

SENATE BILL NO. 365

INTRODUCED BY

Cole

Rehbein Storal Darity

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING CRITERIA FOR APPROVAL OF RECLAIMED VEGETATION SEEDED USING INTRODUCED SPECIES APPROVED BY THE DEPARTMENT OF STATE LANDS; AMENDING SECTION 82-4-235, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

STATEMENT OF INTENT

This bill is intended to provide criteria for approving as successful reclamation reclaimed vegetation seeded in the 1970s and early 1980s using seed mixes that included grass species approved by the department of state lands. At that time, availability of native grass seed was very limited and introduced species in combination with native species were routinely approved. Because introduced grass species can be aggressive competitors, many of these state lands are now dominated by introduced species. Current standards require dominance by native species as a condition for release of bond, and hence, mine operators might be required to plow and reseed, restarting the 10-year bond liability period. Reclaimed vegetation dominated by introduced species has demonstrated its ability to withstand climatic extremes, support grazing of livestock, provide habitat for wildlife, and control erosion. The date of May 3, 1978, is the date on which reclamation performance standards of the federal Surface Mining Control and Reclamation Act of 1977 became effective on existing coal mining operations in Montana.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-4-235, MCA, is amended to read:

"82-4-235. Inspection of vegetation -- final bond release. (1) Inspection and evaluation for permanent diverse vegetative cover shall must be made as soon as ~~it is~~ possible to determine if a satisfactory stand has been established. If the department determines that a satisfactory permanent diverse vegetative cover has been established, it shall release the remaining bond held on the area reclaimed after public notice and an opportunity for hearing as provided in 82-4-232(6). ~~In no event shall such~~ For land that was seeded using a seed mix that included a substantial component of introduced species approved by the department pursuant to 82-4-233(2) and on which reclaimed vegetation otherwise meets the requirements

1 of 82-4-233(1), approval of reclaimed vegetation for release of bond may not be withheld on the basis that
2 introduced species compose a major or dominant component. Except as provided in subsection (2)(b), the
3 remaining bond may not be released prior to a period of 10 years after the last year of augmented seeding,
4 fertilizing, irrigation, or other work required under this part for those operations or portions of operations
5 that were seeded after ~~February 2~~ May 2, 1978, or prior to a period of 5 years after initial planting for all
6 exploration activities and all other operations.

7 (2) (a) Notwithstanding the provision in subsection (1), on land from which coal was removed prior
8 to May 3, 1978, and on land from which coal was not removed and that was not used, disturbed, or
9 redisturbed in connection with this part after May 2, 1978, the department may approve for release a bond
10 on an area of reclaimed vegetation that meets the following criteria:

11 (i) it was seeded using a seed mixture that was approved by the department under the criteria
12 established pursuant to 82-4-233 and that included introduced species; and

13 (ii) at least one of the following conditions exists:

14 (A) the standards of 82-4-233(1) are otherwise achieved;

15 (B) the operator has demonstrated substantial usefulness of the reclaimed vegetation for grazing
16 of livestock;

17 (C) the operator demonstrates that the reclaimed vegetation has substantial value as a habitat
18 component for wildlife present in the area; or

19 (D) the topography and soils are suitable for conversion to cropland or hayland consistent with the
20 standards of 82-4-232(8) and the department approves and the operator completes that conversion.

21 (b) On lands that meet the criteria described in subsection (2)(a), interseeding or supplemental
22 planting may be performed without reinitiating the liability period provided in subsection (1)."

23
24 **NEW SECTION. Section 2. Effective date.** [This act] is effective on the date that it is approved
25 by the secretary of the United States department of the interior pursuant to 30 U.S.C. 1253. If the
26 secretary disapproves any portion of [this act], those provisions that are approved become effective on the
27 date of approval.

28 -END-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

SENATE BILL NO. 365

INTRODUCED BY COLE, REHBEIN, STOVALL, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING CRITERIA FOR APPROVAL OF RECLAIMED VEGETATION SEEDED USING INTRODUCED SPECIES APPROVED BY THE DEPARTMENT OF STATE LANDS; AMENDING SECTION 82-4-235, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

STATEMENT OF INTENT

This bill is intended to provide criteria for approving as successful reclamation reclaimed vegetation seeded in the 1970s and early 1980s using seed mixes that included grass species approved by the department of state lands. At that time, availability of native grass seed was very limited and introduced species in combination with native species were routinely approved. Because introduced grass species can be aggressive competitors, many of these state lands are now dominated by introduced species. Current standards require dominance by native species as a condition for release of bond, and hence, mine operators might be required to plow and reseed, restarting the 10-year bond liability period. Reclaimed vegetation dominated by introduced species has demonstrated its ability to withstand climatic extremes, support grazing of livestock, provide habitat for wildlife, and control erosion. The date of May 3, 1978, is the date on which reclamation performance standards of the federal Surface Mining Control and Reclamation Act of 1977 became effective on existing coal mining operations in Montana.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-4-235, MCA, is amended to read:

"82-4-235. **Inspection of vegetation -- final bond release.** (1) Inspection and evaluation for permanent diverse vegetative cover shall must be made as soon as it is possible FOLLOWING AN APPLICATION FOR FINAL BOND RELEASE to determine if a satisfactory stand has been established. If the department determines that a satisfactory permanent diverse vegetative cover has been established, it shall release the remaining bond held on the area reclaimed after public notice and an opportunity for hearing as provided in 82-4-232(6). ~~In no event shall such~~ For land that was seeded using a seed mix that included a substantial component of introduced species approved by the department pursuant to 82-4-233(2) and

1 on which reclaimed vegetation otherwise meets the requirements of 82-4-233(1), approval of reclaimed
2 vegetation for release of bond may not be withheld on the basis that introduced species compose a major
3 or dominant component. Except as provided in subsection (2)(b), the remaining bond may not be released
4 prior to a period of 10 years after the last year of augmented seeding, fertilizing, irrigation, or other work
5 required under this part for those operations or portions of operations that were seeded after February 2
6 May 2, 1978, or prior to a period of 5 years after initial planting for all exploration activities and all other
7 operations.

8 (2) (a) Notwithstanding the provision in subsection (1), on land from which coal was removed prior
9 to May 3, 1978, and on land from which coal was not removed and that was not used, disturbed, or
10 redisturbed in connection with this part after May 2, 1978, the department may approve for release a bond
11 on an area of reclaimed vegetation that meets the following criteria:

12 (i) it was seeded using a seed mixture that was approved by the department under the criteria
13 established pursuant to 82-4-233 and that included introduced species; and

14 (ii) at least one of the following conditions exists:

15 (A) the standards of 82-4-233(1) are otherwise achieved;

16 (B) the operator has demonstrated substantial usefulness of the reclaimed vegetation for grazing
17 of livestock;

18 (C) the operator demonstrates that the reclaimed vegetation has substantial value as a habitat
19 component for wildlife present in the area; or

20 (D) the topography and soils are suitable for conversion to cropland or hayland consistent with the
21 standards of 82-4-232(8) and the department approves and the operator completes that conversion.

22 (b) On lands that meet the criteria described in subsection (2)(a), interseeding or supplemental
23 planting may be performed without reinitiating the liability period provided in subsection (1)."

24
25 **NEW SECTION. Section 2. Effective date.** [This act] is effective on the date that it is approved
26 by the secretary of the United States department of the interior pursuant to 30 U.S.C. 1253. If the
27 secretary disapproves any portion of [this act], those provisions that are approved become effective on the
28 date of approval.

29 -END-

1 SENATE BILL NO. 365

2 INTRODUCED BY COLE, REHBEIN, STOVALL, KEATING

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING CRITERIA FOR APPROVAL OF RECLAIMED
5 VEGETATION SEEDED USING INTRODUCED SPECIES APPROVED BY THE DEPARTMENT OF STATE
6 LANDS; AMENDING SECTION 82-4-235, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."
7

8 STATEMENT OF INTENT

9 This bill is intended to provide criteria for approving as successful reclamation reclaimed vegetation
10 seeded in the 1970s and early 1980s using seed mixes that included grass species approved by the
11 department of state lands. At that time, availability of native grass seed was very limited and introduced
12 species in combination with native species were routinely approved. Because introduced grass species can
13 be aggressive competitors, many of these ~~state~~ lands are now dominated by introduced species. Current
14 standards require dominance by native species as a condition for release of bond, and hence, mine
15 operators might be required to plow and reseed, restarting the 10-year bond liability period. Reclaimed
16 vegetation dominated by introduced species has demonstrated its ability to withstand climatic extremes,
17 support grazing of livestock, provide habitat for wildlife, and control erosion. The date of May 3, 1978,
18 is the date on which reclamation performance standards of the federal Surface Mining Control and
19 Reclamation Act of 1977 became effective on existing coal mining operations in Montana.
2021 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
2223 **Section 1.** Section 82-4-235, MCA, is amended to read:24 **"82-4-235. Inspection of vegetation -- final bond release.** (1) Inspection and evaluation for
25 permanent diverse vegetative cover ~~shall~~ must be made as soon as ~~it is~~ possible FOLLOWING AN
26 APPLICATION FOR FINAL BOND RELEASE to determine if a satisfactory stand has been established. If the
27 department determines that a satisfactory permanent diverse vegetative cover has been established, it shall
28 release the remaining bond held on the area reclaimed after public notice and an opportunity for hearing
29 as provided in 82-4-232(6). ~~In no event shall such~~ For land that was seeded using a seed mix that included
30 a substantial component of introduced species approved by the department pursuant to 82-4-233(2) and

1 on which reclaimed vegetation otherwise meets the requirements of 82-4-233(1), approval of reclaimed
2 vegetation for release of bond may not be withheld on the basis that introduced species compose a major
3 or dominant component. Except as provided in subsection (2)(b), the remaining bond may not be released
4 prior to a period of 10 years after the last year of augmented seeding, fertilizing, irrigation, or other work
5 required under this part for those operations or portions of operations that were seeded after February 2
6 May 2, 1978, or prior to a period of 5 years after initial planting for all exploration activities and all other
7 operations.

8 (2) (a) Notwithstanding the provision in subsection (1), on land from which coal was removed prior
9 to May 3, 1978, and on land from which coal was not removed and that was not used, disturbed, or
10 redisturbed in connection with this part after May 2, 1978, the department may approve for release a bond
11 on an area of reclaimed vegetation that meets the following criteria:

12 (i) it was seeded using a seed mixture that was approved by the department under the criteria
13 established pursuant to 82-4-233 and that included introduced species; and

14 (ii) at least one of the following conditions exists:

15 (A) the standards of 82-4-233(1) are otherwise achieved;

16 (B) the operator has demonstrated substantial usefulness of the reclaimed vegetation for grazing
17 of livestock;

18 (C) the operator demonstrates that the reclaimed vegetation has substantial value as a habitat
19 component for wildlife present in the area; or

20 (D) the topography and soils are suitable for conversion to cropland or hayland consistent with the
21 standards of 82-4-232(8) and the department approves and the operator completes that conversion.

22 (b) On lands that meet the criteria described in subsection (2)(a), interseeding or supplemental
23 planting may be performed without reinitiating the liability period provided in subsection (1)."

24
25 **NEW SECTION. Section 2. Effective date.** [This act] is effective on the date that it is approved
26 by the secretary of the United States department of the interior pursuant to 30 U.S.C. 1253. If the
27 secretary disapproves any portion of [this act], those provisions that are approved become effective on the
28 date of approval.

29 -END-

1 SENATE BILL NO. 365

2 INTRODUCED BY COLE, REHBEIN, STOVALL, KEATING

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING CRITERIA FOR APPROVAL OF RECLAIMED
5 VEGETATION SEEDED USING INTRODUCED SPECIES APPROVED BY THE DEPARTMENT OF STATE
6 LANDS; AMENDING SECTION 82-4-235, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."
7

8 STATEMENT OF INTENT

9 This bill is intended to provide criteria for approving as successful reclamation reclaimed vegetation
10 seeded in the 1970s and early 1980s using seed mixes that included grass species approved by the
11 department of state lands. At that time, availability of native grass seed was very limited and introduced
12 species in combination with native species were routinely approved. Because introduced grass species can
13 be aggressive competitors, many of these ~~state~~ lands are now dominated by introduced species. Current
14 standards require dominance by native species as a condition for release of bond, and hence, mine
15 operators might be required to plow and reseed, restarting the 10-year bond liability period. Reclaimed
16 vegetation dominated by introduced species has demonstrated its ability to withstand climatic extremes,
17 support grazing of livestock, provide habitat for wildlife, and control erosion. The date of May 3, 1978,
18 is the date on which reclamation performance standards of the federal Surface Mining Control and
19 Reclamation Act of 1977 became effective on existing coal mining operations in Montana.
2021 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
22

23 Section 1. Section 82-4-235, MCA, is amended to read:

24 "82-4-235. Inspection of vegetation -- final bond release. (1) Inspection and evaluation for
25 permanent diverse vegetative cover ~~shall~~ must be made as soon as ~~it is~~ possible FOLLOWING AN
26 APPLICATION FOR FINAL BOND RELEASE to determine if a satisfactory stand has been established. If the
27 department determines that a satisfactory permanent diverse vegetative cover has been established, it shall
28 release the remaining bond held on the area reclaimed after public notice and an opportunity for hearing
29 as provided in 82-4-232(6). ~~In no event shall such~~ For land that was seeded using a seed mix that included
30 a substantial component of introduced species approved by the department pursuant to 82-4-233(2) and

1 on which reclaimed vegetation otherwise meets the requirements of 82-4-233(1), approval of reclaimed
2 vegetation for release of bond may not be withheld on the basis that introduced species compose a major
3 or dominant component. Except as provided in subsection (2)(b), the remaining bond may not be released
4 prior to a period of 10 years after the last year of augmented seeding, fertilizing, irrigation, or other work
5 required under this part for those operations or portions of operations that were seeded after February 2
6 May 2, 1978, or prior to a period of 5 years after initial planting for all exploration activities and all other
7 operations.

8 (2) (a) Notwithstanding the provision in subsection (1), on land from which coal was removed prior
9 to May 3, 1978, and on land from which coal was not removed and that was not used, disturbed, or
10 redisturbed in connection with this part after May 2, 1978, the department may approve for release a bond
11 on an area of reclaimed vegetation that meets the following criteria:

12 (i) it was seeded using a seed mixture that was approved by the department under the criteria
13 established pursuant to 82-4-233 and that included introduced species; and

14 (ii) at least one of the following conditions exists:

15 (A) the standards of 82-4-233(1) are otherwise achieved;

16 (B) the operator has demonstrated substantial usefulness of the reclaimed vegetation for grazing
17 of livestock;

18 (C) the operator demonstrates that the reclaimed vegetation has substantial value as a habitat
19 component for wildlife present in the area; or

20 (D) the topography and soils are suitable for conversion to cropland or hayland consistent with the
21 standards of 82-4-232(8) and the department approves and the operator completes that conversion.

22 (b) On lands that meet the criteria described in subsection (2)(a), interseeding or supplemental
23 planting may be performed without reinitiating the liability period provided in subsection (1)."

24
25 **NEW SECTION. Section 2. Effective date.** [This act] is effective on the date that it is approved
26 by the secretary of the United States department of the interior pursuant to 30 U.S.C. 1253. If the
27 secretary disapproves any portion of [this act], those provisions that are approved become effective on the
28 date of approval.

29 -END-