

May 10th, 2021

Governor Bill Lee  
1st Floor, State Capitol  
Nashville, TN 37243

By webpage portal

Dear Governor Lee :

We, the undersigned citizen organizations, represent hundreds of thousands of Tennesseans including members who live in coal mining communities that will be directly impacted by the transfer of coal mining Primacy to the state. We strongly encourage you to veto SB742/HB90, the “Primacy and Reclamation Act of Tennessee.” This legislation places a needless burden on taxpayers, weakens oversight of coal mining in our state and threatens the health and safety of our communities, water resources, and the environment.

The intent of this legislation is to transfer regulatory authority over coal mining in Tennessee from the federal Office of Surface Mining, Reclamation, and Enforcement (OSMRE) to the Tennessee Department of Environment and Conservation (TDEC). The OSMRE program has directly regulated coal mining in Tennessee under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), since then Governor Lamar Alexander had the previous statute repealed effective Oct. 1, 1984.

State implementation of the federal SMCRA mining regulation would be a substantial money-loser for Tennessee and could result in less effective regulation of a highly polluting industry that is associated with a wide range of negative environmental, social, economic, and public health impacts. At the same time, transferring regulatory authority to the state will do nothing to revive coal mining in Tennessee, as market-wide economic forces are responsible for the decline seen across Appalachia, with more mines being idled or closed every week. We ask you to consider the following points and veto this bill.

**SB742/HB90 would return the coal program to the state at a huge cost to the taxpayer to attempt to prop up a dying industry.**

- A state program would unnecessarily cost state taxpayers a lot of money. It would require hiring expert hydrologists, geologists, field inspectors and others to create

a new bureaucracy to replicate the staff already in place at OSMRE's Knoxville field office. In addition, the OSMRE will continue to monitor state compliance with SMCRA and the effectiveness of any Tennessee program. No taxpayer money would be saved, and wasteful duplication of activities would occur.

- Transferring this program will cost taxpayers more than \$60,000 this year and more than \$871,000 annually according to TDEC's own estimates.

**There is not enough active coal mining in Tennessee to support or justify an effective program.**

- There are currently no actively producing coal mines in Tennessee —In fact Tennessee has had no coal production at all for the entirety of 2020.
- There are 13 coal mining permits issued under the Federal program that are in "temporary cessation," meaning they produce no coal. This shows that the OSMRE regulatory program can adequately permit coal mines but the majority of permitted mines in Tennessee do not have a market to sell any coal.
- The decline of the coal industry in Tennessee is due to a shrinking market, *not* regulatory hurdles. Coal production in Tennessee dropped 91% from 2009 to 2018, so the number of beneficiaries of this legislation is dwarfed by the number of Tennesseans who will pay for it.
- Many of the champions of this bill have made the claim that transferring SMCRA primacy to TDEC would result in an increase of coal mining in our state. This assertion is false because coal production is driven by economic factors, not regulation. Tennessee has never been a major coal-producing state compared to its neighbors and primacy will not alter that. Furthermore, the same declines observed in Tennessee are also being experienced in neighboring states that do have state permitting primacy, such as Kentucky and West Virginia.

**Creating a new, under-resourced mining bureaucracy in Tennessee would weaken oversight of coal mining in our state and threaten the health and safety of our communities, water resources, and environment. The new process will:**

- Remove the need for mining companies to go through NEPA and Endangered Species Act Sec 7 consultations, which removes a layer of environmental protections,
- Reduce opportunities for the public to be engaged in commenting on proposed projects, and
- If mining companies skirt their reclamation duties by declaring bankruptcy, the state will be left holding the bill for unfinished reclamation when there are inadequate bonds held by the industry. Several incidents of this have already occurred in neighboring coal-producing states.

The problems afflicting the coal industry in Tennessee are not due to OSMRE's federal oversight; they are due to the economics of the coal industry nationally and globally. Transfer of regulation from OSMRE to TDEC will not improve the coal industry's position in Tennessee, and will instead cost Tennessee taxpayers money to help the state provide a service that they currently get from the federal OSMRE for free.. These bills would also further damage Tennessee's communities, waters, and the environment. Please consider all these factors, and veto these ill-considered bills.

Thank you for your immediate attention to this matter.

Sincerely,

Matthew Hepler  
Appalachian Voices

Sandra Goss, Executive Director  
Tennessee Citizens for Wilderness Planning

Kat Diersen, Southeast Representative  
Defenders of Wildlife

Bill Moll, Conservation Chair  
Tennessee Chapter Sierra Club

Tonia Brookman, Director  
Woodland Community Land Trust

Harry Chase, Board Chair  
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Maire Webster, Director  
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James M. Redwine, VP&COO  
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Tennessee Conservation Voters

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