



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 1813

PRINTERS NO. 4149

PRIME SPONSOR: Tobash

### COST / (SAVINGS)

| FUND   | FY 2012/13  | FY 2013/14    |
|--|-------------|---------------|
| General Fund                                   | \$0         | \$2,000,000   |
| Surface Mining Conservation & Reclamation Fund | \$500,000   | (\$2,000,000) |
| Remining Financial Assurance Fund              | (\$500,000) | \$0           |

**SUMMARY:** House Bill 1813, Printer's Number 2901, amends the Surface Mining and Reclamation Act to provide for land reclamation financial guarantees, establish a special financial guarantee account and allow for the transfer of funds. This legislation would take effect in 60 days upon enactment.

**ANALYSIS:** This bill amends the Surface Mining and Reclamation Act (Act 418 of 1945) by adding a new program to provide land reclamation financial guarantees to qualified operators as an alternative to satisfy surface mine reclamation bonding obligations.

Under this program, the Department of Environmental Protection (DEP) shall assess and collect premiums - as determined by DEP and established by regulation - from qualified operators who choose to obtain such guarantees. Premiums must be sufficient to assure the financial stability of the program and cover DEP's administrative costs.

All premium payments shall be deposited into the newly established Land Reclamation Financial Guarantee Account within the Surface Mining Conservation and Reclamation Fund. The account shall be used to pay the cost of reclamation in the event of operator forfeiture, as well as convert existing guarantees previously issued by the department and cover these obligations.

The department shall also use all funds previously appropriated and collected for sum-certain financial guarantees available from its appropriation as part of Act 6A of 2001 for these purposes. It may also transfer up to \$500,000 of these funds into the Remining Financial Assurance Fund to support financial guarantees for reclamation and remining activities.

DEP may also transfer premiums or interest earned on the funds in the Land Reclamation Financial Guarantee Account into the Reclamation Fee Operation & Maintenance Trust Account, which supports operation and maintenance of mine drainage treatment facilities.

Furthermore, the bill provides that up to \$2 million to be collected from the Gross Receipts Tax on sales of electric energy may be appropriated annually by the General Assembly to the department for transfer to the Reclamation Fee Operation & Maintenance Trust Account to supplement the account. This transfer would begin in fiscal year 2013-14 and continue for a period of twenty-five years until June 30, 2039 when the authority for such transfers would expire.

The land reclamation financial guarantee program may be discontinued immediately upon publication in the Pennsylvania Bulletin if 25% or greater of the outstanding bond obligations are subject to forfeiture.

**FISCAL IMPACT:** While a number of transfers are authorized within this legislation, it is not expected to have an adverse fiscal impact on Commonwealth funds.

For example, HB 1813 establishes the new land reclamation financial guarantees program, which will be supported by premiums paid by operators to assure the financial stability of the reclamation program and cover DEP's administrative costs.

The department is also authorized to use all funds previously appropriated and collected for sum-certain financial guarantees available from its appropriation as part of Act 6A of 2001 as principal funds for these purposes. This was a \$7 million appropriation for conservation purposes to implement full-cost bonding, which was subsequently transferred into a restricted account in the Surface Mining Conservation and Reclamation Fund and remains available for such purposes. DEP may also use this existing funding to transfer \$500,000 to the Remaining Financial Assurance Fund (Act 173 of 1992) as outlined in the bill.

Secondly, the bill authorizes for the annual transfer up to \$2 million from the Gross Receipts Tax on sales of electric energy to the Reclamation Fee Operation & Maintenance Trust Account to supplement the account. This transfer would begin in fiscal year 2013-14 and continue for a period of twenty-five years until June 30, 2039 when the authority for such transfers would expire.

A transfer of \$2 million in Gross Receipts Tax revenues would divert it from the General Fund, but this is not expected to adversely impact the fund. For example, Gross Receipts Tax revenues on the sales of electric energy totaled \$890 million in FY 2011-12 and are expected to increase in subsequent years. It should also be noted that any such transfer is based upon the approval of the Governor and available revenues each fiscal year.

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**DATE:** October 17, 2012

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*