

assets within this state or more than one half of their employees employed within this state. The total amount of an association's investments under this paragraph shall not exceed five percent of the association's capital and surplus. An association shall not invest in more than twenty percent of the total capital and surplus of any one small business under this paragraph. For purposes of this paragraph, "small business" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, which meets the appropriate small business administration definition of small business and which is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state or other investments which provide an economic benefit to the state; and "equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of investment, but does not mean general partnership interests or other interests involving general liability.

Approved May 16, 1985

CHAPTER 137
MINING OF ORES AND MINERALS
H.F. 540

AN ACT relating to the mining of ores and minerals other than coal and authorizing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 83A.1, Code 1985, is amended to read as follows:

83A.1 POLICY.

It is ~~hereby declared to be~~ the policy of this state to provide for the ~~rehabilitation~~ reclamation and conservation of land affected by surface mining and thereby to preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the people of this state.

Sec. 2. Section 83A.2, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. "Topsoil" means the natural medium located at the land surface with favorable characteristics for growth of vegetation.

Sec. 3. Section 83A.2, subsections 4 and 5, Code 1985, are amended by striking the subsections and inserting in lieu thereof the following:

4. "Mine site" means a site where surface mining is being conducted or has been conducted in the past and the operator anticipates further surface mining operations, or the surface operation related to an underground mine.

Sec. 4. Section 83A.2, subsection 7, Code 1985, is amended to read as follows:

7. "Affected land" means the area of land from which overburden has been removed or upon which overburden has been deposited or both, including crushing areas and stockpile areas but not including roads.

Sec. 5. Section 83A.2, subsection 8, Code 1985, is amended by striking the subsection.

Sec. 6. Section 83A.3, unnumbered paragraph 1, Code 1985, is amended to read as follows:

There is hereby established within the department of soil conservation a land ~~rehabilitation~~ reclamation advisory board which shall consist of seven members appointed by the governor, as follows:

Sec. 7. Section 83A.6, Code 1985, is amended to read as follows:

83A.6 DUTIES OF BOARD.

The advisory board shall:

1. Advise the department on any matter relating to administration and enforcement of this chapter and chapters 83 and 84.

2. Advise the department with respect to surface mined land ~~rehabilitation~~ reclamation demonstration projects.

3. Advise the department on the gathering, preparation, and dissemination of information on methods of ~~rehabilitating~~ reclaiming land which has been surface mined and on any state, federal, or other financial assistance which may be available to assist in paying the cost of ~~rehabilitation~~ reclamation of the land.

The department shall inform the advisory board of all complaints received relating to mining and mining operations.

Sec. 8. Section 83A.8, Code 1985, is amended to read as follows:

83A.8 SUSPENSION OR REVOCATION OF LICENSE.

The department may, with approval of the committee, commence proceedings to suspend, revoke, or refuse to renew a license of any licensee for repeated or willful violation of any of the provisions of this chapter ~~or the federal Metal and Nonmetallic Mine Safety Act.~~ The department shall by certified mail or personal service serve on the licensee notice in writing of the charges and grounds upon which the license is to be suspended, revoked, or will not be renewed. The notice shall include the time and the place at which a hearing shall be held before the committee to determine whether to suspend, revoke, or refuse to renew the license. The hearing shall be not less than fifteen nor more than thirty days after the mailing or service of the notice.

Sec. 9. Section 83A.9, Code 1985, is amended to read as follows:

83A.9 HEARING — COUNSEL.

~~Any~~ A licensee whose license the department proposes to suspend, revoke, or refuse to renew ~~shall have~~ has the right to counsel and may produce witnesses and present statements, documents, and other information in ~~his~~ the licensee's* behalf at the hearing. If after full investigation and hearing the licensee is found to have willfully or repeatedly violated any of the provisions of this chapter ~~or the federal Metal and Nonmetallic Mine Safety Act,~~ the committee may affirm or modify the proposed suspension, revocation, or refusal to renew the license. When the committee finds that a license should be suspended or revoked or should not be renewed, the department shall so notify the licensee in writing by certified mail or by personal service.

*According to enrolled Act

Sec. 10. Section 83A.13, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. A mine site registered pursuant to this section or section 83A.21 shall have, at the primary entrance to the mine site, a clearly visible sign which sets forth the name, business address, registration number, and phone number of the operator. Failure to post and maintain a sign as required by this subsection, within thirty days after notice from the department, invalidates the registration.

Sec. 11. Section 83A.13, subsection 1, Code 1985, is amended to read as follows:

1. ~~Within fifteen days after~~ At least seven days before beginning mining or removal of overburden at ~~any~~ a surface mining site not previously registered, an operator engaging in mining in this state shall register the mine site with the department. Application for registration shall be made upon a form provided by the department. A registration renewal shall be filed not later than twelve months following the initial registration and each subsequent renewal. Application for renewal of registration shall be on a form provided by the department. The registration renewal fee shall be established by the department in an amount not exceeding the cost of administration. The registration fee shall be established by the department in an amount not exceeding the cost of administering the registration provisions of this chapter, as estimated by the department. The application shall include a description of the tract or tracts of land where the site is located and the estimated number of acres at the site to be affected by the mine. The description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty to determine the location and to distinguish the land to be registered from other lands. The application shall include a statement explaining the authority of the applicant's legal right to operate a mine on the land.

Sec. 12. Section 83A.13, subsection 2, Code 1985, is amended by striking the subsection.

Sec. 13. Section 83A.14, Code 1985, is amended to read as follows:

83A.14 BOND.

The application for registration shall be accompanied by a bond or security as required under sections 83A.23 or 83A.24 ~~if overburden is removed~~. After ascertaining that the applicant is licensed under section 83A.7 and is not in violation of this chapter with respect to any mine site previously registered with the department, the department shall register the mine site and shall issue the applicant written authorization to ~~conduct surface mining on the site~~ operate a mine.

Sec. 14. Section 83A.17, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

83A.17 RECLAMATION REQUIREMENTS.

1. An operator authorized under this chapter to operate a mine, after completion of mining operations and within the time specified in section 83A.19, shall:

a. Grade affected lands except for impoundments, pit floors, and highwalls, to slopes having a maximum of one foot vertical rise for each four feet of horizontal distance. Where the original topography of the affected land was steeper than one foot of vertical rise for each four feet of horizontal distance, the affected lands may be graded to blend with the surrounding terrain.

b. Provide for the vegetation of the affected lands, except for impoundments, pit floors, and highwalls, as approved by the department before the release of the bond as provided in section 83A.19.

2. Notwithstanding subsection 1, overburden piles where deposition has not occurred for a period of twelve months shall be stabilized.

3. Crushing areas and stockpile areas in place on the effective date of this Act are not subject to this section unless those areas continue to function as a part of the mine site after July 1, 1988.

4. Topsoil that is a part of overburden shall not be destroyed or buried in the process of mining.

5. The department, with concurrence of the advisory board, may grant a variance from the requirements of subsections 1 and 2.

6. A bond or security posted under this chapter to assure reclamation of affected lands shall not be released until all the reclamation work required by this section has been performed in accordance with this chapter and departmental rules, except when a replacement bond or security is posted by a new operator or responsibility is transferred under section 83A.16.

Sec. 15. Section 83A.18, Code 1985, is amended to read as follows:

83A.18 PERIODIC REPORTS.

~~Every~~ An operator shall file with the department a periodic report for each mine site under registration ~~indicating whether the site is presently active or inactive.~~ Each ~~The~~ report shall make reference to the most recent registration of the mine site and shall show:

1. The location and extent of all surface land area on the mine site affected by surface mining during the period covered by the report.

2. The extent to which removal of mineral products from all or any part of the affected land lands has been completed.

~~A~~ The report ~~as prescribed by this section~~ shall be filed not later than twelve months after original registration of the site and prior to the expiration of each subsequent twelve-month period ~~thereafter~~. A report shall also be filed within thirty days after completion of all surface mining operations at the site regardless of the date of the last preceding report. ~~Forms on which for the filing of periodic reports required by this section shall be filed~~ shall be provided by the department.

Sec. 16. Section 83A.19, Code 1985, is amended to read as follows:

83A.19 REHABILITATION OF LAND RECLAMATION SCHEDULE.

An operator of a surface mine shall rehabilitate land affected by surface mining within twelve months reclaim affected lands according to a schedule established by the department, but within a period not to exceed three years, after the filing of a report required under section 83A.18 indicating the mining of any part of a site has been completed.

PARAGRAPH DIVIDED. For certain postmining land uses, such as a sanitary land fill, the department, with the approval of the land reclamation advisory board, may allow an extended reclamation period.

PARAGRAPH DIVIDED. ~~Each~~ An operator, upon completion of any rehabilitation reclamation work required by section 83A.17, shall apply to the department in writing for approval of the work. The department shall within a reasonable time determined by departmental rule inspect the completed rehabilitation reclamation work. Upon determination by the department that the operator has satisfactorily completed all required rehabilitation reclamation work on the land included in the application, the department shall release the bond or security on the rehabilitated reclaimed land, shall remove the land from registration, and shall terminate or amend as necessary the operator's authorization to conduct surface mining on the site.

Sec. 17. Section 83A.20, Code 1985, is amended to read as follows:

83A.20 EXTENSION OF TIME.

The time for completion of ~~rehabilitation~~ reclamation work may be extended upon presentation by the operator of evidence satisfactory to the department that ~~rehabilitation reclamation~~ of affected land cannot be completed within the time specified by section 83A.19 without unreasonably impeding removal of mineral products from other parts of an active site or future removal of mineral products from an initiative site.

Sec. 18. Section 83A.23, Code 1985, is amended to read as follows:

83A.23 FORM OF BOND.

~~Each~~ A bond filed with the department by an operator pursuant to this chapter shall be in a form prescribed by the department, payable to the state of Iowa, and conditioned upon faithful performance by the operator of all requirements of this chapter and all rules adopted by the department pursuant to this chapter. The bond shall be signed by the operator as principal and by a corporate surety licensed to do business in Iowa as surety. In lieu of a bond, the operator may deposit cash, certificates of deposit or government securities with the department on the same conditions as prescribed by this section for filing of bonds. The amount of the bond or other security required to be filed with an application for registration of a surface mining site, or to increase the area of a site previously registered, shall be equal to the estimated cost of ~~rehabilitating~~ reclaiming the site as required under section 83A.17. The estimated cost of ~~rehabilitation reclamation~~ of each individual site shall be determined by the department on the basis of relevant factors including, but not limited to, topography of the site, mining methods being employed, depth and composition of overburden, and depth of the mineral deposit being mined. The department may require an applicant for registration or amendment of registration of a site to furnish information necessary to estimate the cost of ~~rehabilitating~~ reclaiming the site. The penalty of the bond or the amount of cash or securities on deposit may be increased or reduced from time to time in accordance with section 83A.15.

Sec. 19. Section 83A.24, Code 1985, is amended to read as follows:

83A.24 SINGLE BOND FOR MULTIPLE SITES.

~~Any~~ An operator who registers with the department two or more surface mining sites may elect, at the time the second or ~~any~~ a subsequent site is registered, to post a single bond in lieu of separate bonds on each site. ~~Any~~ A single bond so posted shall be in an amount equal to the estimated cost of ~~rehabilitating~~ reclaiming all sites the operator has registered, determined as provided in section 83A.23. The penalty of a single bond on two or more surface mining sites may be increased or decreased from time to time in accordance with sections 83A.14, 83A.15, and 83A.19. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the department.

Sec. 20. Section 83A.28, Code 1985, is amended to read as follows:

83A.28 FORFEITURE OF BOND.

The attorney general, upon request of the committee, shall institute proceedings for forfeiture of the bond posted by an operator to guarantee ~~rehabilitation reclamation~~ of a site where the operator is in violation of any of the provisions of this chapter or any rule adopted by the department pursuant to this chapter. Forfeiture of the operator's bond shall fully satisfy all obligations of the operator to ~~rehabilitate~~ reclaim affected land covered by the bond. The department shall have the power to ~~rehabilitate~~ reclaim as required by section 83A.17 any surface mined land with respect to which a bond has been forfeited, using the proceeds of the forfeiture to pay for the necessary ~~rehabilitation reclamation~~ work.

Sec. 21. Section 83A.29, Code 1985, is amended to read as follows:

83A.29 PENALTY PENALTIES FOR OPERATING WITHOUT A LICENSE AND FOR FAILURE TO REGISTER.

1. If a person engages in mining without obtaining a license, the committee shall notify the attorney general who shall institute a civil action in the district court for injunctive relief and for the assessment of a civil penalty as determined by the court not to exceed five thousand dollars.

2. Any An operator who fails to make timely application for registration of each mine site where mining is being conducted is guilty of a simple misdemeanor. Each day mining activities are conducted at a mine site for which no application for registration has been made as required under section 83A.13 shall constitute is a separate violation.

3. If an operator fails to register or re-register a site and provide required bond within thirty days following receipt of notice from the department by certified letter, the committee shall notify the attorney general who shall seek immediate injunctive relief.

4. An operator who fails to renew the operator's mining license within a time period set by the department, who has been denied license renewal by the committee, or whose license has been suspended or revoked by the committee shall also have all registrations automatically invalidated.

Approved May 16, 1985

CHAPTER 138

AREA EDUCATION AGENCIES

H.F. 552

AN ACT relating to area education agencies, including the charging of user fees, budget publication, contracting for services, and filing of candidacy papers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 257.10, Code 1985, is amended by adding the following new subsection:
NEW SUBSECTION. 16. Adopt rules establishing permissible fees for materials and services charged by area education agencies.

Sec. 2. Section 273.3, subsections 6 and 13, Code 1985, are amended to read as follows:

6. Area education agencies may co-operate and contract between themselves and with other public agencies to provide special education programs and services, media services, and educational services to schools and children residing within their respective areas.

13. Prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 to 273.9 and chapter 281 within the limits of funds provided under section 281.9 and chapter 442. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county located wholly or partially in the territory of the area education agency in which the principal place of business