
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

AS AMENDED ON THIRD CONSIDERATION, OCTOBER 25, 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 COAL, OIL, NATURAL GAS, COAL BED METHANE, LIMESTONE AND ←
21 mineral resources which may be found in or beneath State-
22 owned land and to convey Commonwealth rights to COAL, OIL, ←
23 NATURAL GAS, COAL BED METHANE, LIMESTONE AND mineral
24 resources.

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

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

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

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

6 (b) Advertising.--

7 (1) A proposed contract, lease or conveyance of COAL, ←
8 OIL, NATURAL GAS, COAL BED METHANE, LIMESTONE AND mineral
9 resources exceeding \$1,000 in value must be advertised once a
10 week for three weeks, in at least two newspapers of general
11 circulation published nearest the locality indicated, in
12 advance of awarding the contract or lease.

13 (2) If the proposed conveyance ~~of the mineral resources~~ ←
14 is included in the proposed conveyance of the real property
15 to which it is attached, the department shall comply with the
16 advertising requirements for the conveyance of the real
17 property.

18 (c) Bidding.--

19 (1) Except as set forth in paragraphs (2) and (3),
20 contracts, leases and conveyances shall be awarded to the
21 highest and best bidder. If title to the property has already
22 been conveyed, but the Commonwealth has reserved the right to
23 COAL, OIL, NATURAL GAS, COAL BED METHANE, LIMESTONE OR ←
24 mineral resources, the Commonwealth may convey the ~~mineral~~ ←
25 resources to the owner of the fee without bidding.

26 (2) The requirement for competitive bidding may be
27 waived if the Commonwealth owns a fractional interest in the
28 COAL, OIL, NATURAL GAS, COAL BED METHANE, LIMESTONE OR ←
29 mineral resources in or beneath State-owned land; and the
30 department may enter into a contract to lease that fractional

1 interest, with the approval of the Governor and upon terms
2 and conditions the department deems to be in the best
3 interest of the Commonwealth.

4 (3) If a proposed conveyance ~~of the mineral resources~~ ←
5 UNDER THIS SECTION is included in the proposed conveyance of ←
6 the real property to which it is attached, the award shall be
7 made to the selected buyer of the real property.

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

11 Section 4. Development of ~~mineral~~ resources on State system ←
12 land.

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

14 (1) To make and execute contracts or leases in the name
15 of the Commonwealth for the mining or removal of valuable
16 COAL, OIL, NATURAL GAS, COAL BED METHANE, LIMESTONE AND ←
17 mineral resources which may be found in or beneath State
18 system land.

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

22 (i) the grant will not so adversely affect the land
23 as to interfere with its usual and orderly
24 administration; and

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

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

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



1 ~~resources exceeding~~ UNDER THIS ACT THAT EXCEEDS \$1,000 in value
2 must be advertised for three weeks on the system's publicly
3 accessible Internet website and at least once a week for three
4 weeks, in at least two newspapers of general circulation
5 published nearest the locality indicated, in advance of awarding
6 the contract or lease.

7 (c) Bidding.--

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

10 (2) The requirement for competitive bidding may be
11 waived if the Commonwealth owns a fractional interest in the
12 mineral resources in or beneath State system land and the
13 department may enter into a contract to lease that fractional
14 interest, with the approval of the Governor and upon terms
15 and conditions the department deems to be in the best
16 interest of the Commonwealth.

17 (d) Bond.--A party that enters into a contract or lease
18 under this section must provide a bond satisfactory to the
19 department for the proper performance of the contract or lease.
20 Section 5. Deposit of revenue.

21 (a) Payments.--

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

27 (2) All payments or royalties received by the department
28 pursuant to a contract or lease under this act, except for a
29 contract or lease under section 4, in fiscal year 2014-2015
30 and each fiscal year thereafter shall be deposited as

1 follows:

2 (i) ~~the first \$50,000,000~~ TWENTY-FIVE PERCENT of ←
3 payments or royalties received by the department shall be
4 deposited in the Hazardous Sites Cleanup FUND. ~~Fund;~~ and ←

5 ~~(ii) all remaining payments or royalties shall be~~
6 ~~deposited in the Oil and Gas Lease Fund.~~

7 (II) TWENTY-FIVE PERCENT OF THE PAYMENTS OR
8 ROYALTIES SHALL BE ALLOCATED TO THE PENNSYLVANIA
9 INFRASTRUCTURE INVESTMENT AUTHORITY ESTABLISHED UNDER THE
10 ACT OF MARCH 1, 1988 (P.L.82, NO.16), KNOWN AS THE
11 PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY ACT.

12 (III) TWENTY-FIVE PERCENT OF THE PAYMENTS OR
13 ROYALTIES SHALL BE ALLOCATED TO THE H2O PROGRAM
14 ESTABLISHED UNDER THE ACT OF JULY 9, 2008 (P.L.908,
15 NO.63), KNOWN AS THE H2O PA ACT.

16 (IV) TWENTY-FIVE PERCENT OF THE PAYMENTS OR
17 ROYALTIES SHALL BE DEPOSITED INTO THE OIL AND GAS LEASE
18 FUND.

19 (3) The costs incurred by the department or the
20 Department of Conservation and Natural Resources in
21 advertising and contracting, leasing or conveying the ~~mineral~~ ←
22 resources, including the fees of any survey, appraisal or
23 report, shall be deducted from payments or royalties, and
24 that amount shall be an executively authorized augmentation
25 to the appropriation to the department or the Department of
26 Conservation and Natural Resources.

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

30 (1) Forty percent shall be retained by the university

1 where the COAL, OIL, NATURAL GAS, COAL BED METHANE, LIMESTONE ←
2 OR mineral resource is leased or extracted and shall be used
3 by the university for deferred maintenance projects or energy
4 efficiency or energy cost saving improvements.

5 (2) Sixty percent shall be allocated to the State System
6 of Higher Education for distribution among those universities
7 where no COAL, OIL, NATURAL GAS, COAL BED METHANE, LIMESTONE ←
8 OR mineral resources have been leased or extracted. The
9 distribution formula shall be determined by the Board of
10 Governors of the State System of Higher Education. Funds
11 distributed under this paragraph shall only be used for
12 deferred maintenance or energy efficiency or energy cost
13 saving improvements.

14 Section 6. Condition relating to surplus property.

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

21 Section 7 30. Effective date. ←

22 This act shall take effect immediately.