



1997 ASSEMBLY BILL 586

November 4, 1997 - Introduced by Representatives SERATTI, OLSEN, MUSSER, OURADA, DOBYNS, FREESE, GARD, ZUKOWSKI, LORGE, ALBERS, KAUFERT, HANDRICK, POWERS, HAHN, OTT, SYKORA, AINSWORTH and OWENS. Referred to Committee on Environment.

1 **AN ACT to renumber** 293.37 (2) (h) and 293.86; **to amend** 289.41 (4) (a); and **to**
2 **create** 289.41 (4) (d), 293.31 (4m), 293.37 (2) (i) and (j), 293.37 (3m), 293.50,
3 293.86 (title) and 293.86 (2) and (3) of the statutes; **relating to:** requirements
4 concerning metallic mining.

Analysis by the Legislative Reference Bureau

This bill makes several changes in the laws related to mining for metallic minerals.

Current law authorizes the department of natural resources (DNR) to inspect mining sites and facilities. This bill requires the DNR or its agents to inspect all construction and operation activities at a mine and to inspect the installation of any liner for a tailings disposal area. The bill requires the mine operator to pay a fee to cover the cost of the inspection of mine construction and operation.

Current law requires the owner of a solid or hazardous waste disposal facility to maintain proof of financial responsibility for the costs of closure of the facility and of care for the facility after it closes. The law authorizes several methods of proving financial responsibility, including a bond or an irrevocable letter of credit. A business or utility may provide proof of financial responsibility by satisfying specified financial tests, including measures of net worth and creditworthiness. This is called the net worth method.

This bill prohibits the use of the net worth method of proof of financial responsibility for a solid or hazardous waste disposal facility that accepts primarily mining waste.

Current law requires a person who intends to apply for a mining permit to notify DNR of that intent. DNR must then inform the person of the information that DNR believes will be needed to support the application.

This bill requires DNR to require a person who submits a notice of intent to apply for a mining permit to collect baseline data regarding the natural conditions in the area likely to be affected by the proposed mine.

The bill requires an application for a mining permit to include a comprehensive study of weather conditions and of geological conditions at the proposed mining site.

This bill requires DNR to identify mining operations that have caused environmental harm in other states and countries. The bill requires an applicant for a mining permit to evaluate how the plans for the proposed mining site ensure that the kinds of environmental harm identified by DNR will be avoided or mitigated in connection with the proposed mining operation and to develop a contingency plan to mitigate the effects of those kinds of environmental harm.

This bill also requires individuals who install a liner for a tailings disposal area to be trained and certified by the manufacturer of the materials used for the liner.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 289.41 (4) (a) of the statutes is amended to read:

2 289.41 (4) (a) *Net worth method.* ~~A~~ Except as provided in par. (d), a company
3 may establish proof of financial responsibility required under sub. (2) (a), (c) or (d)
4 by applying to the department and meeting the net worth requirements.

5 **SECTION 2.** 289.41 (4) (d) of the statutes is created to read:

6 289.41 (4) (d) *Mining facilities.* A company may not establish proof of financial
7 responsibility by meeting net worth requirements for a solid or hazardous waste
8 disposal facility that accepts waste primarily from a mining operation with a permit
9 issued under s. 293.49.

10 **SECTION 3.** 293.31 (4m) of the statutes is created to read:

11 293.31 (4m) The department shall require a person submitting a notice of
12 intent to apply for a mining permit to collect baseline data and information regarding
13 the natural conditions in the area the natural environment of which is likely to be
14 affected by the proposed mining operation.

15 **SECTION 4.** 293.37 (2) (h) of the statutes is renumbered 293.37 (2) (p).

1 **SECTION 5.** 293.37 (2) (i) and (j) of the statutes are created to read:

2 293.37 **(2)** (i) A comprehensive study of weather conditions at the proposed
3 mining site, with emphasis on the potential extremes of weather that may affect the
4 mining site during construction and operation, and during and after reclamation.

5 (j) A comprehensive study of geological conditions at the proposed mining site,
6 with emphasis on the potential for catastrophic geological events that may affect the
7 mining site.

8 **SECTION 6.** 293.37 (3m) of the statutes is created to read:

9 293.37 **(3m)** (a) The department shall identify mining operations that have
10 caused environmental harm in other states and countries.

11 (b) The applicant shall, as part of the mining permit application, do all of the
12 following:

13 1. Identify the construction techniques, mining technologies and operational
14 procedures that resulted in the kinds of environmental harm identified by the
15 department under par. (a).

16 2. Evaluate how the proposed mine, the mining plan and the reclamation plan
17 ensure that the kinds of environmental harm identified by the department under
18 par. (a) will be avoided or mitigated in connection with the proposed mining
19 operation.

20 3. Develop a contingency plan to mitigate the effects of any of the kinds of
21 environmental harm identified by the department under par. (a).

22 **SECTION 7.** 293.50 of the statutes is created to read:

23 **293.50 Mining site construction. (1) INSPECTION FEE.** Upon the issuance
24 of a mining permit under s. 293.49 (1), the operator shall pay to the department a fee
25 established by the department, by rule, which shall cover the estimated cost of

1 inspecting the construction and operation of the mining site under s. 293.86 (2). After
2 completing the inspection, or periodically during construction and operation of the
3 mining site, the department shall revise the fee to reflect the actual cost of inspection.

4 **(2) INSTALLATION OF TAILINGS DISPOSAL AREA LINER.** All individuals who install
5 a liner for a tailings disposal area shall be trained and certified by the manufacturer
6 of the materials used for the liner.

7 **SECTION 8.** 293.86 (title) of the statutes is created to read:

8 **293.86 (title) Entry to property; inspections.**

9 **SECTION 9.** 293.86 of the statutes is renumbered 293.86 (1).

10 **SECTION 10.** 293.86 (2) and (3) of the statutes are created to read:

11 **293.86 (2) INSPECTION OF MINING SITE ACTIVITIES.** The department or its agents
12 shall inspect all activities that disturb the soil and all construction and operation
13 activities on a mining site to determine compliance with this chapter, rules
14 promulgated under this chapter and all conditions of the mining permit. The
15 department shall provide that at least one of its employees or agents is present at the
16 mining site and actively engaged in inspection activities at all times during which
17 activities that disturb the soil or construction or operation activities occur.

18 **(3) INSPECTION OF TAILINGS DISPOSAL AREA LINER.** The department or its agents
19 shall inspect the installation of any liner for a tailings disposal area to ensure that
20 the liner is installed according to the manufacturer's specifications.

21 **SECTION 11. Initial applicability.**

22 (1) The treatment of sections 289.41 (4) (a) and (d), 293.31 (4m), 293.37 (2) (i)
23 and (j) and (3m), 293.50 and 293.86 (2) and (3) of the statutes and the renumbering
24 of section 293.86 of the statutes first apply to a mining operation for which a mining

1 permit under section 293.49 of the statutes has not been approved or denied by the
2 department of natural resources on the effective date of this subsection.

3 (END)