

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 367 Session of 2011

INTRODUCED BY D. WHITE, BROWNE, TOMLINSON, WAUGH, M. WHITE, WOZNIAK, EARLL, GREENLEAF AND SCARNATI, FEBRUARY 1, 2011

SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED, MAY 3, 2011

AN ACT

1 Providing for indigenous mineral resource development; and
2 imposing powers and duties on the Department of General
3 Services AND THE STATE SYSTEM OF HIGHER EDUCATION.



4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Indigenous
8 Mineral Resources Development Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Department." The Department of General Services of the
14 Commonwealth.

15 "Mineral resources." Coal, oil, natural gas, coal bed
16 methane, limestone and other valuable minerals.

17 "Right-of-way." Includes:

18 (1) a right of passage and haulage for a lawful purpose;

1 (2) a right of flowage or transmission for a lawful
2 purpose; or

3 (3) the construction, operation and maintenance of
4 infrastructure necessary to facilitate a lawful purpose.

5 "State-owned land." Land owned by the Commonwealth. The term
6 does not include land owned and administered by the Department
7 of Conservation and Natural Resources, the Pennsylvania Fish and
8 Boat Commission or the Pennsylvania Game Commission.

9 "STATE SYSTEM LAND." LAND OWNED BY THE STATE SYSTEM OF
10 HIGHER EDUCATION OR CONTROLLED BY THE STATE SYSTEM OF HIGHER
11 EDUCATION PURSUANT TO A MEMORANDUM OF UNDERSTANDING APPROVED BY
12 THE DEPARTMENT OF GENERAL SERVICES. ←

13 "SYSTEM." THE STATE SYSTEM OF HIGHER EDUCATION OF THE
14 COMMONWEALTH.

15 Section 3. Development of mineral resources on State-owned
16 land.

17 (a) Authority.--The department has the following powers:

18 (1) To make and execute contracts or leases in the name
19 of the Commonwealth for the mining or removal of valuable
20 mineral resources which may be found in or beneath State-
21 owned land AND TO CONVEY COMMONWEALTH RIGHTS TO MINERAL
22 RESOURCES. ←

23 (2) To grant a right-of-way through State-owned land to
24 any individual or corporation that applies if the department
25 determines that:

26 (i) the grant will not so adversely affect the land
27 as to interfere with its usual and orderly
28 administration; and

29 (ii) the interests of the Commonwealth or its
30 citizens will be promoted by the grant.

1 ~~(b) Advertising. A proposed contract or lease of mineral~~ ←

2 (B) ADVERTISING.-- ←

3 (1) A PROPOSED CONTRACT, LEASE OR CONVEYANCE OF MINERAL
4 resources exceeding \$1,000 in value must be advertised once a
5 week for three weeks, in at least two newspapers of general
6 circulation published nearest the locality indicated, in
7 advance of awarding the contract or lease.

8 (2) IF THE PROPOSED CONVEYANCE OF THE MINERAL RESOURCES ←
9 IS INCLUDED IN THE PROPOSED CONVEYANCE OF THE REAL PROPERTY
10 TO WHICH IT IS ATTACHED, THE DEPARTMENT SHALL COMPLY WITH THE
11 ADVERTISING REQUIREMENTS FOR THE CONVEYANCE OF THE REAL
12 PROPERTY.

13 (c) Bidding.--

14 (1) Except as set forth in ~~paragraph (2)~~ PARAGRAPHS (2) ←
15 AND (3), contracts ~~and,~~ leases AND CONVEYANCES shall be ←
16 awarded to the highest and best bidder.

17 (2) The requirement for competitive bidding may be
18 waived if the Commonwealth owns a fractional interest in the
19 mineral resources in or beneath State-owned land; and the
20 department may enter into a contract to lease that fractional
21 interest, with the approval of the Governor and upon terms
22 and conditions the department deems to be in the best
23 interest of the Commonwealth.

24 (3) IF A PROPOSED CONVEYANCE OF THE MINERAL RESOURCES IS ←
25 INCLUDED IN THE PROPOSED CONVEYANCE OF THE REAL PROPERTY TO
26 WHICH IT IS ATTACHED, THE AWARD SHALL BE MADE TO THE SELECTED
27 BUYER OF THE REAL PROPERTY.

28 (d) Bond.--A party that enters into a contract or lease
29 under this section must provide a bond satisfactory to the
30 department for the proper performance of the contract or lease.

1 ~~Section 4. Deposit of revenue.~~ ←

2 ~~Payments or royalties received by the department pursuant to~~
3 ~~a contract or lease under this act shall be deposited into the~~
4 ~~Environmental Stewardship Fund.~~

5 SECTION 4. DEVELOPMENT OF MINERAL RESOURCES ON STATE SYSTEM ←
6 LAND.

7 (A) AUTHORITY.--THE SYSTEM HAS THE FOLLOWING POWERS:

8 (1) TO MAKE AND EXECUTE CONTRACTS OR LEASES IN THE NAME
9 OF THE COMMONWEALTH FOR THE MINING OR REMOVAL OF VALUABLE
10 MINERAL RESOURCES WHICH MAY BE FOUND IN OR BENEATH STATE
11 SYSTEM LAND.

12 (2) TO GRANT A RIGHT-OF-WAY THROUGH STATE SYSTEM LAND TO
13 ANY INDIVIDUAL OR CORPORATION THAT APPLIES IF THE SYSTEM
14 DETERMINES THAT:

15 (I) THE GRANT WILL NOT SO ADVERSELY AFFECT THE LAND
16 AS TO INTERFERE WITH ITS USUAL AND ORDERLY
17 ADMINISTRATION.

18 (II) THE INTERESTS OF THE COMMONWEALTH OR ITS
19 CITIZENS WILL BE PROMOTED BY THE GRANT.

20 (B) ADVERTISING.--A PROPOSED CONTRACT OR LEASE OF MINERAL
21 RESOURCES EXCEEDING \$1,000 IN VALUE MUST BE ADVERTISED FOR THREE
22 WEEKS ON THE SYSTEM'S PUBLICLY ACCESSIBLE INTERNET WEBSITE AND
23 AT LEAST ONCE A WEEK FOR THREE WEEKS, IN AT LEAST TWO NEWSPAPERS
24 OF GENERAL CIRCULATION PUBLISHED NEAREST THE LOCALITY INDICATED,
25 IN ADVANCE OF AWARDING THE CONTRACT OR LEASE.

26 (C) BIDDING.--

27 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), CONTRACTS AND
28 LEASES SHALL BE AWARDED TO THE HIGHEST AND BEST BIDDER.

29 (2) THE REQUIREMENT FOR COMPETITIVE BIDDING MAY BE
30 WAIVED IF THE COMMONWEALTH OWNS A FRACTIONAL INTEREST IN THE

1 MINERAL RESOURCES IN OR BENEATH STATE SYSTEM LAND AND THE
2 SYSTEM MAY ENTER INTO A CONTRACT TO LEASE THAT FRACTIONAL
3 INTEREST, WITH THE APPROVAL OF THE GOVERNOR AND UPON TERMS
4 AND CONDITIONS THE SYSTEM DEEMS TO BE IN THE BEST INTEREST OF
5 THE COMMONWEALTH.

6 (D) BOND.--A PARTY THAT ENTERS INTO A CONTRACT OR LEASE
7 UNDER THIS SECTION MUST PROVIDE A BOND SATISFACTORY TO THE
8 SYSTEM FOR THE PROPER PERFORMANCE OF THE CONTRACT OR LEASE.

9 SECTION 5. DEPOSIT OF REVENUE.

10 (A) PAYMENTS RECEIVED BY DEPARTMENT.--NOT LESS THAN 50% OF
11 PAYMENTS OR ROYALTIES RECEIVED BY THE DEPARTMENT PURSUANT TO A
12 CONTRACT OR LEASE UNDER THIS ACT SHALL BE DEPOSITED INTO THE
13 ENVIRONMENTAL STEWARDSHIP FUND OR THE KEYSTONE RECREATION, PARK
14 AND CONSERVATION FUND. THE REMAINING PAYMENTS RECEIVED BY THE
15 DEPARTMENT SHALL BE DEPOSITED INTO THE GENERAL FUND.

16 (B) PAYMENTS DERIVED BY SYSTEM.--ALL PAYMENTS OR ROYALTIES
17 DERIVED FROM ANY LEASE ENTERED INTO BY THE SYSTEM SHALL BE
18 DEPOSITED IN THE KEYSTONE RECREATION, PARK AND CONSERVATION
19 FUND.

20 SECTION 6. CONDITION RELATING TO SURPLUS PROPERTY.

21 NOTWITHSTANDING THE PROVISIONS OF SECTION 2405-A(6) OF THE
22 ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE
23 ADMINISTRATIVE CODE OF 1929, THE DEPARTMENT MAY CONVEY ALL OIL,
24 GAS AND MINERAL RIGHTS TO THE PURCHASER OF SURPLUS COMMONWEALTH
25 REAL PROPERTY ALONG WITH THE CONVEYANCE OF THE SURPLUS REAL
26 PROPERTY WHEN DONE SO IN ACCORDANCE WITH THIS ACT.

27 Section ~~10~~ 7. Effective date.

28 This act shall take effect immediately.

