

WPCAMR Regional Coordinator's Report

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LEGISLATIVE ROUNDUP

STATE

- **SB618 – Extending the PA Coal Refuse Energy and Reclamation Tax Credit.**
Introduced by State Senators Argall and Yudichak. An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in coal refuse energy and reclamation tax credit, further providing for definitions, for application and approval of tax credit and for limitation on tax credits. Currently in Appropriations Committee as of June 3, 2019. WPCAMR supports this bill.
- **HB1481 Extending the PA Coal Refuse Energy and Reclamation Tax Credit.**
Introduced by Representative Masser, this is the House version of SB618. An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in coal refuse energy and reclamation tax credit, further providing for definitions, for application and approval of tax credit and for limitation on tax credits. Currently in House Committee on Finance May 22, 2019. WPCAMR supports this bill.

FEDERAL

Reauthorization Bills

- **H.R. 4248 Surface Mining Control and Reclamation Act Amendments of 2019**
Introduced by Rep. Matt Cartwright (D-PA) and Rep. Glenn Thompson (R-PA) on September 9, 2019 at the NAAMLPA/PA AMR Conference in Pittsburgh, this bill extends the SMCRA fee and also addresses the points required by the PA AML Campaign. The Campaign is currently trying to drum up support amongst all members of the PA Delegation so this bill may move forward. This bill was referred to the Committee on Natural Resources then to the subcommittee on Energy and Mineral Resources, and in addition to the Committee on the Budget. So far, this is the best, most comprehensive bill for reauthorization that we've seen in this Congress and deserves support. WPCAMR signed a resolution supporting reauthorization and the PA AML Campaign supports this bill already. WPCAMR is part of the PA AML Campaign.

- **S. 1193 AML AML Fund Fee Reauthorization**

In April 2019, Sen. Joe Manchin (D-WV) introduced legislation to extend the SMCRA fee on active coal mining. It's a simple bill with only the fee extension but we understand that Manchin is very willing to work with our community to incorporate other important items into the bill. We suspect this bill will advance once the sponsor addresses some other issues that he's working on. The PA AML Campaign would also like to see the following items put into the bill:

- Restoring fees to 1977 levels to account for inflation.
- Exempting funds from sequestration limits.
- Establishing a direct line item in the OSMRE budget for emergency projects.
- Increasing minimum program state/tribe funding to \$5 million annually.

This bill is now in the Senate Committee for Energy and Natural Resources. WPCAMR has no position on this bill.

Miners Bills

- **H.R. 935 Miners Pension Protection Act**

Introduced earlier in the year by Rep. McKinley (R-WV), this bill transfers certain funds to provide pension benefits for retired coal miners who have been affected by issues such as coal company bankruptcies.

The Department of the Treasury must transfer additional funds to the 1974 United Mine Workers of America (UMWA) Pension Plan to pay pension benefits required under that plan if the annual limit on transfers under the Surface Mining Control and Reclamation Act of 1977 exceeds the amount required to be transferred for existing obligations of the Abandoned Mine Reclamation Fund. The bill also increases the annual limit on transfers from \$490 million to \$750 million.

The bill also allows in-service distributions under a pension plan or governmental section 457(b) plan at age 59-1/2 (currently age 62). There are currently 89 co-sponsors on this bill. It underwent markup and was ordered out of Committee on October 23, 2019. WPCAMR has no position on this bill.

- **S. 671 Miners Pension Protection Act**

This bill, introduced by Sen. Capito (R-WV) in March of this year, is the companion bill to the H.R. 935 above. This bill transfers certain funds to provide pension benefits for retired coal miners who have been affected by issues such as coal company bankruptcies.

The Department of the Treasury must transfer additional funds to the 1974 United Mine Workers of America (UMWA) Pension Plan to pay pension benefits required under that plan if the annual limit on transfers under the Surface Mining Control and Reclamation Act of 1977 exceeds the amount required to be transferred for existing obligations of the Abandoned Mine Reclamation Fund. The bill also increases the annual limit on transfers from \$490 million to \$750 million.

The bill also allows in-service distributions under a pension plan or governmental section 457(b) plan at age 59-1/2 (currently age 62). There is currently one co-sponsor and the bill is in the Senate Committee on Finance. WPCAMR has no position on this bill.

- **S. 27 American Miners Act of 2019**

The issue of miners' health insurance was addressed by Congress in the last congress. However, the issue of the miners' pensions is still up in the air. This bill, introduced in January 2019, is sponsored by Sen. Joe Manchin (D-WV) with co-sponsors Kaine (D-VA), Warner (D-VA), Brown (D-OH), Jones (D-AL), and Casey (D-PA). The purpose of this bill is to secure our nation's retired miners pensions by: 1) shoring up the 1974 Pension Plan which is headed for insolvency due to coal company bankruptcies and the 2008 financial crisis, 2) ensuring that the miners who are at risk due to 2018 coal company bankruptcies will not lose their healthcare, and 3) extending the Black Lung Disability Trust Fund tax at \$1.10 per ton of underground-mined coal and \$0.55 per ton of surface-mined coal for ten years. This tax is critical for supporting the Black Lung Disability Trust fund, which provides healthcare and benefits to more than 25,000 miners and their dependents. It is currently still in the Senate Committee on Finance. WPCAMR has no position on this bill.

Waste Coal to Energy

- **H.R. 4735 - The Mine Affected Community Energy and Environment Act**
Performance-Based Coal Refuse Reclamation Tax Credit Legislation

Introduced by Rep. Meuser (R-PA), the proposed legislation incentivizes the reclamation of environmentally harmful coal refuse piles by amending the Internal Revenue Code ("Code") as follows:

- Add certain coal refuse facilities as qualifying facilities for purposes of a federal production tax credit (“PTC”) by modifying Code Section 45 to provide a \$12.50 per ton credit for each ton of coal refuse removed; and direct that \$0.50 of each per ton credit must be dedicated to the restoration of riparian buffers for the purpose of improving downstream water quality and reducing carbon emissions.
 - Provide for the new coal refuse PTC to be refundable at the election of the taxpayer by adding a new Code Section 6433
 - A qualifying coal refuse facility would be eligible for the credit for a 10-year PTC period that begins with the 2019 taxable year.
- WPCAMR has not taken a position on this bill yet.

Other Bills

- **H.R. 2937 Community Reclamation Partnerships Act**

This bill is a type of Federal Environmental Good Samaritan bill introduced in the House and reported out of committee. Most of the work on this has been done through the Interstate Mining Compact Commission, TU and the States. This is very promising. This bill proposes a way to protect watershed groups working on AMD by amending SMCRA. According to sponsor, Rep. Darin LaHood (R-IL), HR 2937 addresses impediments potential “Community Reclaimers” face in the reclamation process by allowing states to assume liability on their behalf, shielding them from any undue legal liability under the law. The bill has undergone markup in Committee and has been reported out and was scored positively by the Congressional Budget Office. The bill is currently still in the Senate Committee on Energy and Natural Resources. WPCAMR offered a qualified support for this bill knowing that certain provisions need to be revised.

- **RECLAIM Act (H.R. 2156)**

RECLAIM has been re-introduced in the US House of Representatives in April. The RECLAIM Act would, once again, expedite the distribution of \$1B from the AML fund beginning in fiscal year 2020. The primary sponsor is Rep. Matt Cartwright (D-PA). Original co-sponsors are: Rep. Hal Rogers (R-K), Rep. Don Beyer (D-VA), and GT Thompson (R-PA).

This bill was marked up this past spring and has continued to languish. The main reason for it’s sluggish movement is that it does not generate funds (like a Reauthorization legislation does). Rather, it proposes to use funds but can’t make those funds up by generating money. Until its sponsors can find a suitable bill with which to attach it to, this bill will not move. We heard earlier this spring that there will be a Senate version coming soon but have yet to see that materialize. WPCAMR has remained neutral on this bill.

(With regard to RECLAIM, once again it bears repeating that, in its current form, the funds to be distributed will be from the “Unappropriated balance”...funds that were supposed to be distributed to the states at the end of the current AML reauthorization if the AML fee collection isn’t reauthorized in 2021. Distribution of these funds to the RECLAIM Act would negatively impact the “Unappropriated Balance” whose current balance is approximately \$2Billion. Without a reauthorized fee collection in 2021, this balance will lose \$1Billion and could potentially lose more of the remaining balance as it is funneled to RECLAIM. The unappropriated balance was originally intended to be distributed to the states if/when the Title IV fee collection stopped. Without this source of funding, state Bureaus of Abandoned Mine Reclamation may have no other source of funding for their work. Another point to note is that in this current version of the RECLAIM Act, Pennsylvania would be negatively affected. Pennsylvania would actually lose funding. That funding would be distributed to other states, according to the new distribution formula, presumably to get the other states more interested in supporting the bill).

- **Sequestration**

Still goes on with PA losing funding from its annual Title IV grant. Part of what the AML Campaign is looking for is an end to the sequestering of Title IV grant funds. Note that in HR4248, there is language to end Sequestration for the Title IV grants.

OTHER ITEMS

Quick Response

We are just over half way through expending funds from QR8. While the use of QR8 funds has slowed down somewhat since Summer, we only have a portion of the original grant left to fund projects.. At our August WPCAMR meeting, I requested permission to apply during the next round of Growing Greener for a Quick Response 9 grant as soon as the round opens. The grant round opened on November 4th and I will be busy writing a new Quick Response grant over the next few weeks. Also, earlier in the summer, I requested additional funds from DEP to amend our current QR contract and am hoping we can get those funds. Those extra funds, if approved, should help keep the program funded until the next round of Growing Greener grants is announced, presumably during the winter of 2020-2021.

2019 and 2020 Statewide AMR Conferences

We've finished work on the 2019 joint conference with the National Association for Abandoned Mine Land Programs (NAAML). I had secured \$10,000 for scholarships at this time and the committee has been getting more sponsors. Additionally, I secured another \$7,000 for WPCAMR for our expenses related to work on the conference this year. The nonprofit attendance was good and the conference was a great success amongst the out-of-state attendees. Anne will have more information on details surrounding that conference. We have now started to work on the 2020 conference to be held in State College for which, WPCAMR will be the fiscal agent, paying the bills and getting reimbursed.

Administrative

With regard to office items, we have our engagement letter for the Board to sign for our 2019 audit by Henninger. It will be a full audit for tax year 2019. We've been doing well financially and I think our 2019 audit will show more of the same.

Additionally, I have been in contact with an insurance broker to see what the cost would be for WPCAMR to offer staff health insurance as part of a group. I met with the broker at the end of October and am presenting the costs at today's WPCAMR meeting. I'm pleased to say, based on our actual income and 2020 budget, we are able to afford to offer health insurance to staff, paying 50% of the monthly premiums as suggested by Federal government.

I completed the draft 2020 WPCAMR budget which includes costs for employer contribution to health insurance as well as strategic planning. Even though we did not get the Campbell grant that I applied for in August (apparently five applications were accepted out of 117), we still have enough funding to cover those additional costs in 2020.

I also completed the final report for our FPW AML Campaign grant, addressed some questions and edits on the report and it has been accepted. I have finished the application and submitted it for continued support from FPW for our AML Campaign work with TU for July 2019 to July 2020 for \$40,000. With regard to our work with TU on the AML Campaign, we will hopefully, have a new agreement with TU to be signed at this board meeting for this new grant funding.

I am also looking for guidance from the Board as to whether an updating process of our strategic plan is in order for 2020 or if we should wait until the possibility of reauthorization in fall 2021?

Reauthorization of SMCRA Title IV Fees

We've been working hard on reauthorization efforts and it appears that we will be having a hearing on HR4248 on November 14th. Reauthorization seems to be gaining momentum. We're very grateful for the resolutions brought to us by Conservation Districts and County Commissioners but we still need more of our County Commissions to pass resolutions. At the time of the writing of this report, I was invited by the State Conservation Commission to present a formal request for a

reauthorization resolution. I worked with them ahead of time to help craft resolution language that is acceptable to them. It is likely that the reauthorization efforts will continue into next year in spite of positive movement at this time. We are also trying to get the entire PA Congressional Delegation to be co-sponsors of this bill. We have a few more to get but are confident that with the help of the community, we'll be able to get them as co-sponsors.

Other Meetings

- Assisted filmmaker with locating stills and video of historical coal mining for a project undertaken by FPW.
- PA annual AMR conference planning committee, Conference calls
- EPA Brownfields webinar, October 2019
- State Conservation Commission, Harrisburg, November 12 2019.