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SENATE BILL NO. 373
Curtiss *Benedict Rob Devlin*

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CRITERIA FOR THE ISSUANCE OF BONDS FOR METAL MINE RECLAMATION ACTIVITIES; AND AMENDING SECTION 82-4-338, MCA."

Permit

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

Section 1. Section 82-4-338, MCA, is amended to read:

"82-4-338. Performance bond. (1) The applicant shall file with the department a bond payable to the state of Montana with surety satisfactory to the department in the sum to be determined by the department of not less than \$200 or more than \$2,500 for each acre or fraction of an acre of the disturbed area, conditioned upon the faithful performance of the requirements of this part, the rules of the board, and the permit. In lieu of a bond, the applicant may file with the board a cash deposit, an assignment of a certificate of deposit, or other surety acceptable to the board. Regardless of the limits in this subsection, the bond may not be less than the estimated cost to the state to ensure compliance with this part, the rules, and the permit. A public or governmental agency may not be required to post a bond under the provisions of this part. A blanket performance bond covering two or more operations may be accepted by the board. A blanket bond must adequately secure the estimated total number of acres of disturbed land.

(2) The department shall review the amount of each bond at least every 5 years and shall consult with the licensee or permittee if the review indicates that the bond level should be adjusted. When determined by the department that the set bonding level of a permit or license does not represent the present costs of compliance with this part, the rules, and the permit, the department may modify the bonding requirements of that permit or license. The department shall make written findings, give the licensee or permittee a copy of the findings, and, for operating permits, publish notice of the findings in a newspaper of general circulation in the county in which the operation is located. The permittee or any person with an interest that may be adversely affected may obtain a contested case hearing under the provisions of the Montana Administrative Procedure Act on the adjusted bond level by filing with the department within 30 days of the notice a written request for hearing.

(3) A bond filed in accordance with the provisions of this part may not be released by the

1 department until the provisions of this part, the rules adopted pursuant to this part, and the permit have
2 been fulfilled.

3 (4) A bond filed for an operating permit obtained under 82-4-335 may not be released until the
4 public has been provided an opportunity for a hearing.

5 (5) All bonds required in accordance with the provisions of this section must be based upon
6 reasonably foreseeable activities that the applicant will conduct in order to comply with conditions of an
7 operating permit or license. Bonds may be required only for anticipated activities as described in subsection
8 (1). Only those activities that themselves or in conjunction with other activities have a reasonable
9 probability of occurring may be bonded.

10 (6) At the applicant's discretion, bonding in addition to that required by this section may be posted.
11 These unobligated bonds may, on the applicant's request, be applied to future bonds required by this
12 section."

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0373, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

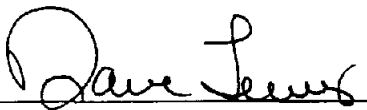
An Act establishing criteria for the issuance of bonds for metal mine reclamation activities.

ASSUMPTIONS:

1. As written, this proposed legislation has no fiscal impact to the hard rock bureau.

FISCAL IMPACT:

There is no fiscal impact to the Department of State Lands.

 2-16-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-16-95

MIKE FOSTER, PRIMARY SPONSOR DATE

Fiscal Note for SB0373, as introduced

SB 373

1 SENATE BILL NO. 373

2 INTRODUCED BY FOSTER, GRIMES, STANG, CURTISS, BENEDICT, BECK, DEVLIN, PAVLOVICH

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