



## 100TH GENERAL ASSEMBLY

### State of Illinois

### 2017 and 2018

### SB3309

Introduced 2/16/2018, by Sen. Paul Schimpf

#### SYNOPSIS AS INTRODUCED:

20 ILCS 1920/2.02	from Ch. 96 1/2, par. 8002.02
20 ILCS 1920/2.03	from Ch. 96 1/2, par. 8002.03
20 ILCS 1920/2.04	from Ch. 96 1/2, par. 8002.04
20 ILCS 1920/2.05	from Ch. 96 1/2, par. 8002.05
20 ILCS 1920/2.09	from Ch. 96 1/2, par. 8002.09
20 ILCS 1920/2.11	from Ch. 96 1/2, par. 8002.11
20 ILCS 1920/3.04	from Ch. 96 1/2, par. 8003.04

Amends the Abandoned Mined Lands and Water Reclamation Act. Provides that expenditures on abandoned lands may be used for the restoration of land and water resources and the environment that have been degraded by the adverse effects of coal mining practices and are adjacent to a site. Provides that the Department of Natural Resources may set aside up to 30 percent of each year's allocation of available abandoned mine reclamation funds distributed annually from the State share and historic coal share funds into a separate fund for the abatement of the causes and treatment of the effects of acid mine drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices. Provides that these funds shall be deposited into a special State account and will be used and accounted for in accordance with all applicable State and federal regulations used solely to achieve the priorities stated in Title IV of the federal Surface Mining Control and Reclamation Act of 1977. Repeals a provision providing that open and abandoned tunnels, shafts, and entryways and abandoned and deteriorating equipment, structures, and facilities resulting from any previous non-coal mining operations constitute a hazard to the public health and safety. Defines "qualified hydrologic unit". Makes other changes.

LRB100 18759 SLF 33994 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Abandoned Mined Lands and Water Reclamation  
5 Act is amended by changing Sections 2.02, 2.03, 2.04, 2.05,  
6 2.09, 2.11, and 3.04 as follows:

7 (20 ILCS 1920/2.02) (from Ch. 96 1/2, par. 8002.02)

8 Sec. 2.02. Manner of Reclamation.

9 (a) The Department shall determine the manner of  
10 reclamation of designated abandoned lands, and shall make  
11 recommendations as to the use of those lands after reclamation.

12 (b) The Department may by rule provide for the filling of  
13 voids and sealing of tunnels, shafts and entryways, and  
14 reclamation of the surface impacts of underground or surface  
15 mines.

16 (Source: P.A. 89-445, eff. 2-7-96.)

17 (20 ILCS 1920/2.03) (from Ch. 96 1/2, par. 8002.03)

18 Sec. 2.03. Priorities.

19 (a) Expenditures of moneys on abandoned lands for the  
20 purposes of this Article shall reflect the following priorities  
21 in the order stated:

22 (1) the protection of public health, safety, ~~general~~

1 ~~welfare,~~ and property from extreme danger of adverse  
2 effects of coal mining practices or the restoration of land  
3 and water resources and the environment that have been  
4 degraded by the adverse effects of coal mining practices  
5 and are adjacent to a site that has been or will be  
6 remediated under this subparagraph (1);

7 (2) the protection of public health, and safety, ~~and~~  
8 ~~general welfare~~ from adverse effects of coal mining  
9 practices or the restoration of land and water resources  
10 and the environment that have been degraded by the adverse  
11 effects of coal mining practices and are adjacent to a site  
12 that has been or will be remediated under this subparagraph  
13 (2);

14 (3) the restoration of land and water resources and the  
15 environment previously degraded by adverse effects of coal  
16 mining practices including measures for the conservation  
17 and development of soil, water (excluding channelization),  
18 woodland, fish and wildlife, recreation resources, and  
19 agricultural productivity;

20 (4) (blank); ~~research and demonstration projects~~  
21 ~~relating to the development of surface mining reclamation~~  
22 ~~and water quality control program methods and techniques;~~

23 (5) (blank); ~~the protection, repair, replacement,~~  
24 ~~construction, or enhancement of public facilities~~  
25 ~~adversely affected by coal mining practices;~~

26 (6) (blank). ~~the development of publicly owned land~~

1 ~~adversely affected by coal mining practices including land~~  
2 ~~acquired as provided in this Act for recreation and~~  
3 ~~historic purposes, conservation, and reclamation purposes~~  
4 ~~and open space benefits.~~

5 (b) The Department may by rule establish additional  
6 criteria, including but not limited to:

7 (1) the financial ability of the landowners to abate  
8 pollution;

9 (2) the potential economic value of the land under  
10 private ownership subsequent to reclamation;

11 (3) the potential value of the land in the public  
12 domain for conservation, open space and recreation  
13 purposes subsequent to reclamation;

14 (4) the proximity of abandoned lands to  
15 municipalities, residential areas, and public facilities  
16 such as water supplies, parks and recreational areas.

17 Such additional criteria shall be applied in a manner  
18 consistent with the priorities in subsection (a) of this  
19 Section.

20 (Source: P.A. 89-445, eff. 2-7-96.)

21 (20 ILCS 1920/2.04) (from Ch. 96 1/2, par. 8002.04)

22 Sec. 2.04. Reclamation.

23 (a) The Department or such agency or department of State  
24 government as the Department may designate pursuant to  
25 subsection (d) of Section 3.05 may enter and reclaim abandoned

1 lands under this Section if the Department finds that:

2 (1) land or water resources have been adversely  
3 affected by past coal mining practices; and

4 (2) the adverse effects are at a stage where, in the  
5 public interest, action to restore, reclaim, abate,  
6 control, or prevent should be taken; and

7 (3) the owners of the land or water resources where  
8 entry must be made to restore, reclaim, abate, control, or  
9 prevent the adverse effects of past coal mining practices  
10 are not known, or readily available; or the owners will not  
11 give permission for the United States, the States,  
12 political subdivisions, their agents, employees, or  
13 contractors to enter upon such property to restore,  
14 reclaim, abate, control, or prevent the adverse effects of  
15 past coal mining practices.

16 (b) After (1) the findings required by subsection (a) of  
17 this Section have been made, and (2) giving notice by mail  
18 return receipt requested to the owners if known or if not known  
19 by posting notice upon the premises and advertising once in a  
20 newspaper of general circulation in the municipality in which  
21 the land lies, the Department or such agency or department of  
22 State government as the Department may designate pursuant to  
23 subsection (d) of Section 3.05 shall have the right to enter on  
24 the property adversely affected by past mining practices and  
25 any other property to have access to such property to do all  
26 things necessary or expedient to restore, reclaim, abate,

1 control, or prevent the adverse effects.

2 (c) The moneys expended for such work and the benefits  
3 accruing to any such premises so entered upon shall be  
4 chargeable against such land and shall mitigate or offset any  
5 claim in or any action brought by any owner of any interest in  
6 such premises for any alleged damage by virtue of such entry.  
7 This provision is not intended to create new rights of action  
8 or eliminate existing immunities.

9 (d) Entry under this Section shall be construed as an  
10 exercise of the police power for the protection of public  
11 health and, ~~safety, and general welfare~~ and shall not be  
12 construed as an act of condemnation of property nor trespass  
13 thereon.

14 (Source: P.A. 91-357, eff. 7-29-99.)

15 (20 ILCS 1920/2.05) (from Ch. 96 1/2, par. 8002.05)

16 Sec. 2.05. Studies and Exploration.

17 (a) The Department or such agency or department of State  
18 government as the Department may designate pursuant to  
19 subsection (d) of Section 3.05 shall have the right to enter  
20 upon any property for the purpose of conducting studies or  
21 exploratory work to determine the existence of adverse effects  
22 of past coal mining practices and to determine the feasibility  
23 of restoration, reclamation, abatement, control, or prevention  
24 of such adverse effects.

25 (b) Entry under this Section shall be construed as an

1 exercise of the police power for the protection of public  
2 health and, safety, ~~and general welfare~~ and shall not be  
3 construed as an Act of condemnation of property nor trespass  
4 thereon.

5 (Source: P.A. 89-445, eff. 2-7-96.)

6 (20 ILCS 1920/2.09) (from Ch. 96 1/2, par. 8002.09)

7 Sec. 2.09. Liens.

8 (a) Within 6 months after the completion of projects to  
9 restore, reclaim, abate, control, or prevent adverse effects of  
10 past coal mining practices on privately owned land under this  
11 Article, the Department shall itemize the moneys so expended  
12 and may file a statement thereof in the office of the county in  
13 which the land lies which has the responsibility under local  
14 law for the recording of judgments against land, together with  
15 a notarized appraisal by an independent appraiser of the value  
16 of the land before the restoration, reclamation, abatement,  
17 control, or prevention of adverse effects of past mining  
18 practices if the moneys so expended shall result in a  
19 significant increase in property value. Such statement shall  
20 constitute a lien upon the land. The lien shall not exceed the  
21 amount determined by appraisal to be the increase in the market  
22 value of the land as a result of the restoration, reclamation,  
23 abatement, control, or prevention of the adverse effects of  
24 past coal mining practices.

25 (b) No lien shall be filed under this Section against the

1 property of any person, ~~who owned the surface prior to May 2,~~  
2 ~~1977, and~~ who neither consented to nor participated in nor  
3 exercised control over the mining operation which necessitated  
4 the reclamation performed hereunder.

5 (c) The landowner may proceed as provided by law to  
6 petition within 60 days of the filing of the lien, to determine  
7 the increase in the market value of the land as a result of the  
8 restoration, reclamation, abatement, control, or prevention of  
9 the adverse effects of past coal mining practices. The amount  
10 reported to be the increase in value of the premises shall  
11 constitute the amount of the lien and shall be recorded with  
12 the statement provided in this Section. Any party aggrieved by  
13 the decision may seek appropriate judicial relief at the  
14 Circuit Court.

15 (d) The lien provided in this Section shall be entered in  
16 the county office in which the land lies and which has  
17 responsibility under local law for the recording of judgments  
18 against land. Such statement shall constitute a lien upon the  
19 said land as of the date of the expenditure of the moneys and  
20 shall have priority as a lien second only to the lien of real  
21 estate taxes imposed upon said land or such lesser priority as  
22 may be permitted or required by the Federal Act or regulations  
23 thereunder. The statement shall state the priority claimed for  
24 such lien.

25 To the extent that it is consistent with the Federal  
26 Surface Mining Control and Reclamation Act of 1977, Public Law



1 ~~P.L.~~ 95-87, as amended, the Department shall provide by rule  
2 for the accumulation of interest on the amount secured by the  
3 lien.

4 (Source: P.A. 89-445, eff. 2-7-96.)

5 (20 ILCS 1920/2.11) (from Ch. 96 1/2, par. 8002.11)

6 Sec. 2.11. Non-coal reclamation.

7 (a) (Blank). ~~It is hereby declared that open and abandoned~~  
8 ~~tunnels, shafts, and entryways and abandoned and deteriorating~~  
9 ~~equipment, structures, and facilities resulting from any~~  
10 ~~previous non-coal mining operations constitute a hazard to the~~  
11 ~~public health and safety. The Department is authorized and~~  
12 ~~empowered to fill or seal such abandoned tunnels, shafts, and~~  
13 ~~entryways and remove equipment, structures, and facilities~~  
14 ~~which it determines could endanger life and property and~~  
15 ~~constitute a hazard to the public health and safety.~~

16 (b) The Department may make expenditures and carry out the  
17 purposes of this Section for lands mined for substances other  
18 than coal; provided, however, that those non-coal reclamation  
19 projects be accorded a high priority under subsection (a) of  
20 paragraph (1) of Section 2.03 and that annual expenditures for  
21 non-coal reclamation do not exceed 2% of the Department's  
22 annual budget for mine land reclamation. Except for those  
23 non-coal reclamation projects relating to the protection of the  
24 public health or safety which shall be accorded a high  
25 priority, non-coal reclamation expenditures shall be made only

1 after all reclamation with respect to abandoned coal lands or  
2 coal development impacts has been accomplished.

3 (c) In those instances where coal mine waste piles are  
4 being reworked for conservation purposes, the Department may  
5 make additional incremental expenditures to dispose of the  
6 wastes from such operations by filling voids and sealing  
7 tunnels if the disposal of these wastes is in accordance with  
8 the purposes of this Section.

9 (d) The Department shall acquire, by purchase, exchange,  
10 gifts, condemnation or otherwise, the fee simple title or any  
11 lesser interest in and to such land rights or other property as  
12 the Department considers necessary to carry out the provisions  
13 of this Section. Transfers and dispositions of such land shall  
14 be made in the same manner as prescribed by Section 2.07 of  
15 this Act.

16 (e) Consistent with this Section, the Department may enter  
17 and reclaim abandoned non-coal mined lands in the same manner  
18 as prescribed in Section 2.04 of this Act.

19 (Source: P.A. 97-991, eff. 8-17-12.)

20 (20 ILCS 1920/3.04) (from Ch. 96 1/2, par. 8003.04)

21 Sec. 3.04. Water Pollution Control.

22 (a) The Department may set aside up to 30% of each year's  
23 allocation of available abandoned mine reclamation funds  
24 distributed annually from the State share and historic coal  
25 share funds into a separate fund for the abatement of the

1 causes and treatment of the effects of acid mine drainage in a  
2 comprehensive manner within qualified hydrologic units  
3 affected by coal mining practices. These funds shall be  
4 deposited into a special State account and will be used and  
5 accounted for in accordance with all applicable State and  
6 federal regulations used solely to achieve the priorities  
7 stated in Title IV of the federal Surface Mining Control and  
8 Reclamation Act of 1977. In this Section, "qualified hydrologic  
9 unit" means a hydrologic unit in which the water quality has  
10 been significantly affected by acid mine drainage from coal  
11 mining practices in a manner that adversely impacts biological  
12 resources and that contains land and water that are eligible  
13 for protection under Section 1.03 of this Act and includes any  
14 of the priorities described in Section 2.03 of this Act.

15 (b) The Department or such agency or department of State  
16 government as the Department may designate pursuant to  
17 subsection (d) of Section 3.05 may construct and operate a  
18 plant or plants for the control and treatment of water  
19 pollution resulting from mine drainage. The extent of this  
20 control and treatment may be dependent upon the ultimate use of  
21 the water. No control or treatment under this Section shall in  
22 any way be less than that required under the Environmental  
23 Protection Act. The construction of a plant or plants may  
24 include major interceptors and other facilities appurtenant to  
25 the plan.

26 (Source: P.A. 89-445, eff. 2-7-96.)