

## 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; authorizing the joint  
2 minerals, business and economic development interim committee  
3 to commence and prosecute a lawsuit for the denial of permits  
4 for the construction of coal export terminals; providing  
5 legislative findings; authorizing joint interim committees to  
6 commence and prosecute lawsuits as specified; creating an  
7 account; providing an appropriation; and providing for an  
8 effective date.

9

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

11

12 **Section 1.**

13

14 (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;

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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) In 2017, the state of Washington denied  
21 requisite permits for the construction of coal export  
22 terminals in that state;

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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 for  
8 the construction of coal export terminals in that state is  
9 necessary to prevent further harm of serious magnitude to the  
10 economic and proprietary interests of the state of Wyoming,  
11 the economic interests of Wyoming citizens and the  
12 institutional interests of the Wyoming legislature;  
13

14           (viii) The economic interests of Wyoming citizens  
15 and the institutional interests of the Wyoming legislature  
16 will continue to be harmed if construction of coal export  
17 terminals is further delayed due to the unconstitutional  
18 action by the state of Washington. Therefore, the Wyoming  
19 legislature, as a co-equal branch of state government, has a  
20 sufficient interest in the prosecution of such a lawsuit to  
21 provide the legislature standing to bring a lawsuit against  
22 the state of Washington to recover damages or obtain  
23 declaratory relief.

1

2 (b) On behalf of the legislature, the joint minerals,  
3 business and economic development interim committee, by the  
4 affirmative vote of a majority of the committee, may commence  
5 and prosecute an action for damages or declaratory relief  
6 against the state of Washington, the Washington energy  
7 facility site evaluation council and any other party  
8 responsible for the unconstitutional denial of requisite  
9 permits for the construction of coal export terminals in that  
10 state. The joint minerals, business and economic development  
11 interim committee, by the affirmative vote of a majority of  
12 the committee, may direct the legislative service office to  
13 retain private counsel to commence and prosecute the action.

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15 **Section 2.** W.S. 28-8-114(b) is amended to read:

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17 **28-8-114. Legal actions authorized; employment of**  
18 **counsel.**

19

20 (b) The legislature by a majority vote of the members  
21 of both houses when in session, ~~or~~ the management council by  
22 the affirmative vote of two-thirds (2/3) of the members of  
23 the council during the interim, ~~is authorized to~~ or by the

1 affirmative vote of a majority of a joint interim committee  
2 when authorized by law may commence and prosecute an action  
3 for declaratory judgment in the courts of this state, or of  
4 the United States, when such action is deemed necessary or  
5 advisable to protect the rights, powers and interests of the  
6 legislature or assure proper interpretation or administration  
7 of the constitution, statutes or administrative rules of  
8 Wyoming.

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10 **Section 3.** There is created the coal export terminal  
11 litigation account. Two hundred fifty thousand dollars  
12 (\$250,000.00) shall be appropriated from the general fund to  
13 this account. Funds from this account are continuously  
14 appropriated to the legislative service office and shall only  
15 be expended to retain private counsel to prosecute an action  
16 under this act and for associated litigation expenses.  
17 Notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207(a),  
18 any funds within the account and any interest earned thereon  
19 shall not lapse or revert until directed by the legislature.

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

4

5

(END)