

HOUSE BILL NO. HB0123

Coal export terminal litigation.

Sponsored by: Representative(s) Gray, Biteman, Clem,
Hallinan and Halverson

A BILL

for

1 AN ACT relating to the legislature; authorizing the
2 legislature or management council to commence and prosecute
3 a lawsuit against the state of Washington for denying
4 permits for the construction of coal export terminals;
5 providing legislative findings; creating an account;
6 providing an appropriation; and providing for an effective
7 date.

8

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

10

11 **Section 1.**

12

13 (a) The legislature finds that:

14

1 (i) Wyoming is the largest producer of coal in
2 the United States;

3
4 (ii) The production, sale and consumption of
5 coal contributes greatly to Wyoming's economy;

6
7 (iii) The Wyoming legislature is responsible for
8 the appropriation and expenditure of state funds, a
9 substantial portion of which is generated by the
10 production, sale and consumption of coal, for the needs of
11 the state and its citizens. These responsibilities
12 constitute significant institutional interests;

13
14 (iv) The export of coal is vital to interstate
15 commerce, the global economy, the economic and proprietary
16 interests of the state of Wyoming, the institutional
17 interests of the Wyoming legislature and the economic
18 interests of Wyoming citizens;

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20 (v) Last year, the state of Washington denied
21 requisite permits for the construction of coal export
22 terminals in that state;

23

1 (vi) The state of Washington has
2 unconstitutionally interfered with interstate commerce and
3 commerce with foreign nations by denying those permits;
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5 (vii) Proper prosecution of a lawsuit to recover
6 damages or obtain declaratory relief to remedy the state of
7 Washington's unconstitutional denial of requisite permits
8 for the construction of coal export terminals in that state
9 is necessary to prevent further harm of serious magnitude
10 to the economic and proprietary interests of the state of
11 Wyoming, the economic interests of Wyoming citizens and the
12 institutional interests of the Wyoming Legislature;
13

14 (viii) Under W.S. 9-1-603(a)(i), the Wyoming
15 attorney general is required to prosecute all lawsuits
16 instituted by the state of Wyoming;
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18 (ix) Thus far, the Wyoming attorney general has
19 not instituted an action to recover damages or obtain
20 declaratory relief to remedy the state of Washington's
21 unconstitutional denial of permits for the construction of
22 coal export terminals in that state and the harm of serious

1 magnitude it has caused and will continue to cause the
2 Wyoming legislature, the state of Wyoming and its citizens;

3

4 (x) With the continued absence of action by the
5 Wyoming attorney general, the economic interests of Wyoming
6 citizens and the institutional interests of the Wyoming
7 Legislature will continue to be harmed if construction of
8 coal export terminals is further delayed due to the
9 unconstitutional action by the state of Washington.
10 Therefore, the Wyoming legislature, as a co-equal branch of
11 state government, has a sufficient interest in the
12 prosecution of such a lawsuit to provide the legislature
13 standing to recover damages or obtain declaratory relief.

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15 (b) Notwithstanding W.S. 9-1-603(a)(i) and
16 28-8-114(b), the legislature, by a majority vote of the
17 members of both houses when in session, or management
18 council, by a majority vote of its members during the
19 interim, may commence and prosecute an action for damages
20 or declaratory relief against the state of Washington, the
21 Washington energy facility site evaluation council and any
22 other party responsible for the unconstitutional denial of
23 requisite permits for the construction of coal export

1 terminals in that state. The legislature may, by
2 resolution, direct the management council to prosecute the
3 action. The management council may commence the action upon
4 its own motion. The legislature or the management council
5 may direct the legislative service office to retain private
6 counsel to commence and prosecute the action.

7

8 (c) There is created the coal export terminal
9 litigation account. Two hundred fifty thousand dollars
10 (\$250,000.00) shall be appropriated from the general fund
11 to this account. Funds from this account are continuously
12 appropriated to the legislative service office and shall
13 only be expended to retain private counsel to prosecute an
14 action under this act and for associated litigation
15 expenses. Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and
16 9-4-207(a), any funds within the account and any interest
17 earned thereon shall not lapse or revert until directed by
18 the legislature.

19

20 **Section 2.** This act is effective July 1, 2018.

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22

(END)