
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 REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 23, 2012

AN ACT

1 Providing for ~~indigenous mineral~~ CERTAIN resource development; ←
2 and 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 "Right-of-way." Includes:

- 16 (1) a right of passage and haulage for a lawful purpose;
17 (2) a right of flowage or transmission for a lawful

1 purpose; or

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

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

8 "State system land." Land owned by the State System of
9 Higher Education or controlled by the State System of Higher
10 Education pursuant to a memorandum of understanding approved by
11 the Department of General Services.

12 "System." The State System of Higher Education of the
13 Commonwealth.

14 Section 3. Development of resources on State-owned land.

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

16 (1) To make and execute contracts or leases in the name
17 of the Commonwealth for the mining or removal of valuable
18 coal, oil, natural gas, coal bed methane, ~~limestone and~~ ←
19 ~~mineral resources~~ AND LIMESTONE which may be found in or ←
20 beneath State-owned land and to convey Commonwealth rights to
21 coal, oil, natural gas, coal bed methane, ~~limestone and~~ ←
22 ~~mineral resources~~ AND LIMESTONE. ←

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 DETERMINES THAT THE GRANT WILL NOT SO ADVERSELY AFFECT ←
28 THE LAND as to interfere with its usual and orderly
29 ~~administration; and~~ ←

30 ~~(ii) the interests of the Commonwealth or its~~

1 ~~citizens will be promoted by the grant.~~ ADMINISTRATION. ←

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

5 (b) Advertising.--

6 (1) A proposed contract, lease or conveyance of coal,
7 oil, natural gas, coal bed methane,~~limestone and mineral~~ ←
8 ~~resources~~ AND LIMESTONE exceeding \$1,000 in value must be ←
9 advertised once a week for three weeks, in at least two
10 newspapers of general circulation published nearest the
11 locality indicated, in advance of awarding the contract or
12 lease.

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

17 (c) Bidding.--

18 (1) Except as set forth in paragraphs (2) and (3),
19 contracts, leases and conveyances shall be awarded to the
20 highest and best bidder. If title to the property has already
21 been conveyed, but the Commonwealth has reserved the right to
22 coal, oil, natural gas, coal bed methane,~~limestone or~~ ←
23 ~~mineral resources~~ OR LIMESTONE, the Commonwealth may convey ←
24 the resources to the owner of the fee without bidding.

25 (2) The requirement for competitive bidding may be
26 waived if the Commonwealth owns a fractional interest in the
27 coal, oil, natural gas, coal bed methane,~~limestone or~~ ←
28 ~~mineral resources~~ OR LIMESTONE in or beneath State-owned ←
29 land; and the department may enter into a contract to lease
30 that fractional interest, with the approval of the Governor

1 and upon terms and conditions the department deems to be in
2 the best interest of the Commonwealth.

3 (3) If a proposed conveyance under this section is
4 included in the proposed conveyance of the real property to
5 which it is attached, the award shall be made to the selected
6 buyer of the real property.

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

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

12 (1) To make and execute contracts or leases in the name
13 of the Commonwealth for the mining or removal of valuable
14 coal, oil, natural gas, coal bed methane, ~~limestone and~~ ←
15 ~~mineral resources~~ AND LIMESTONE which may be found in or ←
16 beneath State system land.

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

20 ~~(i) the grant will not so adversely affect the land~~
21 DETERMINES THAT THE GRANT WILL NOT SO ADVERSELY AFFECT ←
22 THE LAND as to interfere with its usual and orderly
23 ~~administration; and~~ ←

24 ~~(ii) the interests of the Commonwealth or its~~
25 ~~citizens will be promoted by the grant.~~ ADMINISTRATION. ←

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

29 (b) Advertising.--A proposed contract or lease under this
30 act that exceeds \$1,000 in value must be advertised for three

1 weeks on the system's publicly accessible Internet website and
2 at least once a week for three weeks, in at least two newspapers
3 of general circulation published nearest the locality indicated,
4 in advance of awarding the contract or lease.

5 (c) Bidding.--

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

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

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

19 (a) Payments.--

20 (1) 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 2011-2012
23 ~~through fiscal year 2013-2014 shall be deposited in the Oil~~ ←
24 ~~and Gas Lease Fund.~~

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

30 ~~(i) Twenty five percent of payments or royalties~~

1 ~~received by the department shall be deposited in the~~
2 ~~Hazardous Sites Cleanup Fund.~~

3 ~~(ii) Twenty five percent of the payments or~~
4 ~~royalties shall be allocated to the Pennsylvania~~
5 ~~Infrastructure Investment Authority established under the~~
6 ~~act of March 1, 1988 (P.L.82, No.16), known as the~~
7 ~~Pennsylvania Infrastructure Investment Authority Act.~~

8 ~~(iii) Twenty five percent of the payments or~~
9 ~~royalties shall be allocated to the H2O program~~
10 ~~established under the act of July 9, 2008 (P.L.908,~~
11 ~~No.63), known as the H2O PA Act.~~

12 ~~(iv) Twenty five percent of the payments or~~ AND ←
13 EVERY YEAR THEREAFTER SHALL BE DEPOSITED AS FOLLOWS:

14 (I) TWENTY PERCENT OF THE PAYMENTS OR ROYALTIES
15 SHALL BE RETAINED BY THE STATE AGENCY WHERE THE COAL,
16 OIL, NATURAL GAS, COAL BED METHANE OR LIMESTONE IS LEASED
17 OR EXTRACTED.

18 (II) ALL REMAINING PAYMENTS OR royalties shall be
19 deposited into the Oil and Gas Lease Fund.

20 ~~(3)~~ (2) The costs incurred by the department or the ←
21 Department of Conservation and Natural Resources in
22 advertising and contracting, leasing or conveying the
23 resources, including the fees of any survey, appraisal or
24 report, shall be deducted from payments or royalties, and
25 that amount shall be an executively authorized augmentation
26 to the appropriation to the department or the Department of
27 Conservation and Natural Resources.

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

1 (1) Forty percent shall be retained by the university
2 where the coal, oil, natural gas, coal bed methane, ~~limestone~~ ←
3 ~~or mineral resource~~ OR LIMESTONE is leased or extracted and ←
4 shall be used by the university for deferred maintenance
5 projects or energy efficiency or energy cost saving
6 improvements.

7 (2) Sixty percent shall be allocated to the State System
8 of Higher Education for distribution among those universities
9 where no coal, oil, natural gas, coal bed methane, ~~limestone~~ ←
10 ~~or mineral resources~~ OR LIMESTONE have been leased or ←
11 extracted. The distribution formula shall be determined by
12 the Board of Governors of the State System of Higher
13 Education. Funds distributed under this paragraph shall only
14 be used for deferred maintenance or energy efficiency or
15 energy cost saving improvements.

16 Section 6. Condition relating to surplus property.

17 Notwithstanding the provisions of section 2405-A(6) of the
18 act of April 9, 1929 (P.L.177, No.175), known as The
19 Administrative Code of 1929, the department may convey all ~~oil,~~ ←
20 ~~gas and mineral~~ COAL, OIL, NATURAL GAS, COAL BED METHANE AND ←
21 LIMESTONE rights to the purchaser of surplus Commonwealth real
22 property along with the conveyance of the surplus real property
23 when done so in accordance with this act.

24 Section ~~30~~ 7. Effective date. ←

25 This act shall take effect immediately.