HB351

205593-1

By Representative Garrett

RFD: State Government

First Read: 27-FEB-20
SYNOPSIS:  Under existing law, the Department of Labor is responsible for surface mining reclamation, abandoned mine reclamation, and unemployment compensation.

This bill would update definitions and correct references to the Secretary of Labor, would specify that a departmental employee, rather than a registered forester, perform certain inspections, and would increase the amount of funds retained in the Special Abandoned Mine Reclamation Trust Fund in the State Treasury, from appropriated funds granted annually by the U.S. Department of the Interior, from 10 to 30 percent.

This bill would also conform language relating to unemployment compensation benefit years beginning on or after July 2, 2006.

A BILL

TO BE ENTITLED

AN ACT
Relating to the Department of Labor; to amend Sections 9-16-2, 9-16-8 and 9-16-135, Code of Alabama 1975, relating to the Alabama Surface Mining Act of 1969, and abandoned mine reclamation, to update definitions; to correct references to the Secretary of Labor; to specify that a departmental employee, rather than a registered forester, perform certain inspections; and to increase the amount of funds retained in the Special Abandoned Mine Reclamation Trust Fund in the State Treasury, from appropriated funds granted annually by the U.S. Department of the Interior, from 10 to 30 percent; and would amend Section 25-4-72, as amended by Act 2019-204, 2019 Regular Session, Code of Alabama 1975, relating to unemployment compensation; to conform language relating to benefit years beginning on or after July 2, 2006; and to add Sections 25-4-59 and 25-4-153 to the Code of Alabama 1975, to provide that procedures provided in Article 3 and Article 7 of Chapter 4, of Title 25 are exclusive.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 9-16-2, 9-16-8, 9-16-135, and 25-4-72, as amended by Act 2019-204, 2019 Regular Session, of the Code of Alabama 1975, are amended to read as follows:

"§9-16-2.

"Unless clearly indicated otherwise by the context, as used in this article, the following terms have the following meanings:
"(1) AFFECTED LAND. The area of land from which overburden has been removed or upon which overburden has been deposited after October 1, 1970.

"(2) CONTEMPORANEOUS. Occuring at the same time as a surface mining operation and in conjunction with the grading activities at the site.

"(3) CONTIGUOUS. In actual contact, touching, as contrasted with being near but not in contact.

"(4) DEPARTMENT. The Department of Industrial Relations Labor of the State of Alabama or any department, bureau, or commission as may lawfully succeed to the powers and duties of the department relating to mining operations.

"(5) DIRECT SEEDING. The planting of seeds by hand sowing, machine sowing, or aerial seeding.

"(6) DIRECTOR. Director of the department or officer, bureau, or commission as may lawfully succeed to the powers and duties of the director.

"(7) HIGHWALL. The unexcavated face of exposed overburden or mineral in an opencast mine or the face or bank on the uphill side of a contour surface mine excavation.

"(8) INSPECTOR. Any authorized employee of the department under the direction of the director.

"(9) OPERATOR. Any person, firm, partnership, association, or corporation engaged in or controlling one or more surface mining operations.

"(10) OVERBURDEN. All of the earth and other materials which lie above natural deposits of clay, sand,
gravel, ores, and other minerals except limestone, marble, and
dolomite, and also the earth and other materials disturbed
from their natural state in the process of surface mining.

"(10) PEAK. A projected point of overburden
created in the process of surface mining.

"(11) PERMIT PERIOD. A one-year period
commencing on the issuance of a permit to engage in surface
mining.

"(12) PERSON. Any natural person, firm,
corporation, association, partnership, joint venture, or
representative of any kind or any other group acting as a
unit.

"(13) PIT. A tract of land from which overburden
has been or is being removed for the purpose of surface
mining.

"(14) RECLAMATION. The reconditioning or
rehabilitation of affected land in accordance with the
requirements of this article.

"(15) REFUSE. All waste material, exclusive of
overburden, directly connected with the mining, cleaning, or
preparation of substances mined by surface mining.

"(16) RIDGE. A lengthened elevation of
overburden created in the process of surface mining.

"(17) SECRETARY. The Secretary of the Department of
Labor or officer, bureau, or commission as may lawfully
succeed to the powers and duties of the secretary.
(18) SETBACK. An undisturbed buffer strip adjacent to watercourses, lakes, easements, adjoining property, perimeter property lines, road rights-of-way, residences, or other features which could be adversely affected by mining.

(19) SURFACE MINING. The mining of clay, sand, gravel, ores, and other minerals except chert (or similar type pits from which construction materials are obtained, which involve five acres or less and do not involve excavation below the surrounding area in such a way as to create a pit that will accumulate water), limestone, marble, dolomite, and coal, by removing the overburden lying above natural deposits thereof and mining directly from the natural deposits thereby exposed or by mining directly from deposits lying exposed in their natural state.

§9-16-8.

(a)(1) Any bond provided in this article to be filed with the department by the operator shall be in the form as the director secretary prescribes, payable to the State of Alabama and conditioned that the operator shall faithfully perform all applicable requirements of this article and comply with all applicable rules of the department made in accordance with the provisions of this article. The bond shall be signed by the operator, as principal, and by a good and sufficient corporate surety licensed to do business in the State of Alabama, as surety. The penalty of the bond shall be two thousand five hundred dollars ($2,500) for each acre covered by the permit.
"(2) In lieu of a bond, the operator may elect to deposit cash or negotiable bonds of the United States government or the State of Alabama or any municipality within the state with the department in lieu of a corporate surety. The cash deposit or market value of the securities shall be equal at least to the sum of the bond.

"(3) The department shall, upon receipt of any deposit of cash or securities, shall immediately place the same with the State Treasurer, whose duty it shall be to receive and hold the same in the name of the state, in trust, for the purposes for which the deposit is made. The State Treasurer shall at all times be responsible for the custody and safekeeping of the deposits. The operator making the deposit shall be entitled from time to time to demand and receive from the State Treasurer, on the written order of the director secretary, the whole or any portion of any securities so deposited, upon depositing with the State Treasurer in lieu thereof other negotiable securities of the classes specified in this section having a market value at least equal to the sum of the cash deposits or securities deposited. When the securities mature or are called, the State Treasurer, at the request of the operator, shall convert the securities into other negotiable securities of the classes specified in this section as may be designated by the operator. The total penalty of the bond or amount of cash and securities shall be increased or reduced from time to time as land is added to or withdrawn from the permit as provided in this article."
(b) Whenever an operator shall have completed all applicable requirements under the provisions of this article as to any affected land, the operator shall notify the department. The department shall within 30 days after notification by the operator inspect the affected land completed by the operator and, if the land has been reclaimed as required by this article, shall release the operator from further obligations regarding the affected land and reduce or release the bond or substituted cash or securities of the operator. Inspections by the department under this subsection shall include inspection by a registered forester departmental mining and reclamation employee.

(c) A bond filed as above prescribed shall be conditioned so that it cannot be cancelled by the surety except after not less than 90 days written notice to the department. If a bond is cancelled after the notice, the operator shall, on or before the effective date of the cancellation, substitute for the bond another bond, or cash, or securities as provided in this section.

(d) If the license to do business in the state of a surety upon a bond filed with the department pursuant to this article shall be suspended or revoked, the operator, within 30 days after receiving written notice thereof from the department, shall substitute for the surety a good and sufficient corporate surety licensed to do business in the State of Alabama or another bond, or cash, or securities in lieu thereof as provided in this section.
(e) The failure of the operator to make substitution of surety as provided in subsections (c) and (d) of this section shall result in the automatic suspension of the permit of the operator to conduct mining operations on the land described in the permit, and the operator shall not conduct further or additional mining operations on the land described in the permit until substitution as provided in this section has been made on the surety.

§9-16-135.

There is hereby created in the State Treasury a Special Abandoned Mine Reclamation Trust Fund to receive and retain up to 30 percent of the appropriated funds granted annually by the Secretary of the U.S. Department of Interior for the reclamation of abandoned mine lands in Alabama. All moneys so deposited by the Director Secretary of the Department of Labor shall accrue interest, and together with all interest earned, shall be available for expenditure by the Director Secretary of the Department of Labor after August 3, 1992, solely to accomplish the purposes set forth in Section 9-16-122(b). All moneys in this fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as provided by law for other special trust funds in the State Treasury. Moneys in this special trust fund shall be separately accounted for and continuously available to the Director Secretary of the Department of Labor for expenditure as herein provided and shall not lapse at any time.
§25-4-72.

(a) For weeks of unemployment during benefit years which begin before the effective date of subsection (b), an individual's weekly benefit amount shall be as prescribed by this section as amended through July 6, 1997.

(b) For weeks of unemployment during benefit years beginning on or after July 2, 2006, an individual's weekly benefit amount shall be an amount based on an equal division of the current weeks compensated equal to one twenty-sixth of the average of the wages for insured work paid to the individual during the two quarters of his or her base period in which the total wages were the highest; except, that:

(1) If the amount thus derived is not a multiple of one dollar ($1), fractional parts of one dollar ($1) in excess of fifty cents ($.50) shall be rounded to the next higher multiple of one dollar ($1) and fractional parts of one dollar ($1) which are fifty cents ($.50) or less shall be dropped to the next lower multiple of one dollar ($1).

(2) If the amount derived before the application of subdivision (1) is not in excess of forty-four dollars fifty cents ($44.50), there shall be no weekly benefit amount.

(3) Effective with benefit years beginning on or after July 6, 2008, if the amount thus derived is more than two hundred fifty-four dollars fifty cents ($254.50), the weekly maximum benefit amount shall be two hundred fifty-five dollars ($255).
"(4) Effective with benefit years beginning on or after July 5, 2009, if the amount thus derived is more than two hundred sixty-four dollars fifty cents ($264.50), the weekly maximum benefit shall be two hundred sixty-five dollars ($265).

"(5) Effective with benefit years beginning on or after January 1, 2020, if the amount thus derived is more than two hundred seventy-four dollars fifty cents ($274.50), the weekly maximum benefit shall be two hundred seventy-five dollars ($275).

"(c) If, as a condition for approval of this section for full tax credit against the tax imposed by the federal Unemployment Tax Act, federal law should require a greater maximum weekly benefit amount than that provided herein, then the maximum weekly benefit amount shall be the minimum required by any such federal law for such approval.

"(d) Nothing herein shall serve to deprive any individual of any benefit for which he or she had qualified in any benefit year beginning before the effective date of subsection (b).

"(e) There is hereby appropriated out of funds made available to this state under Section 903 of the Social Security Act, as amended by Title II, Section 209, "Special Reed Act Transfer in Fiscal Year 2002," of the "Temporary Extended Unemployment Compensation Act of 2002," as contained in the "Job Creation and Worker Assistance Act of 2002," an amount not to exceed 15 percent of the funds, or so much
thereof to be used as may be necessary, under the direction of
the State of Alabama, Department of Labor, for the expenses
incurred for the administration of this state's unemployment
compensation law and public employment offices.
Notwithstanding the foregoing, the additional amount of up to
$7,940,119 of "Reed Act" funds may be withdrawn from the
Unemployment Compensation Trust Fund and used for
administrative purposes from May 29, 2008, until September 30,
2009. Furthermore, whatever amount is withdrawn during this
time period, that amount shall not change the Employer Tax
Schedules pursuant to Section 25-4-54 for the calendar year
beginning January 1, 2010."

Section 2. Sections 25-4-59 and 25-4-153 are added
to the Code of Alabama 1975, to read as follows:

§25-4-59. The procedures provided for in this article and
Article 7, commencing with Section 25-4-130, for the making of
determinations with respect to contribution rates and
payments, and for appealing from such determinations, shall be
exclusive.

§25-4-153. The procedures provided for in this article and
Article 3, commencing with Section 25-4-50, for the making of
determinations with respect to contribution rates and
payments, and for appealing from such determinations, shall be
exclusive.
Section 3. This act shall become effective July 1, 2020, following its passage and approval by the Governor, or its otherwise becoming law.