

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 608 Session of 2011

INTRODUCED BY BROOKS, CLYMER, DePASQUALE, EVERETT, FLECK,  
FREEMAN, GEIST, HESS, HORNAMAN, KORTZ, LONGIETTI, MILLER,  
PASHINSKI, PEIFER, PICKETT, RAPP, SCAVELLO, SWANGER AND  
VULAKOVICH, FEBRUARY 10, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
FEBRUARY 10, 2011

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; providing for the  
5 establishment of an Emergency Bond Fund for anthracite deep  
6 mine operators; and providing penalties," further providing  
7 for mining permit; providing for bioenergy crop bonding; and  
8 making editorial changes.

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

11 Section 1. The definitions of "department" and "secretary"  
12 in section 3 of the act of May 31, 1945 (P.L.1198, No.418),  
13 known as the Surface Mining Conservation and Reclamation Act,  
14 are amended to read:

15 Section 3. Definitions.--The following words and phrases,  
16 unless a different meaning is plainly required by the context,  
17 shall have the following meanings:

18 \* \* \*

19 "Department" shall mean the Department of Environmental

1 [Resources] Protection of the Commonwealth of Pennsylvania.

2 \* \* \*

3 "Secretary" shall mean the Secretary of the Department of  
4 Environmental [Resources] Protection of the Commonwealth of  
5 Pennsylvania.

6 \* \* \*

7 Section 2. Section 4(a)(2)C of the act, amended December 18,  
8 1992 (P.L.1384, No.173), is amended to read:

9 Section 4. Mining Permit; Reclamation Plan; Bond.--(a)

10 Before any person shall hereafter proceed to mine coal by the  
11 surface mining method, he shall apply to the department, on a  
12 form prepared and furnished by the department, for a permit for  
13 each separate operation. The department is authorized to charge  
14 and collect from persons a reasonable filing fee. Such fee shall  
15 not exceed the cost of reviewing, administering and enforcing  
16 such permit. As a part of each application for a permit, the  
17 operator shall, unless modified or waived by the department for  
18 cause, furnish the following:

19 \* \* \*

20 (2) Reclamation Plan. A complete and detailed plan for the  
21 reclamation of the land affected. Except as otherwise herein  
22 provided, or unless a variance for cause is specially allowed by  
23 the department as herein provided, each such plan shall include  
24 the following:

25 \* \* \*

26 C. A description of the manner in which the operation will  
27 segregate and conserve topsoil and if necessary suitable subsoil  
28 to establish on the areas proposed to be affected a diverse,  
29 effective, and permanent vegetative cover of the same seasonal  
30 variety native to the area of land to be affected and capable of

1 self-regeneration and plant succession at least equal in extent  
2 of cover to the natural vegetation of the area: Provided,  
3 however, That introduced species may be used in the revegetation  
4 process where desirable and necessary to achieve the approved  
5 post-mining land use plan: And provided further, That when the  
6 department issues a written finding approving a long-term,  
7 intensive, agricultural post-mining land use as part of the  
8 permit application, the department may grant an exception to the  
9 requirements of this clause. For areas previously disturbed by  
10 surface mining activities that were not reclaimed to the  
11 standards of this act, and are proposed for remining, the  
12 department may approve a vegetative cover which, at a minimum,  
13 shall not be less than the ground cover existing before  
14 redisturbance and shall be adequate to control erosion and  
15 achieve an approved post-mining land use. To the extent  
16 consistent with this act, the department shall encourage and  
17 promote the use of switchgrass, camelina, canola and other  
18 bioenergy crops for the revegetation of lands affected by  
19 surface mining activities and the land so used shall be  
20 considered to be cropland for post-mining land use purposes.

21 \* \* \*

22 Section 3. The act is amended by adding a section to read:

23 Section 4.14. Bioenergy Crop Bonding.--To the extent funds  
24 are available from the appropriation to the department under  
25 section 213 of the act of June 22, 2001 (P.L.979, No.6A), known  
26 as the "General Appropriation Act of 2001," for the conservation  
27 purpose of providing sum-certain financial guarantees needed to  
28 facilitate the implementation of full-cost bonding for a fee  
29 and, in the event of forfeiture, to finance reclamation of the  
30 forfeited surface mining site in an amount not to exceed the

sum-certain guarantee, or to the extent funds are otherwise appropriated, the department shall make available at no cost to the surface mine permittee of a remining site that has revegetated the remining site with switchgrass, camelina, canola or other bioenergy crops sum-certain guarantees to cover Stage III reclamation liability for the remining site under the permittee's reclamation bond and, in the event of forfeiture, to finance reclamation of the forfeited surface mining site in an amount not to exceed the sum-certain guarantee.

Section 4. Section 18(a.1) of the act, amended May 22, 1996 (P.L.232, No.43), is amended to read:

Section 18. Surface Mining Conservation and Reclamation Fund; Remining Environmental Enhancement Fund; Remining Financial Assurance Fund; Department Authority for Awarding of Grants.--

\* \* \*

(a.1) (1) There is hereby created a special fund in the State Treasury to be known as the "Remining Environmental Enhancement Fund." The [Secretary of Environmental Resources] secretary is authorized to transfer at the commencement of each fiscal year a total of one million dollars (\$1,000,000) into the Remining Environmental Enhancement Fund aggregated from the following sources:

(i) License and permit fees except reclamation fees paid to the department under this act pursuant to the department's alternate bonding program.

(ii) Fines and penalties collected under this act.

(iii) Fees, fines and penalties collected pursuant to section 315 of "The Clean Streams Law," including fines and penalties from mining operations collected under section 605 or

1 other provisions of that act.

2 (iv) Fees, fines and penalties collected pursuant to the act  
3 of September 24, 1968 (P.L.1040, No.318), known as the "Coal  
4 Refuse Disposal Control Act."

5 (v) Fees, fines and penalties collected pursuant to the act  
6 of April 27, 1966 (1st Sp.Sess., P.L.31, No.1), known as "The  
7 Bituminous Mine Subsidence and Land Conservation Act," not  
8 including funds received pursuant to section 6(a) of that act.

9 (2) All moneys placed in the Remining Environmental  
10 Enhancement Fund and the interest it accrues are hereby  
11 appropriated upon authorization by the Governor to the  
12 department for the costs of operating a remining and reclamation  
13 incentive program, including designating areas suitable for  
14 reclamation by remining and establishing and operating a  
15 remining operator's assistance program, but not including a bond  
16 credit or financial guarantees program.

17 \* \* \*

18 Section 5. Section 19 of the act, amended October 10, 1980  
19 (P.L.835, No.155), is amended to read:

20 Section 19. Repealer.--All acts or provisions thereof  
21 inconsistent herewith are hereby repealed: Provided, however,  
22 That the act of Assembly, approved the eighteenth day of June,  
23 Anno Domini one thousand nine hundred forty-one (Pamphlet Laws,  
24 one hundred thirty-three), entitled "An act relating to coal  
25 stripping operations; providing for the health and safety of  
26 persons employed therein and for the inspection and regulation  
27 of such operations by the Department of Mines; requiring certain  
28 information and reports, and prescribing penalties," and the act  
29 of Assembly, approved on the twenty-fifth day of June, Anno  
30 Domini one thousand nine hundred thirty-seven (Pamphlet Laws,

1 two thousand two hundred seventy-five), entitled "An act to  
2 promote safety for the traveling public on State highways; to  
3 extend the responsibility for subsidence of such highways by the  
4 failure of vertical and lateral support, and declaring said  
5 subsidence a public nuisance; to provide for inspection of mine  
6 maps by the Department of Highways, and the furnishing to said  
7 department of copies of such mine maps in certain cases; to  
8 authorize entry by the Department of Highways into mines in  
9 certain cases; and to provide for notices to the Department of  
10 Highways of certain mining operations under or adjacent to  
11 highways; and providing penalties," and all other acts and  
12 provisions thereof, which regulate the mining of bituminous coal  
13 shall not be repealed or nullified by this act, but shall remain  
14 in full force and effect. Nothing in this act shall be construed  
15 to abrogate or modify the power and jurisdiction of the  
16 [Department of Environmental Resources] department to make rules  
17 and regulations, and to administer the laws of the Commonwealth  
18 applicable to open pit mining.

19 Section 6. This act shall take effect in 60 days.