

HB0251

Coal export terminal litigation.

Sponsored By: Representative(s) Gray, Blake, Clausen, Clem and Lindholm and Senator(s) Biteman

AN ACT relating to the legislature; authorizing the legislature or management council to commence and prosecute a lawsuit for the denial of permits for the construction of coal export terminals; providing legislative findings; creating an account; providing an appropriation; transferring funds as specified; and providing for an effective date.

1/23/2019 Bill Number Assigned
1/24/2019 H Received for Introduction
1/25/2019 H Introduced and Referred to H01 - Judiciary
1/29/2019 H01 - Judiciary:Recommend Amend and Do Pass 7-2-0-0-0

ROLL CALL

Ayes: Representative(s) Burlingame, Gray, Jennings, Pownall, Salazar, Stith, Washut

Nays: Representative(s) Kirkbride, Pelkey

Ayes 7 **Nays** 2 **Excused** 0 **Absent** 0 **Conflicts** 0

1/29/2019 Rerefer to H02 - Appropriations
1/31/2019 H02 - Appropriations:Recommend Amend and Do Pass 4-3-0-0-0

ROLL CALL

Ayes: Representative(s) Kinner, Nicholas, Olsen, Sommers

Nays: Representative(s) Larsen, Schwartz, Walters

Ayes 4 **Nays** 3 **Excused** 0 **Absent** 0 **Conflicts** 0

1/31/2019 H Placed on General File

HB0251HS001/ADOPTED

Page 1-line 2 Delete "minerals, business and economic development" and insert "judiciary".
Page 2-lines 20 through 22 Delete entirely.
Page 3-lines 1 through 3 Delete entirely.
Page 3-line 5 Delete "(vii)" and insert "(v)".
Page 3-line 14 Delete "(viii)" and insert "(vi)".
Page 3-line 22 Delete "the state of Washington" and insert "any state which impedes our right to interstate commerce and".
Page 4-line 2 Delete "minerals,".
Page 4-line 3 Delete "business and economic development" and insert "judiciary".
Page 4-lines 6 through 10 Delete entirely and insert "against any state which impedes interstate commerce. The joint judiciary".
Page 5-line 13 After "this account." insert "The funds shall not be expended until the joint judiciary committee authorizes the funds by a majority vote between May 1, 2019 and December 31, 2020. The funds, if not authorized, shall revert to the general fund on January 1, 2021.". KIRKBRIDE, CHAIRMAN

HB0251HS002/FAILED

Page 1-line 7 Delete "providing an appropriation;".

Page 5-line 11 After "account." delete balance of line.
Page 5-line 12 Delete entirely.
Page 5-line 13 Delete "this account.". NICHOLAS, CHAIRMAN

HB0251HW001/ADOPTED

Page 1-line 1 Delete "authorizing" and insert "requiring".
Page 1-line 3 After "to" insert "study whether the legislature should".
Page 1-line 5 After "findings;" delete balance of line.
Page 1-line 6 Delete line through "specified;".
Page 3-line 7 Delete "unconstitutional".
Page 3-line 8 Delete "is" and insert "may be".
Page 3-line 17 Delete "the unconstitutional".
Page 3-line 19 Delete "has" and insert "may have".
Page 4 Delete entirely including the first House standing committee amendment (HB0251HS001/A) to these lines.
Page 5-lines 1 through 8 Delete entirely and insert:
"(b) The joint judiciary interim committee shall conduct a study during 2019 interim on the feasibility of and the costs and benefits of the legislature commencing and prosecuting a lawsuit for damages or declaratory relief against any state that has impeded Wyoming's right to interstate commerce to export Wyoming coal. The committee shall consider whether the legislature should commence and prosecute a lawsuit and report its recommendation to the legislature by December 1, 2019."
Page 5-lines 10 Delete "3." and insert "2."
Page 5-line 13 Delete the first House standing committee amendment (HB0251HS001/A) to this line and delete "are continuously".
Page 5-line 14 Delete line through "and".
Page 5-line 16 Delete "under this act" and insert "for damages or declaratory relief against any state that has impeded Wyoming's right to interstate commerce to export Wyoming coal"; after "expenses." insert "Funds within the account shall not be expended without further legislative appropriation."
Page 6-line 1 Delete "4." and insert "3.". GRAY

2/4/2019 H COW:Passed
2/5/2019 H 2nd Reading:Passed
2/6/2019 H 3rd Reading:Passed 49-10-1-0-0

ROLL CALL

Ayes: Representative(s) Barlow, Blackburn, Blake, Brown, Burkhart, Burlingame, Clausen, Clem, Clifford, Crank, Duncan, Edwards, Eklund, Eyre, Flitner, Furphy, Gray, Greear, Haley, Hallinan, Harshman, Henderson, Hunt, Jennings, Kinner, Larsen, Laursen, Lindholm, Loucks, MacGuire, Miller, Newsome, Nicholas, Obermueller, Olsen, Paxton, Piiparinen, Pownall, Salazar, Simpson, Sommers, Stith, Styvar, Tass, Washut, Western, Wilson, Winter, Zwonitzer

Nays: Representative(s) Connolly, Dayton-Selman, Freeman, Kirkbride, Pelkey, Roscoe, Schwartz, Sweeney, Walters, Yin

Excused: Representative Northrup

Ayes 49 **Nays** 10 **Excused** 1 **Absent** 0 **Conflicts** 0

2/8/2019 S Received for Introduction
2/11/2019 S Introduced and Referred to S09 - Minerals
2/19/2019 S09 - Minerals:Recommend Amend and Do Pass 4-1-0-0-0

ROLL CALL

Ayes: Senator(s) Anderson, Biteman, Coe, Wasserburger

Nays: Senator Rothfuss

Ayes 4 **Nays** 1 **Excused** 0 **Absent** 0 **Conflicts** 0

2/19/2019 Rerefer to S02 - Appropriations

2/20/2019 S02 - Appropriations:Recommend Do Pass 5-0-0-0-0

ROLL CALL

Ayes: Senator(s) Agar, Bebout, Gierau, Hicks, Kinskey

Ayes 5 **Nays** 0 **Excused** 0 **Absent** 0 **Conflicts** 0

2/20/2019 S Placed on General File

HB0251SS001/ADOPTED

(TO ENGROSSED COPY)

Page 3-line 17 Delete "joint judiciary interim committee" and insert "legislature".

Page 3-line 18 After "during" insert "the".

Page 3-line 22 Delete "committee" and insert "management council".
ANDERSON, CHAIRMAN

HB0251SW001/ADOPTED

(TO ENGROSSED COPY)

Page 1-line 6 After "appropriation;" insert "transferring funds as specified;".

Page 4-line 4 After "**Section 2.**" insert "(a)".

Page 4-after line 16 Insert:

"(b) Of the general fund appropriation to the governor's office under 2014 Wyoming Session Laws, Chapter 26, Section 334(h) for purposes specified in 2014 Wyoming Session Laws, Chapter 26, Section 334(k)(i), reappropriated under 2016 Wyoming Session Laws, Chapter 31, Section 303(f), including appropriations specified for activities associated with promotion or litigation related to coal ports and further reappropriated under 2018 Wyoming Session Laws, Chapter 134, Section 303(f), ninety-nine thousand five hundred forty-two dollars (\$99,542.00), or as much thereof as is available shall be transferred to the coal export terminal litigation account created in subsection (a) of this section. The state auditor shall execute this transfer, if any, not later than April 1, 2019. The general fund appropriation in subsection (a) of this section shall be reduced by an amount equal to the total transfer, if any, under this section.". KINSKEY, BEBOUT, AGAR, GIERAU, HICKS

HB0251SW002/ADOPTED

(TO ENGROSSED COPY)

Delete the Senate standing committee amendment (HB0251SS001/AE) entirely and further amend as follows:

Page 1-line 1 Delete "requiring the joint".

Page 1-line 2 Delete entirely.

Page 1-line 3 Delete "should" and insert "authorizing the legislature or management council to".

Page 3-lines 17 through 23 Delete entirely.

Page 4-lines 1 and 2 Delete entirely and insert:

"(b) Notwithstanding W.S. 9-1-603(a)(i) and 28-8-114(b), the legislature, by a majority vote of the members of both houses when in session, or management council, by a majority vote of its members during the interim, may commence and prosecute an action for damages or declaratory relief against any state or other state entity that has impeded Wyoming's right to interstate commerce to export Wyoming coal. The legislature may, by resolution, direct the management council to prosecute the action. The legislature or management council may retain private counsel to commence and prosecute the action.". BITEMAN, BEBOUT

2/21/2019 S COW:Passed

HB0251S2001/ADOPTED (TO ENGROSSED COPY)

Page 3-line 10 After "legislature," insert "in light of its broad powers granted under the Wyoming constitution and".
Page 4-lines 1 and 2 In the Biteman, et al. committee of the whole amendment (HB0251SW002/AE) to these lines, delete "The legislature may, by resolution, direct the management council to prosecute the action.". BITEMAN

2/22/2019 S 2nd Reading:Passed

HB0251S3001/ADOPTED (TO ENGROSSED COPY)

Page 4-lines 1 and 2 In the Biteman, et al. second reading amendment (HB0251SW002/AE) to these lines, after "during the interim" delete ", may" and insert "and in coordination with the governor, may between the effective date of this act and August 1, 2019"; after "Wyoming coal." insert "After August 1, 2019 and during the interim, management council by a majority vote of its members and with or without coordination with the governor may commence and prosecute an action as provided in this subsection.". BITEMAN

2/25/2019 S 3rd Reading:Passed 22-7-1-0-0

ROLL CALL

Ayes: Senator(s) Anderson, Bebout, Biteman, Boner, Bouchard, Coe, Dockstader, Driskill, Hicks, Hutchings, James, Kinskey, Kost, Landen, Moniz, Nethercott, Pappas, Perkins, Schuler, Steinmetz, Von Flatern, Wasserburger

Nays: Senator(s) Anselmi-Dalton, Baldwin, Case, Ellis, Gierau, Rothfuss, Scott

Excused: Senator Agar

Ayes 22 Nays 7 Excused 1 Absent 0 Conflicts 0

2/26/2019 H Received for Concurrence

2/26/2019 H Concur:Passed 50-8-2-0-0

ROLL CALL

Ayes: Representative(s) Barlow, Blackburn, Blake, Brown, Burkhart, Burlingame, Clausen, Clem, Clifford, Crank, Dayton-Selman, Duncan, Edwards, Eklund, Eyre, Flitner, Freeman, Furphy, Gray, Greear, Haley, Hallinan, Harshman, Henderson, Hunt, Jennings, Kinner, Laursen, Lindholm, Loucks, MacGuire, Miller, Newsome, Nicholas, Obermueller, Olsen, Paxton, Piiparinen, Pownall, Roscoe, Salazar, Simpson, Sommers, Stith, Styvar, Tass, Washut, Western, Wilson, Winter

Nays: Representative(s) Connolly, Kirkbride, Pelkey, Schwartz, Sweeney, Walters, Yin, Zwonitzer

Excused: Representative(s) Larsen, Northrup

Ayes 50 Nays 8 Excused 2 Absent 0 Conflicts 0

2/26/2019 Assigned Number HEA No. 0117

2/26/2019 H Speaker Signed HEA No. 0117

2/27/2019 S President Signed HEA No. 0117

3/18/2019 Veto Message Received

3/18/2019 Governor Vetoed HEA No. 0117