama and conditioned that the operator shall faithfully  
20 perform all applicable requirements of this article and comply  
21 with all applicable rules of the department made in accordance  
22 with the provisions of this article. The bond shall be signed  
23 by the operator, as principal, and by a good and sufficient  
24 corporate surety licensed to do business in the State of  
25 Alabama, as surety. The penalty of the bond shall be two  
26 thousand five hundred dollars (\$2,500) for each acre covered  
27 by the permit.

1           "(2) In lieu of a bond, the operator may elect to  
2 deposit cash or negotiable bonds of the United States  
3 government or the State of Alabama or any municipality within  
4 the state with the department in lieu of a corporate surety.  
5 The cash deposit or market value of the securities shall be  
6 equal at least to the sum of the bond.

7           "(3) The department ~~shall~~, upon receipt of any  
8 deposit of cash or securities, shall immediately place the  
9 same with the State Treasurer, whose duty it shall be to  
10 receive and hold the same in the name of the state, in trust,  
11 for the purposes for which the deposit is made. The State  
12 Treasurer shall at all times be responsible for the custody  
13 and safekeeping of the deposits. The operator making the  
14 deposit shall be entitled from time to time to demand and  
15 receive from the State Treasurer, on the written order of the  
16 ~~director~~ secretary, the whole or any portion of any securities  
17 so deposited, upon depositing with the State Treasurer in lieu  
18 thereof other negotiable securities of the classes specified  
19 in this section having a market value at least equal to the  
20 sum of the cash deposits or securities deposited. When the  
21 securities mature or are called, the State Treasurer, at the  
22 request of the operator, shall convert the securities into  
23 other negotiable securities of the classes specified in this  
24 section as may be designated by the operator. The total  
25 penalty of the bond or amount of cash and securities shall be  
26 increased or reduced from time to time as land is added to or  
27 withdrawn from the permit as provided in this article.

1           "(b) Whenever an operator shall have completed all  
2 applicable requirements under the provisions of this article  
3 as to any affected land, the operator shall notify the  
4 department. The department shall within 30 days after  
5 notification by the operator inspect the affected land  
6 completed by the operator and, if the land has been reclaimed  
7 as required by this article, shall release the operator from  
8 further obligations regarding the affected land and reduce or  
9 release the bond or substituted cash or securities of the  
10 operator. Inspections by the department under this subsection  
11 shall include inspection by a ~~registered forester~~ departmental  
12 mining and reclamation employee.

13           "(c) A bond filed as above prescribed shall be  
14 conditioned so that it cannot be cancelled by the surety  
15 except after not less than 90 days written notice to the  
16 department. If a bond is cancelled after the notice, the  
17 operator shall, on or before the effective date of the  
18 cancellation, substitute for the bond another bond, or cash,  
19 or securities as provided in this section.

20           "(d) If the license to do business in the state of a  
21 surety upon a bond filed with the department pursuant to this  
22 article shall be suspended or revoked, the operator, within 30  
23 days after receiving written notice thereof from the  
24 department, shall substitute for the surety a good and  
25 sufficient corporate surety licensed to do business in the  
26 State of Alabama or another bond, or cash, or securities in  
27 lieu thereof as provided in this section.



1           "(e) The failure of the operator to make  
2 substitution of surety as provided in subsections (c) and (d)  
3 of this section shall result in the automatic suspension of  
4 the permit of the operator to conduct mining operations on the  
5 land described in the permit, and the operator shall not  
6 conduct further or additional mining operations on the land  
7 described in the permit until substitution as provided in this  
8 section has been made on the surety.

9           "§9-16-135.

10           "There is hereby created in the State Treasury a  
11 Special Abandoned Mine Reclamation Trust Fund to receive and  
12 retain up to ~~10~~ 30 percent of the appropriated funds granted  
13 annually by the Secretary of the U.S. Department of Interior  
14 for the reclamation of abandoned mine lands in Alabama. All  
15 moneys so deposited by the ~~Director~~ Secretary of the  
16 Department of Labor shall accrue interest, and together with  
17 all interest earned, shall be available for expenditure by the  
18 ~~Director~~ Secretary of the Department of Labor after August 3,  
19 1992, solely to accomplish the purposes set forth in Section  
20 9-16-122(b). All moneys in this fund shall be deposited,  
21 administered and disbursed in the same manner and under the  
22 same conditions and requirements as provided by law for other  
23 special trust funds in the State Treasury. Moneys in this  
24 special trust fund shall be separately accounted for and  
25 continuously available to the ~~Director~~ Secretary of the  
26 Department of Labor for expenditure as herein provided and  
27 shall not lapse at any time.

1           "§25-4-72.

2           "(a) For weeks of unemployment during benefit years  
3 which begin before the effective date of subsection (b), an  
4 individual's weekly benefit amount shall be as prescribed by  
5 this section as amended through July 6, 1997.

6           "(b) For weeks of unemployment during benefit years  
7 beginning on or after July 2, 2006, an individual's weekly  
8 benefit amount shall be an amount ~~based on an equal division~~  
9 ~~of the current weeks compensated~~ equal to one twenty-sixth of  
10 the average of the wages for insured work paid to the  
11 individual during the two quarters of his or her base period  
12 in which the total wages were the highest; except, that:

13           "(1) If the amount thus derived is not a multiple of  
14 one dollar (\$1), fractional parts of one dollar (\$1) in excess  
15 of fifty cents (\$.50) shall be rounded to the next higher  
16 multiple of one dollar (\$1) and fractional parts of one dollar  
17 (\$1) which are fifty cents (\$.50) or less shall be dropped to  
18 the next lower multiple of one dollar (\$1).

19           "(2) If the amount derived before the application of  
20 subdivision (1) is not in excess of forty-four dollars fifty  
21 cents (\$44.50), there shall be no weekly benefit amount.

22           "(3) Effective with benefit years beginning on or  
23 after July 6, 2008, if the amount thus derived is more than  
24 two hundred fifty-four dollars fifty cents (\$254.50), the  
25 weekly maximum benefit amount shall be two hundred fifty-five  
26 dollars (\$255).

1           "(4) Effective with benefit years beginning on or  
2 after July 5, 2009, if the amount thus derived is more than  
3 two hundred sixty-four dollars fifty cents (\$264.50), the  
4 weekly maximum benefit shall be two hundred sixty-five dollars  
5 (\$265).

6           "(5) Effective with benefit years beginning on or  
7 after January 1, 2020, if the amount thus derived is more than  
8 two hundred seventy-four dollars fifty cents (\$274.50), the  
9 weekly maximum benefit shall be two hundred seventy-five  
10 dollars (\$275).

11           "(c) If, as a condition for approval of this section  
12 for full tax credit against the tax imposed by the federal  
13 Unemployment Tax Act, federal law should require a greater  
14 maximum weekly benefit amount than that provided herein, then  
15 the maximum weekly benefit amount shall be the minimum  
16 required by any such federal law for such approval.

17           "(d) Nothing herein shall serve to deprive any  
18 individual of any benefit for which he or she had qualified in  
19 any benefit year beginning before the effective date of  
20 subsection (b).

21           "(e) There is hereby appropriated out of funds made  
22 available to this state under Section 903 of the Social  
23 Security Act, as amended by Title II, Section 209, "Special  
24 Reed Act Transfer in Fiscal Year 2002," of the "Temporary  
25 Extended Unemployment Compensation Act of 2002," as contained  
26 in the "Job Creation and Worker Assistance Act of 2002," an  
27 amount not to exceed 15 percent of the funds, or so much

1       thereof to be used as may be necessary, under the direction of  
2       the State of Alabama, Department of Labor, for the expenses  
3       incurred for the administration of this state's unemployment  
4       compensation law and public employment offices.

5       Notwithstanding the foregoing, the additional amount of up to  
6       \$7,940,119 of "Reed Act" funds may be withdrawn from the  
7       Unemployment Compensation Trust Fund and used for  
8       administrative purposes from May 29, 2008, until September 30,  
9       2009. Furthermore, whatever amount is withdrawn during this  
10      time period, that amount shall not change the Employer Tax  
11      Schedules pursuant to Section 25-4-54 for the calendar year  
12      beginning January 1, 2010."

13                 Section 2. Sections 25-4-59 and 25-4-153 are added  
14      to the Code of Alabama 1975, to read as follows:

15                         §25-4-59.

16                 The procedures provided for in this article and  
17      Article 7, commencing with Section 25-4-130, for the making of  
18      determinations with respect to contribution rates and  
19      payments, and for appealing from such determinations, shall be  
20      exclusive.

21                         §25-4-153.

22                 The procedures provided for in this article and  
23      Article 3, commencing with Section 25-4-50, for the making of  
24      determinations with respect to contribution rates and  
25      payments, and for appealing from such determinations, shall be  
26      exclusive.

1                   Section 3. This act shall become effective July 1,  
2                   2020, following its passage and approval by the Governor, or  
3                   its otherwise becoming law.