

ENROLLED ACT NO. 117, HOUSE OF REPRESENTATIVES

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2019 GENERAL SESSION

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.

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

Section 1.

(a) The legislature finds that:

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

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

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

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

(v) Proper prosecution of a lawsuit to recover damages or obtain declaratory relief to remedy the state of Washington's denial of requisite permits for the construction

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of coal export terminals in that state may be necessary to prevent further harm of serious magnitude to the economic and proprietary interests of the state of Wyoming, the economic interests of Wyoming citizens and the institutional interests of the Wyoming legislature;

(vi) The economic interests of Wyoming citizens and the institutional interests of the Wyoming legislature will continue to be harmed if construction of coal export terminals is further delayed due to action by the state of Washington. Therefore, the Wyoming legislature, in light of its broad powers granted under the Wyoming constitution and as a co-equal branch of state government, may have a sufficient interest in the prosecution of such a lawsuit to provide the legislature standing to bring a lawsuit against any state which impedes our right to interstate commerce and to recover damages or obtain declaratory relief.

(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 and in coordination with the governor, may between the effective date of this act and August 1, 2019 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. 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. The legislature or management council may retain private counsel to commence and prosecute the action.

Section 2.

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

(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.

ORIGINAL HOUSE
BILL NO. HB0251

ENGROSSED

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk