WEST VIRGINIA CODE: §33-61-2

§33-61-2. Findings and purpose.

(a) The Legislature finds that:

(1) There has been a nationwide downturn in the coal mining industry which was especially difficult in West Virginia;

(2) Coal mining permit holders across the state have faced economic circumstances that forced many of them into difficult financial situations;

(3) Insolvent permit holders may be unable to continue operations, thus jeopardizing their ability to properly reclaim lands as required under §22-3-1 *et seq.* of this code;

(4) Any shortfall would be paid from the state's Special Reclamation Fund which could become strained if the coal industry and/ or reclamation surety bond providers would experience unforeseen circumstances;

(5) An increase in bonding amounts would cause undue financial hardships and coal mining permit holders in West Virginia may find it increasingly difficult to comply with the financial assurance provisions of §22-3-1 *et seq.* of this code;

(6) The difficulty or impossibility of obtaining private performance bonds on reasonable economic terms may result in challenges for operators to receive new coal-mining permits;

(7) Having a robust guarantee of proper reclamation of mining operations is of utmost importance to the citizens of West Virginia;

(8) A mechanism is needed for an alternative provider in the state's current coal mining bonding system to provide for additional coverage and further bolster an efficient and effective method of complying with the reclamation requirements and the financial assurance provisions of §22-3-1 *et seq.* of this code;

(9) A state assisted mutual insurance company or a similar entity has proven to be a successful mechanism in West Virginia for helping stabilize certain insurance markets such as medical professional liability and worker compensation;

(10) There is a substantial public interest in creating a method to provide an enhanced mining reclamation performance bond insurance market in this state;

(11) The state currently funds reclamation at former coal-mining sites, where the bond has been forfeited, through a combination of bond proceeds and, if needed, moneys from the Special Reclamation Fund as approved by the Surface Mining Control and Reclamation Act;

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(12) There is substantial public benefit in maintaining a stable self-sufficient entity which can be a source of performance bond insurance coverage for permit holders in this state;

(13) A stable, financially viable insurer in the private sector will provide a continuing source of insurance funds to accomplish reclamation as needed to protect the environment of the state; and

(14) Because the public will greatly benefit from the formation of a Mining Mutual Insurance Company, state efforts to encourage and support the formation of such an entity, including providing a loan of the entity's initial capital, is in the clear public interest.

(b) The purpose of this article is to create a mechanism for the formation of a mining mutual insurance company that will provide:

(1) An option for mining permit holders to obtain performance bond insurance that is available and affordable; and

(2) Assure that reclamation will occur in a timely and predictable fashion in those instances where a permit holder fails to perform under the terms of the permit issued pursuant to §22-3-1 *et seq.* of this code.

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