

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4003

BY DELEGATES KEATON, BARRETT, HANSHAW (MR.
SPEAKER), SUMMERS, ESPINOSA, RILEY, HOWELL,
BURKHAMMER, CLARK, PACK, AND MAYNOR

[Passed March 10, 2022; in effect ninety days from passage.]

FILED

2022 MAR 31 A 9:02

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

HB 4003 (omitted)

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FILLED

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §22-2-10, relating generally to the ownership and commercial benefit of
3 substances removed from waters of the state by the treatment of mine drainage; restating
4 public policies concerning the maintenance of reasonable standards of purity and quality
5 of the waters of the state consistent with public health and the protection of all forms of
6 life; providing for legislative findings, intent, and purpose, including that treatment of mine
7 drainage reduces environmental harm by reducing toxic substances and pollution in the
8 waters of the state, that such treatment may produce valuable concentrations of materials
9 which may be utilized for commercial gain, and that said materials are part of the water;
10 stating the legislative intent of fulfilling the state's obligations to maintain reasonable
11 standards of purity and quality of the waters of the state by encouraging investments into
12 the treatment of mine drainage; providing that all chemical compounds, elements, and
13 other potentially toxic materials found within the waters of this state and derived from the
14 treatment of mine drainage which have economic value may be used, sold, or transferred
15 by the Department of Environmental Protection or its designee for commercial gain and
16 benefit; providing that all funds received by said department shall be deposited and used
17 at the discretion of the secretary into already established environmental funds; providing
18 that all chemical compounds, elements, and other potentially toxic materials found within
19 the waters of this state and derived from the treatment of mine drainage which have
20 economic value may be used, sold, or transferred by any party who successfully removes
21 the same from the waters of this state for commercial gain and benefit; providing for the
22 protection of existing and future contracts; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. ABANDONED MINE LANDS AND RECLAMATION ACT.

§22-2-10. Benefits derived from substances separated by treatment of pollution from mine drainage in the waters of the state; public policy; legislative findings, intent, and purpose; severability.

1 (a) *Public Policy.* It is the long-standing public policy of the State of West Virginia, pursuant
2 to § 22-11-1 *et seq.* of this code, the Water Pollution Control Act, that the state is compelled to
3 maintain reasonable standards of purity and quality of the waters of the state which are consistent
4 with public health and the protection of all forms of life. It is also the long-standing public policy of
5 this state, pursuant to § 20-2-1 *et seq.* of this code, that wildlife resources in this state shall be
6 held as a public trust by the state and protected for the use and enjoyment of its citizens.

7 (b) *Legislative Findings, Intent, and Purpose.* The Legislature finds that treatment of mine
8 drainage reduces environmental harm by reducing toxic substances and pollution in the waters
9 of the state. The Legislature finds that the necessary and expensive treatment of mine drainage
10 to remove pollution from the waters of the state, and disposal of the same, may produce materials
11 that contain valuable concentrations of rare earth elements, critical materials, and other
12 substances which may be utilized for commercial gain. The Legislature finds that these materials
13 found within the waters of the state are part of the water and can only be separated from the water
14 with expensive and continuing investments of resources which may last for decades. The
15 Legislature enacts this section with the intent of fulfilling the state's obligations to maintain
16 reasonable standards of purity and quality of the waters of the state, consistent with public health
17 and the protection of all forms of life, by encouraging investments into the treatment of mine
18 drainage.

19 (c) Notwithstanding any provision of this code or common law to the contrary, all chemical
20 compounds, elements, and other potentially toxic materials which are found within the waters of
21 this state, which are derived from the treatment of mine drainage, and which have economic
22 value, may be used, sold, or transferred by the Department of Environmental Protection, or its
23 designee, for commercial gain and benefit. All funds received by the department shall be

24 deposited at the discretion of the secretary into the Special Reclamation Water Trust Fund or the
25 Acid Mine Drainage Set-Aside Fund, and used by the department to fulfill its obligations under
26 this code: *Provided*, That nothing in this subsection shall be construed to interfere with any
27 existing contract or the ability of the department to enter into an agreement with private parties
28 with respect to the removal, sale, or transfer of said chemical compounds, elements, and other
29 potentially toxic materials.

30 (d) Notwithstanding any provision of this code or common law to the contrary, all chemical
31 compounds, elements, and other potentially toxic materials which are found within the waters of
32 this state which are derived from the treatment of mine drainage, and which have economic value,
33 may be used, sold, or transferred by any party, other than the department, who successfully
34 removes said chemical compounds, elements, and other potentially toxic materials from the
35 waters of this state for commercial gain and benefit: *Provided*, That nothing in this subsection
36 shall be construed to interfere with any existing contract or the ability of parties to enter into an
37 agreement with respect to the removal, sale, or transfer of said chemical compounds, elements,
38 and other potentially toxic materials.

39 (e) The provisions of this section are severable, and if any part of this section is adjudged
40 to be unconstitutional, unenforceable, or invalid, that determination does not affect the continuing
41 validity of the remaining provisions of this section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman, House Committee


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Chairman, Senate Committee


Originating in the House.

In effect ninety days from passage.


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Clerk of the House of Delegates


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Clerk of the Senate


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Speaker of the House of Delegates


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President of the Senate

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED

The within this the.....
day of, 2022.

.....
Governor

PRESENTED TO THE GOVERNOR

MAR 25 2022

Time 1:53pm