

SENATE BILL NO. 492—COMMITTEE ON REVENUE

MARCH 28, 2011

Referred to Committee on Revenue

SUMMARY—Revises provisions regarding the payment of certain fees for mining claims. (BDR 46-734)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to mining; amending the amount of and requirements for paying certain additional annual fees imposed on a person upon filing an affidavit to hold a mining claim; authorizing the Division of Environmental Protection of the State Department of Conservation and Natural Resources to suspend a permit for a mining operation or exploration project for failure to pay the additional fee; requiring an operator of a mining operation or exploration project to include in an annual report filed with the Administrator of the Division the number of mining claims within the mining operation or exploration project for which a certain filing was made during the preceding calendar year; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires a person who holds a mining claim to file an affidavit
2 each year on or before November 1, setting forth certain information concerning
3 that claim, and to pay a fee with the filing of that affidavit. (NRS 247.310, 517.230)
4 During the 26th Special Session of the Legislature in 2010, an additional fee was
5 imposed on each filing regarding a mining claim held by a person holding 11 or
6 more mining claims in this State. The fees imposed are \$70 per claim for a person
7 who holds not less than 11 but not more than 199 claims, \$85 per claim for a person
8 who holds not less than 200 but not more than 1,299 claims, and \$195 per claim for
9 a person who holds not less than 1,300 claims. Any person required to pay the fee
10 has three options of how to pay, but the fee must be paid in full not later than
11 June 1 of the calendar year immediately following the filing date. This additional
12 fee will expire on June 30, 2011. (NRS 517.187) **Section 1** of this bill amends the
13 basis and structure of the fee imposed and is effective retroactively to the date the



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original fees were enacted, thus replacing them. The amended fee structure provided by **section 1** is based upon the exploration or mining activity conducted upon the claims, instead of the number of claims held by a person, and is as follows: (1) for small exploration projects or small mining operations, the fee imposed is \$2.50 per claim; (2) for exploration projects which require a permit to conduct the exploration project, the fee imposed is \$5.50 per claim; and (3) for mining operations which require a permit to conduct the mining operation, the fee imposed is \$195 per claim. **Section 1** also provides that the fee is now due at the time the filing is made, which is on or before November 1, instead of the previous requirement of not later than June 1. This new fee structure will expire on June 30, 2013. Because the amended fee structure in this bill is effective retroactively and replaces the existing fee structure, **section 5** of this bill provides for the transition from the existing fee structure to the amended fee structure by, in part, providing for: (1) certain excess amounts owed under the amended fee structure for fees due on or before November 1, 2010, not to be paid; and (2) certain excess amounts paid under the existing fee structure to be credited against future fees.

Existing law authorizes the Division of Environmental Protection of the State Department of Conservation and Natural Resources to suspend a permit for an exploration project or mining operation if the holder of the permit violates certain provisions of law, conditions of reclamation or regulations of the State Environmental Commission. (NRS 519A.150) **Section 2** of this bill further authorizes the Division to revoke a permit if the holder of the permit fails to pay the fees required by **section 1**.

Existing law requires an operator of an exploration project or mining operation to submit a report to the Administrator of the Division relating to the status and production of all mining operations and exploration projects the operator has engaged in and identifying each acre of land affected and reclaimed by that operation or exploration. (NRS 519A.260) **Section 3** of this bill requires the operator to also identify in the report each mining claim within the mining operation or exploration project for which a filing was made in the preceding calendar year.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 517.187 is hereby amended to read as follows:

517.187 1. An additional fee is hereby imposed upon each filing made pursuant to NRS 517.230 regarding a mining claim held by a person ~~{who holds 11 or more mining claims}~~ in this State on the date of that filing, in the amount determined in accordance with subsection 2. ~~{The person making that filing shall remit the fee to the county recorder in such a manner that, at the option of that person:~~

~~—(a) The fee is paid in full at the time of the filing;~~

~~—(b) One half of the fee is paid at the time of the filing and the remainder of the fee is paid not later than June 1 of the calendar year immediately following the filing date; or~~

~~—(c) The fee is paid in full not later than June 1 of the calendar year immediately following the filing date.}~~



2. ~~If the greatest number of~~ *For each* mining ~~claims~~ *claim* held in this State ~~by any of the persons who hold any of the mining claims to which a filing made pursuant to NRS 517.230 pertains~~ *that* is:

(a) ~~Not less than 11 and not more than 199 on the date of that filing.~~ *Within a small exploration project or small mining operation for which a permit is not required pursuant to chapter 519A of NRS*, the fee imposed by this section is ~~\$70~~ *\$2.50* for each mining claim to which the filing pertains.

(b) ~~Not less than 200 and not more than 1,299 on the date of that filing.~~ *Within an exploration project for which a permit is required pursuant to NRS 519A.180*, the fee imposed by this section is ~~\$85~~ *\$5.50* for each mining claim to which the filing pertains.

(c) ~~Not less than 1,300 on the date of that filing.~~ *Within a mining operation for which a permit is required pursuant to NRS 519A.200*, the fee imposed by this section is \$195 for each mining claim to which the filing pertains.

3. The county recorder shall ~~+~~ *, at the time a person makes a filing pursuant to NRS 517.230:*

(a) Obtain from ~~each~~ *the* person ~~who makes a filing pursuant to NRS 517.230~~ an affidavit declaring ~~that~~ the ~~greatest~~ number of mining claims held in this State on the date of that filing by any of the persons who hold any of the mining claims to which the filing pertains *and declaring whether each of those claims* is ~~+~~

~~(1) Less than 11;~~
~~(2) Not less than 11 and not more than 199;~~
~~(3) Not less than 200 and not more than 1,299; or~~
~~(4) Not less than 1,300;~~ *within a small exploration project, small mining operation, exploration project or mining operation;*
and

(b) Based upon the information set forth in that affidavit, collect any fee imposed on that filing pursuant to this section.

4. Any person who:

(a) Fails to pay the fee imposed pursuant to this section within the time required *for the filing pursuant to NRS 517.230* shall pay a penalty in the amount of 10 percent of the amount of the fee that is owed, in addition to the fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the date on which the fee is due until the date of payment.

(b) Knowingly makes a false declaration in an affidavit provided to a county recorder pursuant to subsection 3 is guilty of a misdemeanor and shall pay the amount of any additional fee, penalty and interest required pursuant to this section on account of the falsification.



5. The county recorder shall, on or before the fifth working day of each month, deposit with the county treasurer all the fees, penalties and interest imposed pursuant to this section which are collected during the preceding month. The county treasurer shall quarterly remit all money so collected to the State Controller, who shall place the money in the State General Fund.

6. The State Controller shall take such action as may be necessary to ensure that the fees, penalties and interest imposed pursuant to this section are paid in full.

7. As used in this section:

(a) "Exploration project" has the meaning ascribed to it in NRS 519A.070.

(b) "Mining operation" has the meaning ascribed to it in NRS 519A.080.

(c) "Small exploration project" has the meaning ascribed to it in NRS 519A.110.

(d) "Small mining operation" has the meaning ascribed to it in NRS 519A.120.

Sec. 2. NRS 519A.150 is hereby amended to read as follows:
519A.150 The Division may:

1. Conduct or authorize investigations, research, experiments and demonstrations relating to reclamation.

2. Collect and disseminate nonconfidential information relating to mining reclamation.

3. Enter into agreements relating to reclamation with other state and federal governmental agencies pursuant to which services relating to reclamation are provided by the Division or a governmental agency in exchange for other consideration.

4. Receive federal, state or any other money and expend it to carry out the purposes of NRS 519A.010 to 519A.280, inclusive, or any regulation adopted by the Commission pursuant to NRS 519A.160.

5. Hold hearings and issue orders relating to the administration or enforcement of the provisions of NRS 519A.010 to 519A.280, inclusive, or any regulation adopted by the Commission pursuant to NRS 519A.160.

6. Summon witnesses, administer oaths and require the production of pertinent records, books and other documents for examination at any hearing or investigation conducted by it relating to the administration or enforcement of the provisions of NRS 519A.010 to 519A.280, inclusive, or any regulation adopted by the Commission pursuant to NRS 519A.160.

7. Request the Attorney General to bring suit in the name of the State of Nevada against any person whom it finds has violated any provision of NRS 519A.010 to 519A.280, inclusive, or any



1 regulation adopted by the Commission pursuant to NRS 519A.160,
2 to restrain the person from continuing the violation.

3 8. Modify any plan for reclamation previously approved by it
4 if:

5 (a) Any provision of the plan is in conflict with the provisions of
6 a specific statute;

7 (b) Any provision of the plan becomes impossible or
8 impracticable to implement; or

9 (c) Any significant problem that was not previously considered
10 by the Division is discovered to exist which results or may result
11 from reclamation.

12 9. Suspend or revoke a permit upon a noticed hearing and a
13 finding by the Division that the holder of the permit has violated any
14 provision of NRS 519A.010 to 519A.280, inclusive, a plan of
15 reclamation, any condition placed on a plan of reclamation or any
16 regulation adopted by the Commission pursuant to NRS 519A.160
17 ~~[-]~~ *or has failed to pay any fee imposed by NRS 517.187.*

18 10. Take any other action reasonable and necessary to enable it
19 to administer or enforce the provisions of NRS 519A.010 to
20 519A.280, inclusive.

21 **Sec. 3.** NRS 519A.260 is hereby amended to read as follows:

22 519A.260 1. Each operator shall, on or before April 15 of
23 each year ~~[-, submit]~~ :

24 (a) *Submit* to the Administrator a report relating to the status
25 and production of all mining operations and exploration projects in
26 which the operator has engaged and identifying each ~~[-acre]~~ :

27 (1) *Acre* of land affected and land reclaimed by that mining
28 operation or exploration project through the preceding calendar year
29 ~~[-]~~ ; and

30 (2) *Mining claim within the mining operation or*
31 *exploration project for which a filing was made pursuant to NRS*
32 *517.230 during the preceding calendar year;* and ~~[-shall pay]~~

33 (b) *Pay* to the Division a fee of:

34 ~~[-(a)]~~ (1) One dollar and fifty cents for each acre of public land
35 administered by a federal agency; and

36 ~~[-(b)]~~ (2) Five dollars and fifty cents for each acre of privately
37 owned land,

38 ➤ which has been disturbed by mining operations or exploration
39 projects engaged in by the operator and not reclaimed.

40 2. All money received by the State Treasurer pursuant to
41 *subparagraph (1) of* paragraph ~~[-(a)]~~ (b) of subsection 1 together
42 with three-elevenths of all money received by the State Treasurer
43 pursuant to *subparagraph (2) of* paragraph (b) of subsection 1, up to
44 a maximum of \$100,000 annually, must be distributed directly to the
45 Bureau of Mines and Geology of the State of Nevada to be used to



1 carry out the provisions of NRS 514.060. Any money in excess of
2 the maximum and the balance collected pursuant to *subparagraph*
3 *(2) of* paragraph (b) of subsection 1 must be credited to the
4 appropriate account for the Division and used to administer the
5 provisions of this chapter.

6 **Sec. 4.** Section 69 of chapter 10, Statutes of Nevada 2010,
7 26th Special Session, at page 98, is hereby amended to read as
8 follows:

9 Sec. 69. 1. This section and sections 1 to 18,
10 inclusive, 20 to 30, inclusive, 32, 34 to 37, inclusive, 39, 43,
11 44, 46 to 63, inclusive, and 65 to 68, inclusive, of this act
12 become effective upon passage and approval.

13 2. Sections 19 and 31 of this act become effective on
14 April 1, 2010.

15 3. Section 64 of this act becomes effective on May 1,
16 2010.

17 4. Sections 33, 38, 40, 41, 42 and 45 of this act become
18 effective on July 1, 2010.

19 5. ~~{Sections}~~ *Section* 36 ~~{and 47}~~ of this act ~~{expire}~~
20 *expires* by limitation on June 30, 2011.

21 *6. Section 47 of this act expires by limitation on*
22 *June 30, 2013.*

23 **Sec. 5.** 1. Notwithstanding the amendatory provisions of this
24 act:

25 (a) A person who submitted an affidavit on or before
26 November 1, 2010, as required by subsection 3 of NRS 517.187
27 before the effective date of section 1 of this act, shall submit an
28 additional affidavit on or before June 30, 2011, containing the
29 additional information required by subsection 3 of NRS 517.187 as
30 amended by section 1 of this act.

31 (b) Except as otherwise provided in paragraph (c), if a person is
32 required to pay a fee on or before November 1, 2010, by NRS
33 517.187 as amended by section 1 of this act, the person shall pay the
34 fee on or before June 30, 2011.

35 (c) If a person is required to pay a fee on or before November 1,
36 2010, by NRS 517.187 as amended by section 1 of this act the
37 amount of which is greater than the amount of the fee the person
38 would have been required to pay by NRS 517.187 before the
39 effective date of section 1 of this act, the person is not required to
40 pay the difference between:

41 (1) The amount of the fee the person is required to pay on or
42 before November 1, 2010, by NRS 517.187 as amended by section 1
43 of this act; and



1 (2) The amount of the fee the person would have been
2 required to pay by NRS 517.187 before the effective date of section
3 1 of this act.

4 2. If, before the effective date of section 1 of this act, a person
5 paid all or part of the fee required by NRS 517.187, the amount the
6 person paid must be credited against the amount of the fee the
7 person is required to pay on or before November 1, 2010, by NRS
8 517.187 as amended by section 1 of this act. If the amount the
9 person paid before the effective date of section 1 of this act is
10 greater than the amount of the fee the person is required to pay on or
11 before November 1, 2010, by NRS 517.187 as amended by section 1
12 of this act, the difference must be credited against any future fee the
13 person may be required to pay by NRS 517.187. The person is not
14 entitled to a refund, and must not be given a refund, of any amount
15 the person paid before the effective date of section 1 of this act for
16 the fee required by NRS 517.187.

17 **Sec. 6.** 1. This section and sections 1, 4 and 5 of this act
18 become effective upon passage and approval.

19 2. Section 1 of this act applies retroactively from and after
20 March 12, 2010.

21 3. Sections 2 and 3 of this act become effective on June 30,
22 2011.

23 4. Sections 1, 2, 3 and 5 of this act expire by limitation on
24 June 30, 2013.

