

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL****No. 367** Session of  
2011

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

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AS AMENDED ON THIRD CONSIDERATION, OCTOBER 17, 2011

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## 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           (3) To cooperate with, consult with or delegate to the  
2 Department of Conservation and Natural Resources in carrying  
3 out the provisions of this act.

4       (b) Advertising.--

5           (1) A proposed contract, lease or conveyance of mineral  
6 resources exceeding \$1,000 in value must be advertised once a  
7 week for three weeks, in at least two newspapers of general  
8 circulation published nearest the locality indicated, in  
9 advance of awarding the contract or lease.

10          (2) If the proposed conveyance of the mineral resources  
11 is included in the proposed conveyance of the real property  
12 to which it is attached, the department shall comply with the  
13 advertising requirements for the conveyance of the real  
14 property.

15       (c) Bidding.--

16          (1) Except as set forth in paragraphs (2) and (3),  
17 contracts, leases and conveyances shall be awarded to the  
18 highest and best bidder. If title to the property has already  
19 been conveyed, but the Commonwealth has reserved the right to  
20 mineral resources, the Commonwealth may convey the mineral  
21 resources to the owner of the fee without bidding.

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

29          (3) If a proposed conveyance of the mineral resources is  
30 included in the proposed conveyance of the real property to

1 which it is attached, the award shall be made to the selected  
2 buyer of the real property.

3 (d) Bond.--A party that enters into a contract or lease  
4 under this section must provide a bond satisfactory to the  
5 department for the proper performance of the contract or lease.  
6 Section 4. Development of mineral resources on State system  
7 land.

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

9 (1) To make and execute contracts or leases in the name  
10 of the Commonwealth for the mining or removal of valuable  
11 mineral resources which may be found in or beneath State  
12 system land.

13 (2) To grant a right-of-way through State system land to  
14 any individual or corporation that applies if the system  
15 determines that:

16 (i) ~~The~~ THE grant will not so adversely affect the ←  
17 land as to interfere with its usual and orderly  
18 administration-; AND ←

19 (ii) ~~The~~ THE interests of the Commonwealth or its ←  
20 citizens will be promoted by the grant.

21 (3) To cooperate with, consult with or delegate to the  
22 Department of Conservation and Natural Resources in carrying  
23 out the provisions of this act.

24 (b) Advertising.--A proposed contract or lease of mineral  
25 resources exceeding \$1,000 in value must be advertised for three  
26 weeks on the system's publicly accessible Internet website and  
27 at least once a week for three weeks, in at least two newspapers  
28 of general circulation published nearest the locality indicated,  
29 in advance of awarding the contract or lease.

30 (c) Bidding.--

1           (1) Except as set forth in paragraph (2), contracts and  
2 leases shall be awarded to the highest and best bidder.

3           (2) The requirement for competitive bidding may be  
4 waived if the Commonwealth owns a fractional interest in the  
5 mineral resources in or beneath State system land and the  
6 department may enter into a contract to lease that fractional  
7 interest, with the approval of the Governor and upon terms  
8 and conditions the department deems to be in the best  
9 interest of the Commonwealth.

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

13 Section 5. Deposit of revenue.

14          (a) Payments.--

15           (1) All payments or royalties received by the department  
16 pursuant to a contract or lease under this act, except for a  
17 contract or lease under section 4, in fiscal year 2011-2012  
18 through fiscal year 2013-2014 shall be deposited in the Oil  
19 and Gas Lease Fund.

20           (2) All payments or royalties received by the department  
21 pursuant to a contract or lease under this act, except for a  
22 contract or lease under section 4, in fiscal year 2014-2015  
23 and each fiscal year thereafter shall be deposited as  
24 follows:

25           (i) the first \$50,000,000 of payments or royalties  
26 received by the department shall be deposited in the  
27 Hazardous Sites Cleanup Fund; and

28           (ii) all remaining payments or royalties shall be  
29 deposited in the Oil and Gas Lease Fund.

30          (3) The costs incurred by the department or the

1 Department of Conservation and Natural Resources in  
2 advertising and contracting, leasing or conveying the mineral  
3 resources, including the fees of any survey, appraisal or  
4 report, shall be deducted from payments or royalties, and  
5 that amount shall be an executively authorized augmentation  
6 to the appropriation to the department or the Department of  
7 Conservation and Natural Resources.

8 (b) Payments derived by system.--All payments or royalties  
9 derived from any lease entered into under section 4 shall be  
10 allocated as follows:

11 (1) Forty percent shall be retained by the university  
12 where the mineral resource is leased or extracted and shall  
13 be used by the university for deferred maintenance projects  
14 or energy efficiency or energy cost saving improvements.

15 (2) Sixty percent shall be allocated to the State System  
16 of Higher Education for distribution among those universities  
17 where no mineral resources have been leased or extracted. The  
18 distribution formula shall be determined by the Board of  
19 Governors of the State System of Higher Education. Funds  
20 distributed under this paragraph shall only be used for  
21 deferred maintenance or energy efficiency or energy cost  
22 saving improvements.

23 Section 6. Condition relating to surplus property.

24 Notwithstanding the provisions of section 2405-A(6) of the  
25 act of April 9, 1929 (P.L.177, No.175), known as The  
26 Administrative Code of 1929, the department may convey all oil,  
27 gas and mineral rights to the purchaser of surplus Commonwealth  
28 real property along with the conveyance of the surplus real  
29 property when done so in accordance with this act.

30 Section 7. Effective date.

1        This act shall take effect immediately.