

ASSEMBLY BILL NO. 148—ASSEMBLYMEN PETERS, WATTS,
BILBRAY-AXELROD; ANDERSON, CARLTON, COHEN,
MARTINEZ, NGUYEN AND TORRES

FEBRUARY 18, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing mining.
(BDR 46-134)

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

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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; revising the application requirements for obtaining a permit to engage in an exploration project or mining operation; prohibiting certain persons from obtaining such a permit; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from engaging in certain exploration projects or mining operations without a permit issued for that purpose by the Division of Environmental Protection of the State Department of Conservation and Natural Resources. (NRS 519A.180, 519A.200) Existing law further: (1) requires certain information to be included in an application for such a permit, including the name and address of the applicant and, if the applicant is a corporation or other business entity, the name and address of its principal officers; and (2) prohibits the issuance of such a permit to an applicant who is in default on any obligation relating to reclamation. (NRS 519A.190, 519A.210)

Sections 1 and 2 of this bill require an applicant for such a permit who is a corporation or business entity to submit with the application the name and address of each person who has a controlling interest in the corporation or business entity.

Sections 1 and 2 further require an applicant to submit an affidavit that states whether or not the applicant and each person who has a controlling interest in the corporation or business entity is in good standing with all agencies of other states and federal agencies in relation to the reclamation of exploration projects or mining operations outside of this State.

Sections 1 and 2 prohibit the issuance of a permit to any applicant that is a corporation or other business entity if any person who has a controlling interest in the corporation or business entity has or previously had a controlling interest in another corporation or business entity that has defaulted on any obligation relating to reclamation unless the applicant: (1) pays the full amount of the defaulted



obligation or provides evidence of satisfaction of the defaulted obligation; and (2) demonstrates that the conditions which led to the default have been remedied and no longer exist.

Sections 1 and 2 further prohibit the issuance of a permit if the applicant or, if the applicant is a corporation or other business entity, a person who has a controlling interest in the corporation or business entity is not in good standing with an agency of another state or a federal agency in relation to the reclamation of an exploration project or mining operation outside of this State unless the applicant or person who has a controlling interest remedies all issues relating to the reclamation of the exploration project or mining operation outside of this State and becomes in good standing with all agencies of the other state and federal agencies in relation to the reclamation of the exploration project or mining operation outside of this State.

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

Section 1. NRS 519A.190 is hereby amended to read as follows:

519A.190 **1.** A person who desires to engage in an exploration project must:

~~1. (a)~~ **(a)** File with the Division, upon a form approved by it, an application for a permit. The application must include:

~~1. (a) (1)~~ **(1)** The name and address of the applicant and, if *the applicant is* a corporation or other business entity ~~[, the]~~ :

(I) *The name and address of ~~its principal officers and its~~ each person who has a controlling interest in the corporation or business entity; and*

(II) *The name and address of the registered agent of the corporation or business entity for service of process;*

~~1. (b)~~ **(2)** An exploration map or sketch in sufficient detail to enable the Division to locate the area to be explored and to determine whether significant environmental problems are likely to result;

~~1. (c)~~ **(3)** The kinds of prospecting and excavation techniques that will be used in the exploration project; ~~and~~

~~—(d)~~ **(4)** *An affidavit stating whether or not the applicant and, if applicable, each person who has a controlling interest in the corporation or business entity is in good standing with all agencies of other states and federal agencies in relation to the reclamation of exploration projects outside of this State; and*

(5) Any other information required by the regulations adopted by the Commission pursuant to NRS 519A.160.

~~2. (b)~~ **(b)** Pay to the Division the application fee established in the regulations adopted by the Commission pursuant to NRS 519A.160.



~~13.1~~ (c) Agree in writing to assume responsibility for the reclamation of any surface area damaged as a result of the exploration project.

~~14. Not be in default of any other obligation relating to reclamation pursuant to this chapter.~~

~~5.1~~ (d) File with the Division a bond or other surety in a form approved by the Administrator and in an amount required by the regulations adopted by the Commission pursuant to NRS 519A.160.

2. Except as otherwise provided in subsections 3 and 4, the Division shall not issue a permit to engage in an exploration project pursuant to this section to an applicant if:

(a) The applicant has defaulted on any obligation relating to reclamation pursuant to this chapter, including, without limitation, by forfeiting a surety or failing to pay the full costs of reclamation or any penalty assessed pursuant to NRS 519A.280;

(b) For an applicant who is a corporation or other business entity, any person who has a controlling interest in the corporation or business entity has or previously had a controlling interest in another corporation or business entity that defaulted on any obligation relating to reclamation pursuant to this chapter, including, without limitation, by forfeiting a surety or failing to pay the full costs of reclamation or any penalty assessed pursuant to NRS 519A.280; or

(c) The applicant or, if the applicant is a corporation or other business entity, a person who has a controlling interest in the corporation or business entity is not in good standing with an agency of another state or a federal agency in relation to the reclamation of an exploration project outside of this State.

3. The Division may issue a permit to engage in an exploration project pursuant to this section to an applicant described in paragraph (a) or (b) of subsection 2 if the applicant:

(a) Pays to the Division the full amount of the defaulted obligation described in paragraph (a) or (b) of subsection 2, as applicable, or provides evidence of satisfaction of that defaulted obligation; and

(b) Demonstrates to the Division that any conditions which led to the default have been remedied and that such conditions no longer exist.

4. The Division may issue a permit to engage in an exploration project pursuant to this section to an applicant described in paragraph (c) of subsection 2 if the applicant demonstrates to the Division that the applicant or person who has a controlling interest in the corporation or business entity has remedied all issues related to the reclamation of the exploration project outside of this State and becomes in good standing with all



agencies of the other state and federal agencies in relation to the reclamation of the exploration project.

5. As used in this section, "person who has a controlling interest" means:

(a) The president, secretary, treasurer or equivalent thereof of the corporation or business entity;

(b) A partner, director or trustee of the corporation or business entity; or

(c) A person who, directly or indirectly, possesses the power to direct the management or determine the policy of the corporation or business entity resulting from, without limitation, his or her ownership of voting stock in the corporation or business entity, a contract or any other circumstance.

↪ The term does not include a person designated to act as a proxy, including, without limitation, an agent, bank, broker, nominee or custodian, for one or more persons who own voting stock unless the proxy otherwise has the power to direct the management or determine the policy of the corporation or business entity.

Sec. 2. NRS 519A.210 is hereby amended to read as follows:

519A.210 1. A person who desires to engage in a mining operation must:

~~(1)~~ (a) File with the Division, upon a form approved by it, an application for a permit for each location at which the person will conduct operations. The application must include:

~~(a)~~ (1) The name and address of the applicant and, if *the applicant* is a corporation or other business entity ~~[, the]~~ :

(I) The name and address of ~~[its principal officers and its]~~ each person who has a controlling interest in the corporation or business entity; and

(II) The name and address of the registered agent of the corporation or business entity for service of process;

~~(b)~~ (2) A completed checklist developed by the Division pursuant to NRS 519A.220; ~~and~~

~~(c)~~ (3) An affidavit stating whether or not the applicant and, if applicable, each person who has a controlling interest in the corporation or business entity is in good standing with all agencies of other states and federal agencies in relation to the reclamation of mining operations outside of this State; and

(4) Any other information required by the regulations adopted by the Commission pursuant to NRS 519A.160.

~~(2)~~ (b) Pay to the Division the application fee established in the regulations adopted by the Commission pursuant to NRS 519A.160.

~~(3)~~ (c) Agree in writing to assume responsibility for the reclamation of any land damaged as a result of the mining operation.



~~14. Not be in default of any other obligation relating to reclamation pursuant to this chapter.~~

~~5.1~~ (d) File with the Division a bond or other surety in a form and amount required by the regulations adopted by the Commission pursuant to NRS 519A.160.

~~16.1~~ (e) File with the Division of Minerals of the Commission on Mineral Resources a copy of the plan for reclamation which is filed with the application pursuant to ~~subsection 1.1~~ paragraph (a), on the same day the application is filed with the Division.

2. Except as otherwise provided in subsections 3 and 4, the Division shall not issue a permit to engage in a mining operation pursuant to this section to an applicant if:

(a) The applicant has defaulted on any obligation relating to reclamation pursuant to this chapter, including, without limitation, by forfeiting a surety or failing to pay the full costs of reclamation or any penalty assessed pursuant to NRS 519A.280;

(b) For an applicant who is a corporation or other business entity, any person who has a controlling interest in the corporation or business entity has or previously had a controlling interest in another corporation or business entity that defaulted on any obligation relating to reclamation pursuant to this chapter, including, without limitation, by forfeiting a surety or failing to pay the full costs of reclamation or any penalty assessed pursuant to NRS 519A.280; or

(c) The applicant or, if the applicant is a corporation or other business entity, a person who has a controlling interest in the corporation or business entity is not in good standing with an agency of another state or a federal agency in relation to the reclamation of a mining operation outside of this State.

3. The Division may issue a permit to engage in a mining operation pursuant to this section to an applicant described in paragraph (a) or (b) of subsection 2 if the applicant:

(a) Pays to the Division the full amount of the defaulted obligation described in paragraph (a) or (b) of subsection 2, as applicable, or provides evidence of satisfaction of that defaulted obligation; and

(b) Demonstrates to the Division that any conditions which led to the default have been remedied and that such conditions no longer exist.

4. The Division may issue a permit to engage in a mining operation pursuant to this section to an applicant described in paragraph (c) of subsection 2 if the applicant demonstrates to the Division that the applicant or person who has a controlling interest in the corporation or business entity has remedied all issues related to the reclamation of the mining operation outside



1 of this State and becomes in good standing with all agencies of the
2 other state and federal agencies in relation to the reclamation of
3 the mining operation.

4 5. As used in this section, “person who has a controlling
5 interest” means:

6 (a) The president, secretary, treasurer or equivalent thereof of
7 the corporation or business entity;

8 (b) A partner, director or trustee of the corporation or business
9 entity; or

10 (c) A person who, directly or indirectly, possesses the power to
11 direct the management or determine the policy of the corporation
12 or business entity resulting from, without limitation, his or her
13 ownership of voting stock in the corporation of business entity, a
14 contract or any other circumstance.

15 ➡ The term does not include a person designated to act as a proxy,
16 including, without limitation, an agent, bank, broker, nominee or
17 custodian, for one or more persons who own voting stock unless
18 the proxy otherwise has the power to direct the management or
19 determine the policy of the corporation or business entity.

20 **Sec. 3.** 1. This section becomes effective upon passage and
21 approval.

22 2. Sections 1 and 2 of this act become effective:

23 (a) Upon passage and approval for the purpose of adopting any
24 regulations and performing any other preparatory administrative
25 tasks that are necessary to carry out the provisions of this act; and

26 (b) On April 1, 2022, for all other purposes.

