

HOUSE BILL NO. HB0053

Minerals to value added products program.

Sponsored by: Joint Minerals, Business & Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to economic development; creating the
2 minerals to value added products program; providing for
3 administration of the program by the Wyoming business
4 council; providing requirements to participate in the
5 program; providing for adequate consideration and other
6 prerequisites for approval of a contract under the program
7 by the state loan and investment board; creating an
8 account; restricting expenditures from the account as
9 specified; providing rulemaking authority; requiring a
10 report; providing definitions; providing legislative
11 findings; and providing for an effective date.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

1 **Section 1.** W.S. 9-20-101 through 9-20-104 are created
2 to read:

3

4

CHAPTER 20

5

WYOMING MINERALS TO VALUE ADDED PRODUCTS PROGRAM

6

7

9-20-101. Definitions.

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(a) As used in this article:

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(i) "Account" means the minerals to value added
product program account created pursuant to W.S.
9-20-104(a);

(ii) "Minerals to value added products facility"
includes a commercial scale mineral to liquid fuels or
other value added products facilities but shall not include
any facility which will derive fifty percent (50%) or more
of its anticipated revenues from the generation of
electricity;

1 (iii) "Program" means the minerals to value
2 added products program created pursuant to W.S.
3 9-20-102(a);

4

5 (iv) "Tolling fee" means a negotiated fee for
6 the conversion of a feedstock mineral provided by the state
7 of Wyoming under a contract with the operator of a value
8 added facility;

9

10 (v) "This act" means W.S. 9-20-101 through
11 9-20-104.

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13 **9-20-102. Wyoming mineral to value added product**
14 **program; rulemaking authority.**

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16 (a) There is created the Wyoming minerals to value
17 added products program. The program is intended to aid
18 economic development of the state by providing mineral
19 product input guarantees to enable the recruitment and
20 operation of commercial scale minerals to value added
21 products facilities, which have demonstrated proof of
22 performance.

23

1 (b) The Wyoming business council shall establish and
2 administer the program under this act. Any commercial
3 scale minerals to value added products facility shall
4 submit a proposal to the governor. The governor may
5 provide recommendations for the size and parameters of the
6 proposed contract. An application to participate in the
7 program shall then be submitted to and reviewed by the
8 Wyoming business council under the process set forth in
9 W.S. 9-12-601 through 9-12-603. The application shall be
10 submitted on forms prescribed by, and subject to rules
11 promulgated by, the Wyoming business council. In determining
12 whether to recommend a contract for approval, the Wyoming
13 business council shall consider if the applicant has
14 demonstrated a business plan, balance sheet, sufficient
15 cash flow, commitments to sell the finished product and
16 other indices necessary to demonstrate the applicant's
17 ability to perform under the contract as determined by rule
18 and regulation of the Wyoming business council.

19

20 (c) The Wyoming business council shall provide
21 recommendations for terms and conditions contained in a
22 proposed contract. The Wyoming business council's
23 recommendations shall be forwarded to the state loan and

1 investment board for final consideration of the
2 application.

3

4 (d) After an application to participate in the
5 program is approved by the state loan and investment board,
6 the Wyoming business council may complete negotiations to
7 contract to supply not more than twenty percent (20%) of
8 the expected mineral supply to the facility for the
9 duration of the contract. Total contract amounts for any
10 one (1) facility shall be set by rule of the state loan and
11 investment board based on the provisions of this act and
12 the expected return to the state of Wyoming, but in no
13 event shall a contract exceed fifty million dollars
14 (\$50,000,000.00).

15

16 (e) All complete applications to participate in the
17 minerals to value added products program established under
18 this act which conform to the criteria established by this
19 act and rules and regulations promulgated hereunder, shall
20 be considered. The Wyoming business council shall review
21 the application and may communicate directly with the
22 applicant. A determination by the state loan and investment

1 board to approve or disapprove an application under this
2 act is not appealable.

3

4 (f) If the Wyoming business council receives multiple
5 applications to enter a contract under the program,
6 consideration shall be given to whether the applicant has
7 demonstrated a past record of producing jobs in Wyoming and
8 whether the applicant has and is likely to maintain a nexus
9 to the state of Wyoming.

10

11 **9-20-103. Criteria and procedures for contracts.**

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13 (a) In determining whether to recommend or approve a
14 contract under this act, the Wyoming business council and
15 state loan and investment board shall consider if:

16

17 (i) There are sufficient funds in the account to
18 fully fund the contract and all other outstanding
19 commitments to the account;

20

21 (ii) The contract establishes the terms and
22 conditions of the contract as required by this act,
23 including, but not necessarily limited to:

1

2 (A) The duration of the contract to provide
3 feedstock minerals, including the end date for the
4 contract;

5

6 (B) Criteria to determine proof of
7 performance on the part of the minerals to value added
8 products facility prior to expenditure of funds by the
9 state of Wyoming under the contract;

10

11 (C) Tolling fees for the conversion of the
12 state's feedstock to a value added product;

13

14 (D) Procedures and mechanisms for the sale
15 of the finished product produced under the contract and the
16 deposit of the proceeds of those sales to the account as
17 provided in W.S. 9-20-104.

18

19 (b) Contracts considered under this act shall be
20 subject to the following procedures:

21

22 (i) The proposed contract shall be submitted to
23 the Wyoming business council for review and determination

1 under the process set forth in W.S. 9-12-601 through
2 9-12-603;

3

4 (ii) The Wyoming business council's
5 recommendations shall be forwarded to the state loan and
6 investment board for final consideration of the contract.

7

8 (c) The Wyoming business council shall only
9 recommend, and the state loan and investment board shall
10 only approve, entering into contracts under this act for
11 minerals to value added products facility projects which
12 meet the following minimum requirements:

13

14 (i) Are anticipated to have a beneficial
15 economic impact to the state of Wyoming and provide the
16 following minimum public benefits:

17

18 (A) The creation of a substantial expansion
19 of permanent jobs in the county or counties in which the
20 project will be located;

21

1 (B) A substantial increase in the assessed
2 valuation of the county or counties in which the projects
3 will be located;

4

5 (C) A substantial increase in the sales,
6 property or other tax revenues to the county or counties
7 where the project will be located;

8

9 (D) Promotion of a stable, balanced and
10 diversified economy; and

11

12 (E) Private investment in the county or
13 counties in buildings, equipment and direct project
14 infrastructure of not less than three (3) times the amount
15 of any contract.

16

17 (ii) Provide adequate consideration for the
18 state of Wyoming to enter the contract;

19

20 (iii) The feedstock materials supplied under the
21 contract shall have been produced substantially in Wyoming;

22

1 (iv) The contract shall not create debt of the
2 state of Wyoming beyond the current year's taxes;

3

4 (v) The facility to which the feedstock
5 materials is to be supplied has not previously been
6 supplied with feedstock materials from a contract entered
7 into under the program; and

8

9 (vi) The terms of the contract are such that the
10 state of Wyoming is likely to realize a positive return on
11 its investment under the contract.

12

13 (d) No contract shall be entered into under this act
14 without the written opinion of the attorney general
15 certifying the legality of the transaction and all
16 documents connected therewith.

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18 (e) The governor, Wyoming business council or state
19 loan and investment board is authorized to employ such
20 experts as necessary to fully evaluate an application and
21 negotiate the terms and conditions of a contract under this
22 act. If experts are retained, the cost for the experts
23 shall be paid by the applicant.

1

2 (f) The Wyoming business council may contract with
3 such experts as necessary to assist in the performance of
4 its obligations under any contract entered into, including
5 assistance with feed stock purchases and the sale of value
6 added products.

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8 **9-20-104. Wyoming mineral to value added product**
9 **program account; purpose; creation; rulemaking.**

10

11 (a) There is created a minerals to value added
12 products program account. Funds in the account shall be
13 used exclusively to promote minerals to value added
14 products facilities as provided in this act.

15

16 (b) Funds appropriated by the legislature for the
17 program shall be deposited into the account. All funds in
18 the account are continuously appropriated for contracts and
19 other expenses authorized under this act. The total
20 principal balance of outstanding contracts shall not exceed
21 the amounts appropriated by the legislature plus revenues

1 accrued and collected less any losses, currently available
2 in the account.

3

4 (c) Any unexpended balance in the account shall be
5 invested by the state treasurer and the interest earned
6 shall be credited to the account.

7

8 (d) Revenues generated from any contract entered into
9 under this act shall be deposited into the account and
10 continuously appropriated to the Wyoming business council
11 to be expended solely for the purpose of administering this
12 act and contracts authorized hereunder, except as provided
13 in subsection (e) of this section.

14

15 (e) The Wyoming business council shall report by
16 November 1 of each year to the joint appropriations
17 committee and the joint minerals, business and economic
18 development interim committee on the status and condition
19 of the program and the account. The report required under
20 this subsection, and all its contents, shall be a public
21 record. In addition to factors listed in this subsection,
22 the Wyoming business council's report shall include the
23 account fund balance and anticipated potential

1 expenditures, including contracts, under the program for
2 the next three (3) fiscal years, respectively. The joint
3 appropriations committee shall then determine whether to
4 introduce legislation to appropriate a portion, or all, of
5 the funds in the account for purposes other than the
6 program. The report shall further include:

7

8 (i) A review of rules adopted by the Wyoming
9 business council or state loan and investment board during
10 the reporting period;

11

12 (ii) The portfolio of contracts entered into
13 under the program;

14

15 (iii) A risk analysis of the portfolio;

16

17 (iv) Any other relevant information as
18 determined by the state loan and investment board or the
19 Wyoming business council.

20

21 **Section 2.** The Wyoming business council and the
22 office of state lands and investments shall develop rules
23 and regulations for the implementation of the program

1 developed under this act as soon as practicable after the
2 effective date of this act.

3

4 **Section 3.**

5

6 (a) The legislature finds that the state of Wyoming
7 has an abundance of natural mineral resources which provide
8 the basis of the state's economy. The vast majority of
9 Wyoming's extracted mineral wealth is consumed or converted
10 to higher value products outside of the state of Wyoming.

11

12 (b) The legislature finds that it is in the interest
13 of the state of Wyoming to encourage the development of
14 industries in this state which convert the state's mineral
15 resources to higher valued products prior to exportation
16 from the state.

17

18 (c) The legislature finds that to promote the
19 development of facilities which convert minerals to value
20 added products in the state of Wyoming it may be necessary
21 for the state to enter into ventures with private entities
22 which own and operate value added facilities. This act
23 creates a program whereby the state of Wyoming may enter

1 into a contract to provide feedstock minerals to a mineral
2 to value added product facility, pay a tolling fee to the
3 operator for the conversion of the feedstock to a higher
4 value product and receive the sale price of the value added
5 product, less any reasonable fees negotiated between the
6 state of Wyoming and the operator of the facility.

7

8 (d) It is the intent of the legislature that any
9 contract entered into under this act will produce a
10 positive return on the funds committed by the state of
11 Wyoming.

12

13 (e) The legislature finds that a program to encourage
14 the development of minerals to value added products in
15 Wyoming will benefit the state of Wyoming and serves a
16 public purpose for the citizens of the state of Wyoming by
17 creating additional revenues for the state, diversifying
18 the state's economy and providing employment opportunities
19 for citizens of the state.

20

21 **Section 4.** This act is effective July 1, 2015.

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23

(END)