

HOUSE BILL NO. HB0251

Coal export terminal litigation.

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

A BILL

for

1 AN ACT relating to the legislature; requiring the joint
2 judiciary interim committee to study whether the legislature
3 should commence and prosecute a lawsuit for the denial of
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.**

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13 (a) The legislature finds that:

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

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

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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 production,
10 sale and consumption of coal, for the needs of the state and
11 its citizens. These responsibilities constitute significant
12 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) Proper prosecution of a lawsuit to recover
21 damages or obtain declaratory relief to remedy the state of
22 Washington's denial of requisite permits for the construction
23 of coal export terminals in that state may be necessary to

1 prevent further harm of serious magnitude to the economic and
2 proprietary interests of the state of Wyoming, the economic
3 interests of Wyoming citizens and the institutional interests
4 of the Wyoming legislature;

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6 (vi) The economic interests of Wyoming citizens
7 and the institutional interests of the Wyoming legislature
8 will continue to be harmed if construction of coal export
9 terminals is further delayed due to action by the state of
10 Washington. Therefore, the Wyoming legislature, as a
11 co-equal branch of state government, may have a sufficient
12 interest in the prosecution of such a lawsuit to provide the
13 legislature standing to bring a lawsuit against any state
14 which impedes our right to interstate commerce and to recover
15 damages or obtain declaratory relief.

16

17 (b) The joint judiciary interim committee shall conduct
18 a study during 2019 interim on the feasibility of and the
19 costs and benefits of the legislature commencing and
20 prosecuting a lawsuit for damages or declaratory relief
21 against any state that has impeded Wyoming's right to
22 interstate commerce to export Wyoming coal. The committee
23 shall consider whether the legislature should commence and

1 prosecute a lawsuit and report its recommendation to the
2 legislature by December 1, 2019.

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4 **Section 2.** There is created the coal export terminal
5 litigation account. Two hundred fifty thousand dollars
6 (\$250,000.00) shall be appropriated from the general fund to
7 this account. Funds from this account shall only be expended
8 to retain private counsel to prosecute an action for damages
9 or declaratory relief against any state that has impeded
10 Wyoming's right to interstate commerce to export Wyoming coal
11 and for associated litigation expenses. Funds within the
12 account shall not be expended without further legislative
13 appropriation. Notwithstanding W.S. 9-2-1008, 9-2-1012(e)
14 and 9-4-207(a), any funds within the account and any interest
15 earned thereon shall not lapse or revert until directed by
16 the legislature.

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18 **Section 3.** This act is effective immediately upon
19 completion of all acts necessary for a bill to become law as
20 provided by Article 4, Section 8 of the Wyoming Constitution.

21

22

(END)