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SENATE BILL NO. 825

Offered January 23, 2026

A BILL to amend and reenact §§ 45.2-1044, 45.2-1045, and 45.2-1046 of the Code of Virginia, relating to Coal Surface Mining Reclamation Fund; surface mining pool bond fees.

Patron—Hackworth

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 45.2-1044, 45.2-1045, and 45.2-1046 of the Code of Virginia are amended and reenacted as follows:

§ 45.2-1044. Participation in Fund.

A. Participation in the Fund is open to any operator applying for a permit under this chapter who can demonstrate to the Director a history of at least three consecutive years of compliance under this chapter or any other comparable state or federal act as approved by the Director.

B. Participation in the Fund is optional as to each permit application, and approval of such participation by the Division, upon payment by the operator of all entrance fees to the Fund required by this article, shall constitute compliance with all requirements of § 45.2-1016 and regulations issued pursuant thereto. Such participation shall relieve the operator of all bonding requirements except those set forth in this article. Nothing in this article shall preclude compliance with § 45.2-1016 in lieu of participation in the Fund, prior to commencement of such participation. Commencement of participation in the Fund, as to the applicable permit, constitutes an irrevocable commitment to participate therein as to the applicable permit and for the duration of the coal surface mining operations covered thereunder.

C. For any mining operation bonded under this article, the total cumulative amount of exposed highwall shall not exceed 1,500 linear feet unless (i) an operational justification is provided to the Director's satisfaction and (ii) a bond for the proposed additional area has been submitted in accordance with subsection D. The width of the coal pit shall be limited to two mining cuts or 500 feet, whichever is less, measured perpendicular from the most advanced highwall to the coal outcrop or to the nearest point of rough backfilling and grading.

D. The Director may allow extended distances for rough backfilling and grading beyond those established in this section if the applicant (i) can demonstrate to the Director a history of at least seven consecutive years of compliance with this chapter or with any other comparable state or federal act or and (ii) submits a bond for the proposed additional area beyond 3,000 feet in each approved work area or beyond 6,000 feet for purposes of the entire permit's footage. The additional bond shall be equal to the ratio of the extended distance to the distance specified in subsection C, multiplied by an approved cost estimate of reclamation prepared for the permit \$60 for each foot of extension beyond 3,000 feet in each approved work area or beyond 6,000 feet for purposes of the entire permit's footage.

§ 45.2-1045. Initial payments into Fund; renewal payments; bonds.

A. Any operator filing a permit application for a coal surface mining operation participating in the pool fund shall pay into the Fund, as an entrance fee, a sum equal to ~~\$1,000~~ \$2,000 for each applicable permit application. An entrance fee of \$5,000 shall be required of each operator who elects to participate in the Fund if the Director has determined that the total balance of the Fund is less than ~~\$1.75 million~~ \$5 million. The entrance fee shall be reduced to \$1,000 when the total Fund balance is greater than ~~\$2 million~~ \$7.5 million. A renewal fee of ~~\$1,000~~ \$2,000 shall be required of each permittee in the Fund at permit renewal.

1. For the purposes of this section, all planned expenditures shall be deducted from the balance of the Fund during each calendar quarter, including any forfeiture on which engineering cost estimates have been prepared but no money from the Fund has actually been expended.

2. If the actual expenditures from the Fund are less than the engineering cost estimate, the difference shall be credited to the balance of the Fund during the calendar quarter in which the final expenditure is made from the Fund to accomplish the reclamation.

B. In addition to the initial payments into the Fund described in subsection A, every operator who participates in the Fund shall furnish to the Fund a bond that meets the criteria of § 45.2-1016 and regulations issued pursuant thereto as follows:

1. For an underground mining operation participating in the Fund prior to July 1, 1991, the amount of \$1,000 per acre covered by each permit. In no event shall such total bond be less than \$40,000, except that on a permit that has completed all mining and for which a completion report was approved prior to July 1, 1991, the total bond shall not be less than \$10,000.

2. For an underground mining operation entering the Fund on or after July 1, 1991, and for any additional

59 acreage bonded after such date, the amount of \$3,000 per acre. In no event shall the total bond for such  
60 underground operation entering the Fund on or after July 1, 1991, be less than \$40,000.

61 3. For any other coal mining operation participating in the Fund prior to July 1, 1991, the amount of  
62 \$1,500 per acre covered by each permit. In no event shall such total bond be less than \$100,000, except that  
63 on a permit that has completed all mining and for which a completion report was approved prior to July 1,  
64 1991, the total bond shall not be less than \$25,000.

65 4. For any other coal mining operation entering the Fund on or after July 1, 1991, and for any additional  
66 acreage bonded after such date, the amount of \$3,000 per acre. In no event shall the total bond for such  
67 operation entering the Fund on or after July 1, 1991, be less than \$100,000.

68 C. All fees and payments provided in this article shall be in addition to initial permit application and  
69 anniversary payments provided pursuant to § 45.2-1010 or any other payments required in compliance with  
70 this chapter.

71 D. Each Fund participant shall be allowed to post incremental bonds as set forth in § 45.2-1016. Such  
72 bonds shall be posted in annual increments according to a schedule contained in the permit application and  
73 approved annually by the Director on the anniversary date.

74 E. Any mining operation participating in the Fund that has been in temporary cessation for more than six  
75 months as of July 1, 1991, shall within 90 days of that date post bond equal to the total estimated cost of  
76 reclamation for all portions of the permitted site that are in temporary cessation. Any mining operation  
77 participating in the Fund that has been in temporary cessation for six months or less as of July 1, 1991, shall  
78 within 90 days after the date on which the operation has been in temporary cessation for more than six  
79 months post bond equal to the total estimated cost of reclamation for all portions of the permitted site that are  
80 in temporary cessation. Any mining operation participating in the Fund that enters temporary cessation on or  
81 after July 1, 1991, shall, prior to the date on which the operation has been in temporary cessation for more  
82 than six months, post bond equal to the total estimated cost of reclamation for all portions of the permitted  
83 site that are in temporary cessation. *In each case, any bond currently posted shall be subtracted from the total*  
84 *estimated cost of reclamation such that the amount of the final posted bond is sufficient to complete*  
85 *reclamation.* Such bond shall remain in effect throughout the remainder of the period during which the site is  
86 in temporary cessation. At such time as the site returns to active status, the bond posted under this subsection  
87 may be released if the permittee has posted bond pursuant to subsection B.

88 **§ 45.2-1046. Assessment of reclamation tax revenues for Fund.**

89 A. There is hereby levied a reclamation tax upon the production of coal by each operator participating in  
90 the Fund under a permit issued under this chapter as set forth in this article.

91 B. *The Director shall assess market conditions no less than biannually to set the rate of reclamation tax*  
92 *based on the (i) most recent price per ton of metallurgical coal exports as reported by the U.S. Energy*  
93 *Information Administration or (ii) local market conditions provided by the industry representatives currently*  
94 *servicing on the Coal Surface Mine Reclamation Fund Advisory Board pursuant to § 45.2-1051. Such rate*  
95 *shall be as follows for surface mining operations permitted and bonded under this chapter:*

96 1. *For a reported price of less than \$175 per ton, (i) four cents (\$0.04) per clean ton of coal produced by*  
97 *a surface mining operation, (ii) three cents (\$0.03) per clean ton of coal produced by a deep mining*  
98 *operation, and (iii) one and one-half cents (\$0.015) per clean ton of coal processed or loaded by a*  
99 *preparation or loading facility.*

100 2. *For a reported price of equal to or greater than \$175 per ton and less than \$200 per ton, (i) five cents*  
101 *(\$0.05) per clean ton of coal produced by a surface mining operation, (ii) four cents (\$0.04) per clean ton of*  
102 *coal produced by a deep mining operation, and (iii) two cents (\$0.02) per clean ton of coal processed or*  
103 *loaded by a preparation or loading facility.*

104 3. *For a reported price of equal to or greater than \$200 per ton and less than \$225 per ton, (i) six cents*  
105 *(\$0.06) per clean ton of coal produced by a surface mining operation, (ii) five cents (\$0.05) per clean ton of*  
106 *coal produced by a deep mining operation, and (iii) two and one-half cents (\$0.025) per clean ton of coal*  
107 *processed or loaded by a preparation or loading facility.*

108 4. *For a reported price of equal to or greater than \$225 per ton, (i) seven and one-half cents (\$0.075) per*  
109 *clean ton of coal produced by a surface mining operation, (ii) six cents (\$0.06) per clean ton of coal*  
110 *produced by a deep mining operation, and (iii) three cents (\$0.03) per clean ton of coal processed or loaded*  
111 *by a preparation or loading facility.*

112 C. ~~Thirty days after the end of each calendar quarter during which the total balance of the Fund, including~~  
113 ~~interest thereon, is less than \$20 million, each operator shall pay into the Fund an amount equal to:~~

114 1. ~~Four cents per clean ton of coal produced by a surface mining operation permitted under this chapter;~~

115 2. ~~Three cents per clean ton of coal produced by a deep mining operation permitted under this chapter;~~  
116 ~~and~~

117 3. ~~One and one-half cents per clean ton of coal processed or loaded by a preparation or loading facility~~  
118 ~~permitted under this chapter.~~

119 C. ~~At the end of each calendar quarter during which the total balance in the Fund, including interest~~  
120 ~~thereon, exceeds \$20 million, payments under this section shall cease until again required pursuant to~~

121 ~~subsection B~~ *the effective rate established in subsection B by the Director per clean ton of coal produced in*  
122 *that quarter.*

123 D. In no event shall any operator pay reclamation tax under this section on total coal production in excess  
124 of five million tons per calendar year, regardless of the number of permits held by that operator. In no event  
125 shall any operator holding more than one type of permit pay tax at a rate in excess of five and one-half cents  
126 per ton on coal originally surface-mined by that operator or in excess of four and one-half cents per ton on  
127 coal originally deep-mined by that operator. Any operator holding one permit upon which coal is mined and  
128 processed or loaded shall pay only the tax applicable under this section to the surface mining operation or  
129 deep mining operation.

**INTRODUCED**

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