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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 SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 25, 2012

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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 STATE SYSTEM LAND OR land owned and ←  
6 administered by the Department of Conservation and Natural  
7 Resources, the Pennsylvania Fish and Boat Commission or the  
8 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 resources on State-owned land.

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

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

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

27 ~~(i) the grant will not so adversely affect the land~~  
28 DETERMINES THAT THE GRANT WILL NOT SO ADVERSELY AFFECT ←  
29 THE LAND 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.~~ ADMINISTRATION.     ←

3           (3) To cooperate with, consult with or delegate to the     ←  
4 Department of Conservation and Natural Resources, PURSUANT TO     ←  
5 ITS AUTHORITY IN THE ACT OF JUNE 28, 1995 (P.L.89, NO.18),  
6 KNOWN AS THE CONSERVATION AND NATURAL RESOURCES ACT, in  
7 carrying out the provisions of this act.

8           (b) Advertising.--

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

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

20           (c) Bidding.--

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

28           (2) The requirement for competitive bidding may be  
29 waived if the Commonwealth owns a fractional interest in the  
30 coal, oil, natural gas, coal bed methane,~~limestone or~~     ←

1 ~~mineral resources~~ OR LIMESTONE in or beneath State-owned ←  
2 land; and the department may enter into a contract to lease  
3 that fractional interest, with the approval of the Governor  
4 and upon terms and conditions the department deems to be in  
5 the best interest of the Commonwealth.

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

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 4. Development of resources on State system land.

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

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

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

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

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

29 (3) To cooperate with, consult with or delegate to the  
30 Department of Conservation and Natural Resources, PURSUANT TO ←

1 ITS AUTHORITY IN THE ACT OF JUNE 28, 1995 (P.L.89, NO.18),  
2 KNOWN AS THE CONSERVATION AND NATURAL RESOURCES ACT, in  
3 carrying out the provisions of this act.

4 (A.1) LIMITATIONS.--THE DEPARTMENT MAY NOT MAKE OR EXECUTE A ←  
5 CONTRACT OR LEASE UNDER SUBSECTION (A) (1) UNLESS THE PRESIDENT  
6 OF THE SYSTEM UNIVERSITY AFFECTED BY THE CONTRACT OR LEASE HAS  
7 PROVIDED THE DEPARTMENT WITH WRITTEN AUTHORIZATION TO PROCEED  
8 WITH NEGOTIATING A CONTRACT OR LEASE.

9 (b) Advertising.--A proposed contract or lease under this  
10 act that exceeds \$1,000 in value must be advertised for three  
11 weeks on the system's publicly accessible Internet website and  
12 at least once a week for three weeks, in at least two newspapers  
13 of general circulation published nearest the locality indicated,  
14 in advance of awarding the contract or lease.

15 (c) Bidding.--

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

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

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

29 ~~(a) Payments.~~ ←

30 ~~(1) All payments or royalties received by the department~~

1 ~~pursuant to a contract or lease under this act, except for a~~  
2 ~~contract or lease under section 4, in fiscal year 2011-2012-~~  
3 ~~through fiscal year 2013-2014 shall be deposited in the Oil~~ ←  
4 ~~and Gas Lease Fund.~~

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

10 ~~(i) Twenty five percent of payments or royalties~~  
11 ~~received by the department shall be deposited in the~~  
12 ~~Hazardous Sites Cleanup Fund.~~

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

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

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

24 ~~(I) TWENTY PERCENT OF THE PAYMENTS OR ROYALTIES~~  
25 ~~SHALL BE RETAINED BY THE STATE AGENCY WHERE THE COAL,~~  
26 ~~OIL, NATURAL GAS, COAL BED METHANE OR LIMESTONE IS LEASED-~~  
27 ~~OR EXTRACTED.~~

28 ~~(II) ALL REMAINING PAYMENTS OR royalties shall be~~  
29 ~~deposited into the Oil and Gas Lease Fund.~~

30 ~~(3) (2) The costs incurred by the department or the~~ ←

1 ~~Department of Conservation and Natural Resources in~~  
2 ~~advertising and contracting, leasing or conveying the~~  
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 (A) PAYMENTS DERIVED FROM STATE-OWNED LAND.--NOTWITHSTANDING ←  
9 SECTION 1 OF THE ACT OF DECEMBER 15, 1955 (P.L.865, NO.256),  
10 ENTITLED "AN ACT REQUIRING RENTS AND ROYALTIES FROM OIL AND GAS  
11 LEASES OF COMMONWEALTH LAND TO BE PLACED IN A SPECIAL FUND TO BE  
12 USED FOR CONSERVATION, RECREATION, DAMS, AND FLOOD CONTROL;  
13 AUTHORIZING THE SECRETARY OF FORESTS AND WATERS TO DETERMINE THE  
14 NEED FOR AND LOCATION OF SUCH PROJECTS AND TO ACQUIRE THE  
15 NECESSARY LAND," ALL PAYMENTS OR ROYALTIES RECEIVED BY THE  
16 DEPARTMENT PURSUANT TO A CONTRACT OR LEASE UNDER SECTION 3 IN  
17 FISCAL YEAR 2011-2012 AND EVERY YEAR THEREAFTER SHALL BE  
18 DEPOSITED AS FOLLOWS:

19 (1) TWENTY PERCENT OF THE PAYMENTS OR ROYALTIES SHALL BE  
20 RETAINED BY THE STATE AGENCY WHERE THE COAL, OIL, NATURAL  
21 GAS, COAL BED METHANE OR LIMESTONE IS LEASED OR EXTRACTED.

22 (2) ALL REMAINING PAYMENTS OR ROYALTIES SHALL BE  
23 DEPOSITED INTO THE OIL AND GAS LEASE FUND.

24 (b) Payments derived ~~by system~~ FROM STATE SYSTEM LAND.--All ←  
25 payments or royalties derived from any lease entered into under  
26 section 4 shall be allocated as follows:

27 (1) ~~Forty percent~~ EXCEPT AS PROVIDED UNDER PARAGRAPH ←

28 (3), 40% shall be retained by the university where the coal,  
29 oil, natural gas, coal bed methane, ~~limestone or mineral~~ ←  
30 ~~resource~~ OR LIMESTONE is leased or extracted and shall be ←

1 used by the university for deferred maintenance projects or  
2 energy efficiency or energy cost saving improvements.

3 (2) ~~Sixty percent~~ EXCEPT AS PROVIDED UNDER PARAGRAPH ←  
4 (3), 60% shall be allocated to the State System of Higher  
5 Education for distribution among those universities where no  
6 coal, oil, natural gas, coal bed methane, ~~limestone or~~ ←  
7 ~~mineral resources~~ OR LIMESTONE have been leased or extracted. ←

8 The distribution formula shall be determined by the Board of  
9 Governors of the State System of Higher Education. Funds  
10 distributed under this paragraph shall only be used for  
11 deferred maintenance or energy efficiency or energy cost  
12 saving improvements.

13 (3) FIFTEEN PERCENT OF THE FUNDS DISTRIBUTED UNDER ←  
14 PARAGRAPHS (1) AND (2) SHALL BE USED EXCLUSIVELY FOR TUITION  
15 REDUCTION.

16 (C) EXECUTIVELY AUTHORIZED AUGMENTATIONS.--THE COSTS  
17 INCURRED BY THE DEPARTMENT OR THE DEPARTMENT OF CONSERVATION AND  
18 NATURAL RESOURCES IN ADVERTISING AND CONTRACTING, LEASING OR  
19 CONVEYING THE RESOURCES, INCLUDING THE FEES OF ANY SURVEY,  
20 APPRAISAL OR REPORT, SHALL BE DEDUCTED FROM PAYMENTS OR  
21 ROYALTIES AND THAT AMOUNT SHALL BE AN EXECUTIVELY AUTHORIZED  
22 AUGMENTATION TO THE APPROPRIATION TO THE DEPARTMENT OR THE  
23 DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.

24 Section 6. Condition relating to surplus property.

25 Notwithstanding the provisions of section 2405-A(6) of the  
26 act of April 9, 1929 (P.L.177, No.175), known as The  
27 Administrative Code of 1929, the department may convey all ~~oil,~~ ←  
28 ~~gas and mineral~~ COAL, OIL, NATURAL GAS, COAL BED METHANE AND ←  
29 LIMESTONE rights to the purchaser of surplus Commonwealth real  
30 property along with the conveyance of the surplus real property



1 when done so in accordance with this act.

2 Section ~~30~~ 7. Effective date.



3 This act shall take effect immediately.