

MINING REHABILITATION FUND BILL 2012

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Norman Moore (Minister for Mines and Petroleum)**, read a first time.

Second Reading

HON NORMAN MOORE (Mining and Pastoral — Minister for Mines and Petroleum) [5.54 pm]: I move —

That the bill be now read a second time.

The purpose of the bill is to secure adequate ongoing funds for the state to rehabilitate land affected by mining operations, where the original operator does not fulfil its mine rehabilitation and closure obligations. The bill establishes a pooled industry fund which will initially reduce and, over time, eliminate the state's unfunded liability for abandoned mine site rehabilitation.

Currently, mining tenement holders under the Mining Act 1978 are required to hold unconditional performance bonds against their liability to rehabilitate their tenement holdings. Where mining operators do not meet their obligations, the responsibility for rehabilitation falls on the state. Despite previous increases in bond amounts, it is estimated that bonds currently held cover only around 25 to 30 per cent of the state's contingent liability to rehabilitate land affected by mining operations. There is also additional significant rehabilitation liability at historic or pre-bonding abandoned mine sites.

A 2010 review of unconditional performance bonds by the Department of Mines and Petroleum resulted in a decision to increase bond amounts, initially to cover 50 per cent of closure liability by 2014. The report also served as a trigger for a more general review of the question of appropriate funding for mine site rehabilitation, recognising the need to identify an alternative to the series of significant increases that would otherwise be required to eliminate the government's financial risk.

The departmental review has been carried out over the last two years. It aimed to find a solution that was fair and equitable for industry participants and involved minimal administrative burdens for industry and the regulator. The department investigated a range of mining security systems used in other Australian and international jurisdictions, consulted extensively with key stakeholders, and produced two papers for community comment. The option selected was the mining rehabilitation fund—the fund—which is broadly based on a fidelity fund approach. This option is given effect in the bill now under consideration, which will be supported by regulations specifying rates and other details. These regulations are currently being progressed by the department and will be the subject of further consultation before the scheme commences.

Under the bill, the fund will be an agency special-purpose account subject to the Financial Management Act 2006. The fund's principal, consisting of levy payments, will be used only to rehabilitate land affected because of operations undertaken by mining operators who are required to contribute to the fund. The rehabilitation of historic abandoned mines, as well as administrative and associated costs, will be funded out of interest earned.

Fund contributions will be made by mining industry participants. Primarily, the responsibility to pay the levy will apply to Mining Act tenement holders. The bill also contains a mechanism by which, in future, state agreement act proponents who carry out mining operations may be brought into the fund, following their identification in regulations to be made under the new act. As a matter of policy, state agreement act participants would only be included, on a case-by-case basis, after close consideration of the risks and benefits of including the particular mining project. The process would require agreement across government, negotiations with the company concerned, possible variations to the applicable state agreement act and consultation with broader industry. There is no intention for the new legislation to override state agreement acts. Annual rehabilitation levy amounts will be calculated as a percentage—initially proposed to be one per cent—of a figure approximating the total mine closure cost per annum. Modelling indicates that the one per cent figure would for most operators represent a lower annual cost than the costs associated with supporting the existing bank guaranteed unconditional performance bonds.

The act also establishes a Mining Rehabilitation Advisory Panel, which will provide the CEO with advice on prescribed matters, and matters on which the CEO requests advice, arising under the act. The panel's constitution and procedure and related matters will be set out in the regulations.

The main provisions of the bill are briefly outlined as follows. Part 1 of the bill sets out the short title, the commencement provision and the terms used throughout the bill. Part 2 establishes the mining rehabilitation fund, sets out its purpose, and deals with the expenditure that can be made out of the principal amount of the fund and out of interest earned. Part 3 describes how abandoned mine sites are declared. Part 4 contains details

of the mining rehabilitation levy, assessment and reassessment of the levy, the management of objections, payment and recovery of levies, and the chief executive officer's powers to require information and records from persons. Part 5 deals with miscellaneous matters, including establishing the advisory panel, provision as to the delegation of functions under the act and a general regulation-making power.

This bill achieves a number of economic and environmental goals. It will reduce and, over time, eliminate the state's exposure to financial risk relating to the rehabilitation of abandoned mines. It will diminish the annual financial operating burden on resource industry participants, which strengthens Western Australia's attractiveness as an investment location. It will secure adequate funding to deal appropriately with the environmental and safety risks caused by business failure and default in the mining industry, and the state's legacy of historical abandoned mines.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table the explanatory memorandum.

[See paper 5082.]

Debate adjourned, pursuant to standing orders.