

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 449

Session of
1977

INTRODUCED BY MESSRS. C. GEORGE, B. F. O'BRIEN, LAUDADIO,
F. TAYLOR, DeWEESE, GOODMAN, GATSKI, LEVI, RENWICK, FISHER,
LEHR, BURNS, J. L. WRIGHT, SWEET, ITKIN, STAIRS, YAHNER,
D. R. WRIGHT, ENGLEHART AND PETRARCA, MARCH 2, 1977

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 21, 1977

AN ACT

1 Amending the act of May 31, 1945 (P.L.1198, No.418), entitled,
2 as amended, "An act providing for the conservation and
3 improvement of land affected in connection with surface
4 mining; regulating such mining; and providing penalties,"
5 ADDING A DEFINITION OF "CASH," providing for the protection
6 of water supplies, ~~and~~ granting certain appeal rights AND
7 PROVIDING FOR THE RECOVERY OF CERTAIN COSTS. <—

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 SECTION 1. SECTION 3, ACT OF MAY 31, 1945 (P.L.1198, <—
11 NO.418), KNOWN AS THE "SURFACE MINING CONSERVATION AND
12 RECLAMATION ACT," IS AMENDED BY ADDING A DEFINITION TO READ:

13 SECTION 3. DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES,
14 UNLESS A DIFFERENT MEANING IS PLAINLY REQUIRED BY THE CONTEXT,
15 SHALL HAVE THE FOLLOWING MEANINGS:

16 * * *

17 "CASH" SHALL MEAN INCLUDE, WHEN USED IN REGARD TO BOND <—
18 REQUIREMENTS, AND/OR CERTIFICATES OF DEPOSIT. <—

19 Section ~~±~~ 2. Section 4.2 of the act of ~~May 31, 1945~~ <—

~~(P.L.1198, No.418), known as the "Surface Mining Conservation and Reclamation Act, is amended by adding subsections to read:~~

Section 4.2. Health and Safety.--* * *

~~(f) Whenever the secretary determines that a surface mining operator has affected a public or private water supply by contamination or diminution, the operator shall restore or replace the affected water supply with an alternate source of water. Any operator who refuses to restore or replace the water source will be ordered to do so by the secretary.~~

~~(F) ANY SURFACE MINING OPERATOR WHO AFFECTS A PUBLIC OR PRIVATE WATER SUPPLY BY CONTAMINATION OR DIMINUTION SHALL RESTORE OR REPLACE THE AFFECTED SUPPLY WITH AN ALTERNATE SOURCE OF WATER ADEQUATE IN QUANTITY AND QUALITY FOR THE PURPOSES SERVED BY THE SUPPLY. IF ANY OPERATOR SHALL FAIL TO COMPLY WITH THIS PROVISION, THE SECRETARY MAY ISSUE SUCH ORDERS TO THE OPERATOR AS ARE NECESSARY TO ASSURE COMPLIANCE.~~

~~(g) Any operator aggrieved by the secretary's order issued pursuant to subsection (f) shall have the right within thirty (30) days of receipt of such order to appeal to the Environmental Hearing Board. Hearings under this subsection and any subsequent appeal shall be in accordance with section 1921(a), act of April 9, 1929 (P.L.177, No.175), known as the "Administrative Code of 1929," and the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law."~~

~~(h) Should the secretary find that the operator is not complying with his order with sufficient expediency or if the order of the secretary is appealed, the secretary may, in his discretion, restore or replace the affected water supply with an alternate source of water utilizing moneys from the Surface Mining Conservation and Reclamation Fund. The operator shall~~

~~reimburse the fund for costs incurred to restore or replace the
affected water supply with an alternate source of water,
including, but not limited to, costs incurred for the design and
construction of facilities unless the operator's appeal is
successful. Should the operator fail to reimburse the fund in
accordance with the order of the secretary or any order of the
Court of the Commonwealth, or should such order of the secretary
be set aside on appeal, the department shall have no recourse
against the owner of the water supply for reimbursement.~~

(H) IF THE SECRETARY FINDS (I) THAT IMMEDIATE REPLACEMENT OF
AN AFFECTED WATER SUPPLY USED FOR POTABLE OR DOMESTIC NEEDS IS
REQUIRED TO PROTECT HEALTH AND SAFETY, AND (II) THAT THE
OPERATOR HAS APPEALED OR FAILED TO COMPLY WITH AN ORDER ISSUED
PURSUANT TO PARAGRAPH (F), THE SECRETARY MAY, IN HIS DISCRETION,
RESTORE OR REPLACE THE AFFECTED WATER SUPPLY WITH AN ALTERNATE
SOURCE OF WATER UTILIZING MONEYS FROM THE SURFACE MINING
CONSERVATION AND RECLAMATION FUND. THE SECRETARY SHALL RECOVER
THE COSTS OF RESTORATION OR REPLACEMENT, INCLUDING COSTS
INCURRED FOR DESIGN AND CONSTRUCTION OF FACILITIES, FROM THE
RESPONSIBLE OPERATOR OR OPERATORS. ANY SUCH COSTS RECOVERED
SHALL BE DEPOSITED IN THE FUND.

Section 2 3. This act shall take effect immediately.