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H. R. 6233

[Report No. 118-]

To amend the Surface Mining Control and Reclamation Act of 1977 to authorize partnerships between States and nongovernmental entities for the purpose of reclaiming and restoring land and water resources adversely affected by coal mining activities before August 3, 1977, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2023

Mr. LAHOOD introduced the following bill; which was referred to the
Committee on Natural Resources

JANUARY --, 2024

Committed to the Committee of the Whole House on the State of the Union,
and ordered to be printed

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to authorize partnerships between States and nongovernmental entities for the purpose of reclaiming and restoring land and water resources adversely affected by coal mining activities before August 3, 1977, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Reclama-
5 tion Partnerships Act”.

6 **SEC. 2. REFERENCE.**

7 Except as otherwise specifically provided, whenever in
8 this Act an amendment is expressed in terms of an amend-
9 ment to a provision, the reference shall be considered to
10 be made to a provision of the Surface Mining Control and
11 Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

12 **SEC. 3. STATE MEMORANDA OF UNDERSTANDING FOR CER-**
13 **TAIN REMEDIATION.**

14 Section 405 (30 U.S.C. 1235) is amended by insert-
15 ing after subsection (l) the following:

16 “(m) STATE MEMORANDA OF UNDERSTANDING FOR
17 REMEDIATION OF MINE DRAINAGE.—

18 “(1) IN GENERAL.—A State with a State pro-
19 gram approved under subsection (d) may enter into
20 a memorandum of understanding with relevant Fed-
21 eral or State agencies (or both) to remediate mine
22 drainage on abandoned mine land and water im-
23 pacted by abandoned mines within the State. The
24 memorandum may be updated as necessary and re-
25 submitted for approval under this subsection.

1 “(2) MEMORANDA REQUIREMENTS.—Such
2 memorandum shall establish a strategy satisfactory
3 to the State and Federal agencies that are parties
4 to the memorandum, to address water pollution re-
5 sulting from mine drainage at sites eligible for rec-
6 lamation and mine drainage abatement expenditures
7 under section 404, including specific procedures
8 for—

9 “(A) ensuring that activities carried out to
10 address mine drainage will result in improved
11 water quality;

12 “(B) monitoring, sampling, and the report-
13 ing of collected information as necessary to
14 achieve the condition required under subpara-
15 graph (A);

16 “(C) operation and maintenance of treat-
17 ment systems as necessary to achieve the condi-
18 tion required under subparagraph (A); and

19 “(D) other purposes, as considered nec-
20 essary by the State or Federal agencies, to
21 achieve the condition required under subpara-
22 graph (A).

23 “(3) PUBLIC REVIEW AND COMMENT.—

1 “(A) IN GENERAL.—Before submitting a
2 memorandum to the Secretary and the Admin-
3 istrator for approval, a State shall—

4 “(i) invite interested members of the
5 public to comment on the memorandum;
6 and

7 “(ii) hold at least one public meeting
8 concerning the memorandum in a location
9 or locations reasonably accessible to per-
10 sons who may be affected by implementa-
11 tion of the memorandum.

12 “(B) NOTICE OF MEETING.—The State
13 shall publish notice of each meeting not less
14 than 15 days before the date of the meeting, in
15 local newspapers of general circulation, on the
16 Internet, and by any other means considered
17 necessary or desirable by the Secretary and the
18 Administrator.

19 “(C) RESPONSE TO PUBLIC COMMENT.—
20 The memorandum shall include responses to
21 substantive concerns raised by the public in
22 comments and during public meetings if re-
23 ceived within 30 days of such meetings and op-
24 portunity to comment.

1 “(4) SUBMISSION AND APPROVAL.—The State
2 shall submit the memorandum to the Secretary and
3 the Administrator of the Environmental Protection
4 Agency for approval. The Secretary and the Admin-
5 istrator shall approve or disapprove the memo-
6 randum within 120 days after the date of its sub-
7 mission if the Secretary and Administrator find that
8 the memorandum will facilitate additional activities
9 under the State Reclamation Plan under subsection
10 (e) that improve water quality.

11 “(5) TREATMENT AS PART OF STATE PLAN.—
12 A memorandum of a State that is approved by the
13 Secretary and the Administrator under this sub-
14 section shall be considered part of the approved
15 abandoned mine reclamation plan of the State.

16 “(n) COMMUNITY RECLAIMER PARTNERSHIPS.—

17 “(1) PROJECT APPROVAL.—Within 120 days
18 after receiving such a submission, the Secretary
19 shall approve a Community Reclaimer project to re-
20 mediate abandoned mine lands if the Secretary finds
21 that—

22 “(A) the proposed project will be con-
23 ducted by a Community Reclaimer as defined in
24 this subsection or approved subcontractors of
25 the Community Reclaimer;

1 “(B) for any proposed project that remedi-
2 ates mine drainage, the proposed project is con-
3 sistent with an approved State memorandum of
4 understanding under subsection (m);

5 “(C) the proposed project will be con-
6 ducted on a site or sites inventoried under sec-
7 tion 403(c);

8 “(D) the proposed project meets all sub-
9 mission criteria under paragraph (2);

10 “(E) the relevant State has entered into an
11 agreement with the Community Reclaimer
12 under which the State shall assume all respon-
13 sibility with respect to the project for any costs
14 or damages resulting from any action or inac-
15 tion on the part of the Community Reclaimer in
16 carrying out the project, except for costs or
17 damages resulting from gross negligence or in-
18 tentional misconduct by the Community Re-
19 claimer, on behalf of—

20 “(i) the Community Reclaimer; and

21 “(ii) the owner of the proposed project
22 site, if such Community Reclaimer or
23 owner, respectively, did not participate in
24 any way in the creation of site conditions
25 at the proposed project site or activities

1 that caused any lands or waters to become
2 eligible for reclamation or drainage abate-
3 ment expenditures under section 404;

4 “(F) the State has the necessary legal au-
5 thority to conduct the project and will obtain all
6 legally required authorizations, permits, li-
7 censes, and other approvals to ensure comple-
8 tion of the project;

9 “(G) the State has sufficient financial re-
10 sources to ensure completion of the project, in-
11 cluding any necessary operation and mainte-
12 nance costs (including costs associated with
13 emergency actions covered by a contingency
14 plan under paragraph (2)(K)); and

15 “(H) the proposed project is not in a cat-
16 egory of projects that would require a permit
17 under title V.

18 “(2) PROJECT SUBMISSION.—The State shall
19 submit a request for approval to the Secretary that
20 shall include—

21 “(A) a description of the proposed project,
22 including any engineering plans that must bear
23 the seal of a professional engineer;

24 “(B) a description of the proposed project
25 site or sites, including, if relevant, the nature

1 and extent of pollution resulting from mine
2 drainage;

3 “(C) identification of the past and current
4 owners and operators of the proposed project
5 site;

6 “(D) the agreement or contract between
7 the relevant State and the Community Re-
8 claimer to carry out the project;

9 “(E) a determination that the project will
10 facilitate the activities of the State reclamation
11 plan under subsection (e);

12 “(F) sufficient information to determine
13 whether the Community Reclaimer has the
14 technical capability and expertise to successfully
15 conduct the proposed project;

16 “(G) a cost estimate for the project and
17 evidence that the Community Reclaimer has
18 sufficient financial resources to ensure the suc-
19 cessful completion of the proposed project (in-
20 cluding any operation or maintenance costs);

21 “(H) a schedule for completion of the
22 project;

23 “(I) an agreement between the Community
24 Reclaimer and the current owner of the site
25 governing access to the site;

1 “(J) sufficient information to ensure that
2 the Community Reclaimer meets the definition
3 under paragraph (3);

4 “(K) a contingency plan designed to be
5 used in response to unplanned adverse events
6 that includes emergency actions, response, and
7 notifications;

8 “(L) detailed plans for any proposed recy-
9 cling or reprocessing of historic mine residue to
10 be conducted by the Community Reclaimer (in-
11 cluding a description of how all proposed recy-
12 cling or reprocessing activities contribute to the
13 remediation of the abandoned mine site); and

14 “(M) a requirement that the State provide
15 notice to adjacent and downstream landowners
16 and the public and hold a public meeting near
17 the proposed project site before the project is
18 initiated.

19 “(3) REPROCESSING OF MATERIALS.—A Com-
20 munity Reclaimer may reprocess materials recovered
21 during the implementation of a remediation plan
22 only if—

23 “(A) the applicable land management
24 agency has signed a decision document approv-

1 ing reprocessing as part of the approved aban-
2 doned mine reclamation plan of the State;

3 “(B) the proceeds from the sale or use of
4 the materials are used—

5 “(i) to defray the costs of the remedi-
6 ation; and

7 “(ii) to reimburse the Administrator
8 or the head of a Federal land management
9 agency for the purpose of carrying out this
10 Act; and

11 “(C) the materials only include historic
12 mine residue.

13 “(4) COMMUNITY RECLAIMER DEFINED.—For
14 purposes of this section, the term ‘Community Re-
15 claimer’ means any person who—

16 “(A) seeks to voluntarily assist a State
17 with a reclamation project under this section,
18 which may include companies that currently
19 hold reclamation liability elsewhere from the
20 proposed site or active mine sites that require
21 a performance bond;

22 “(B) did not participate in any way in the
23 creation of site conditions at the proposed
24 project site or activities that caused any lands
25 or waters at the proposed project site to become

1 eligible for reclamation or drainage abatement
2 expenditures under section 404; and

3 “(C) is not subject to outstanding viola-
4 tions listed pursuant to section 510(c).”.

5 **SEC. 4. CLARIFYING STATE LIABILITY FOR MINE DRAINAGE**
6 **PROJECTS.**

7 Section 413(d) (30 U.S.C. 1242(d)) is amended by
8 inserting “unless such control or treatment will be con-
9 ducted in accordance with a State memorandum of under-
10 standing approved under section 405(m) of this Act” after
11 “under the Federal Water Pollution Control Act”.

12 **SEC. 5. CONFORMING AMENDMENTS.**

13 Section 405(f) (30 U.S.C. 1235(f)) is amended—

14 (1) by striking the “and” after the semicolon in
15 paragraph (6);

16 (2) by striking the period at the end of para-
17 graph (7) and inserting “; and”; and

18 (3) by inserting at the end the following:

19 “(8) a list of projects proposed under sub-
20 section (n).”.

21 **SEC. 6. SUNSET PROVISION.**

22 This Act shall be in effect until September 30, 2030.