

NEW SECTION. Sec. 4. The authority under this chapter is supplemental and in addition to the authority to issue obligations under any other provision of law.

NEW SECTION. Sec. 5. A new section is added to chapter 39.36 RCW to read as follows:

This chapter does not apply to a loan made pursuant to a loan agreement under chapter 39.— RCW (sections 1 through 4 of this act), and any computation of indebtedness under this chapter shall exclude the amount of any loan under such a loan agreement.

NEW SECTION. Sec. 6. A new section is added to chapter 43.155 RCW to read as follows:

Loans from the public works assistance account under this chapter shall be made by loan agreement under chapter 39.— RCW (sections 1 through 4 of this act).

NEW SECTION. Sec. 7. Sections 1 through 4 of this act shall constitute a new chapter in Title 39 RCW.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 6, 1987.

Passed the Senate March 27, 1987.

Approved by the Governor April 3, 1987.

Filed in Office of Secretary of State April 3, 1987.

## CHAPTER 20

[Substitute Senate Bill No. 5193]

### MINING—PERMITS, LEASES, CONTRACTS—REVISIONS

AN ACT Relating to mining on public lands; amending RCW 79.01.616, 79.01.618, 79.01.620, 79.01.624, 79.01.628, 79.01.632, 79.01.633, 79.01.634, 79.01.640, 79.01.644, 79.01.650, and 79.90.330; adding new sections to chapter 79.01 RCW; and repealing RCW 79.01.636.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 155, chapter 255, Laws of 1927 as amended by section 2, chapter 56, Laws of 1965 and RCW 79.01.616 are each amended to read as follows:

The department of natural resources (~~(shall have the power to execute))~~ may issue permits and leases(;) for prospecting, and contracts for the mining of valuable minerals and specified materials, except rock, gravel, sand, silt, coal, or hydrocarbons, upon and from any public lands belonging to or held in trust by the state, or which have been sold and the minerals

thereon reserved by the state(~~(to any person;))~~) in tracts ((of)) not to exceed ((the equivalent of one section and not less than the equivalent of one sixteenth of a section in legal subdivisions according to the United States government surveys)) six hundred forty acres or an entire government-surveyed section.

NEW SECTION. Sec. 2. A new section is added to chapter 79.01 RCW to read as follows and to be codified as RCW 79.01.617:

The department of natural resources may offer nonrenewable placer mining contracts by public auction for the mining of gold under terms set by the department. In the case of lands known to contain valuable minerals or specified materials in commercially significant quantities, the department may offer mining contracts by public auction.

Sec. 3. Section 3, chapter 56, Laws of 1965 as amended by section 200, chapter 3, Laws of 1983 and RCW 79.01.618 are each amended to read as follows:

The department of natural resources ((~~shall have the authority to promulgate all reasonable~~)) may adopt rules ((~~and regulations~~)) necessary for carrying out the mineral leasing, contracting, and permitting provisions of RCW 79.01.616 through ((~~79.01.650~~)) 79.01.651. Such rules ((~~and regulations~~)) shall be enacted under ((~~the provisions of~~)) chapter 34.04 RCW. The department may amend or rescind any rules ((~~or regulations promulgated~~)) adopted under ((~~the provisions of~~)) this section. The department shall publish these rules ((~~and regulations~~)) in pamphlet form for the information of the public.

Sec. 4. Section 156, chapter 255, Laws of 1927 as amended by section 4, chapter 56, Laws of 1965 and RCW 79.01.620 are each amended to read as follows:

Any person desiring to obtain a lease ((~~or leases~~)) for mineral prospecting purposes upon any lands in which the mineral rights are owned or administered by the department of natural resources, shall file in the proper office of the department ((~~of natural resources~~)) an application or applications therefor, upon the prescribed form((~~, and shall pay to the department a rental of twenty-five cents per acre for the first year of such lease or leases, payable in advance to the department at the time of making application therefor~~)), together with ((an)) application fees((~~(- PROVIDED; That)~~)). The department may reject an application for a mineral prospecting lease when the department determines rejection to be in the best interests of the state, and in such case shall inform the applicant of the reason for rejection and refund the application fee. The department may also reject the application and declare ((~~the first year's rental and~~)) the application fee forfeited should the applicant fail to ((~~complete and~~)) execute the lease. ((~~The department may upon receipt of an application for a prospecting lease cause an investigation and report to be made, such report to indicate~~

improvements upon and to the land, the estimated amount of damage which might accrue to the land through prospecting or mining, and the mineral character of the land:))

Sec. 5. Section 157, chapter 255, Laws of 1927 as amended by section 5, chapter 56, Laws of 1965 and RCW 79.01.624 are each amended to read as follows:

~~((In case the lands described in the application for a mineral prospecting lease or mining contract, shall have been leased for any other purpose than mineral prospecting or mining, and the minerals therein reserved by the state, the department of natural resources upon the filing of the application, shall at its option cause a full investigation and report to be made as to the nature and location of the lands applied for, and the estimated amount of damages that will accrue to such lands by reason of prospecting and/or mining therefrom:~~

~~The applicant shall provide compensation for all damages to the lessee's interest and to the state. In case the applicant has not provided for satisfactory compensation to the lessee's interest and to the state, the department may at its discretion require the filing of a cash or surety bond with the department in an amount sufficient in the opinion of the department to cover such compensation until the amount and payment of compensation has been provided for, in accordance with the rules and regulations adopted by the department:))~~ Where the surface rights are held by a third party, the lessee shall not exercise the rights reserved by the state upon lands covered by the lessee's lease or contract until the lessee has provided the department with satisfactory evidence of compliance with the requirements of the state's mineral rights reservations. Where the surface rights are held by the state, the lessee shall not exercise its mineral rights upon lands covered by the lessee's lease or contract until the lessee has made satisfactory arrangements with the department to compensate the state for loss or damage to the state's surface rights.

Sec. 6. Section 158, chapter 255, Laws of 1927 as last amended by section 6, chapter 56, Laws of 1965 and RCW 79.01.628 are each amended to read as follows:

Leases for prospecting purposes ~~((shall))~~ may be for ((the)) a term of ((two)) up to seven years from the date of the lease. The lessee shall pay an annual lease rental ((on the lease shall be twenty-five cents per acre per year payable in advance to the department of natural resources during the term of the lease)) as set by the board of natural resources. The annual lease rental shall be paid in advance. The lessee~~((, or his assigns;))~~ shall not have the right to extract and remove for commercial sale or use from the leased premises any minerals or specified materials found on the premises except upon ~~((making application for conversion to))~~ obtaining a mining contract. ~~((Upon the commencement of actual mining, recovery, and saving of minerals and specified materials, a minimum royalty of two dollars and~~

~~fifty cents per acre per year in lieu of an annual rental shall become effective.~~

~~The lessee will pay royalties to the state as provided in the mining contract and in the rules and regulations promulgated by the department. The minimum royalty shall be allowed as a credit against royalties due during the calendar year said minimum royalty is paid. The lessee, or his assigns, shall have the right to cut and use such timber found on the leased premises belonging to the state for mining and fuel as provided for in rules and regulations promulgated by the department.)~~ The lessee shall perform annual prospecting work in cost amounts as set by the board of natural resources. The lessee may make payment to the department in lieu of the performance of annual prospecting work for up to three years during the term of the lease. Prospecting work performed must contribute to the mineral evaluation of the leased premises.

The lessee may at any time give notice of intent to terminate the lease if all of the covenants of the lease including reclamation are met. The notice of termination of lease shall be made by giving written notice together with copies of all information obtained from the premises. The lease shall terminate sixty days thereafter if all arrears and sums which are due under the lease up to the time of termination have been paid.

Sec. 7. Section 159, chapter 255, Laws of 1927 as amended by section 7, chapter 56, Laws of 1965 and RCW 79.01.632 are each amended to read as follows:

~~The holder of any prospecting lease(, or his assigns,) shall ((if he apply therefor to the department of natural resources within sixty days prior to the expiration of the prospecting lease,)) have a preference right to a mining contract ((to) on the premises described in ((said)) the lease((, or any part thereof, upon the same terms and royalties as provided in the prospecting lease. Any contract issued upon conversion from a two year prospecting lease shall have deducted the time already expended on said)) if application therefor is made to the department of natural resources at least one hundred eighty days prior to the expiration of the prospecting lease.~~

((At such time as application is made for a mining contract, the lessee shall submit evidence and proof of development work as provided for in rules and regulations promulgated by the department, together with the rental or minimum royalty and the application fee to the department)). A lessee applying for a mining contract shall furnish plans for development leading toward production. The plans shall address the reclamation of the property. A mining contract shall be for a term of twenty years.

The first year of the contract and each year thereafter, the lessee shall perform development work in cost amounts as set by the board of natural resources. The lessee may make payment to the department in lieu of development work.

The lessee may at any time give notice of intent to terminate the contract if all of the covenants of the contract including reclamation are met. The notice of termination of contract shall be made by giving written notice together with copies of all information obtained from the premises. The contract shall terminate sixty days thereafter if all arrears and sums which are due under the contract up to the time of termination have been paid.

The lessee shall have sixty days from the termination date of the contract in which to remove improvements, except those necessary for the safety and maintenance of mine workings, from the premises without material damage to the land or subsurface covered by the contract. However, the lessee shall upon written request to the department be granted an extension where forces beyond the control of the lessee prevent removal of the improvements within sixty days.

Any lessee not converting a ((two year)) prospecting lease to a mining contract ((or being refused a contract by the department)) shall not be entitled to a new prospecting lease ((or mining contract)) on the lease premises ((leased)) for one year from the expiration date of the prior lease. Such lands included in ((said)) the prospecting lease ((or contract conversion)) shall be open to application by any person other than the prior lessee, ((his)) and the lessee's agents or associates during the year period described above.

Sec. 8. Section 8, chapter 56, Laws of 1965 and RCW 79.01.633 are each amended to read as follows:

Where the surface rights have been sold and the minerals retained by the state, the state's right of entry to these lands is hereby transferred and assigned to the lessee during the life of the lease or contract ((and said lessee herewith shall be responsible for providing compensation to the owner of the surface rights for damages incurred through prospecting and mining)). No lessee shall commence any operation upon lands covered by his or her lease or contract until ((such lessee has provided for compensation to the owners of private rights thereon according to law)) the lessee has complied with RCW 79.01.624.

Sec. 9. Section 9, chapter 56, Laws of 1965 and RCW 79.01.634 are each amended to read as follows:

The department of natural resources shall ((automatically)) terminate and cancel a prospecting lease or mining contract upon failure of the lessee to make payment of the annual rental or royalties or comply with the terms and conditions of said lease or contract upon the date such payments and compliances are due. The lessee shall be notified of such termination and cancellation, said notice to be mailed to the last known address of the lessee. Termination and cancellation shall become effective thirty days from the date of mailing said notice: PROVIDED, That the department may, upon written request from the lessee, grant an extension of time in which to make such payment or comply with said terms and conditions.

Sec. 10. Section 161, chapter 255, Laws of 1927 as amended by section 11, chapter 56, Laws of 1965 and RCW 79.01.640 are each amended to read as follows:

Prospecting leases or mining contracts referred to in chapter 79.01 RCW shall be as prescribed by, and in accordance with rules (~~and regulations promulgated~~) adopted by the department of natural resources.

The department (~~is authorized to insert~~) may include in any mineral prospecting lease or mining contract to be issued under (~~the provisions of~~) this chapter such terms and conditions as are customary and proper for the protection of the rights of the state and of the lessee not in conflict with (~~the provisions of~~) this chapter, or rules (~~and regulations promulgated by the commissioner~~) adopted by the department.

Any lessee shall have the right to contract with others to work or operate the leased premises or any part thereof or to subcontract the same and the use of said land or any part thereof for the purpose of mining for valuable minerals or specified materials, with the same rights and privileges granted to the lessee. Notice of such contracting or subcontracting with others to work or operate the property shall be made in writing to the department.

NEW SECTION. Sec. 11. A new section is added to chapter 79.01 RCW to read as follows and to be codified as RCW 79.01.642:

At time of termination for any mineral prospecting lease, permit, mining contract, or placer mining contract, the premises shall be reclaimed in accordance with plans approved by the department.

Sec. 12. Section 162, chapter 255, Laws of 1927 as last amended by section 12, chapter 56, Laws of 1965 and RCW 79.01.644 are each amended to read as follows:

Mining contracts entered into as provided in chapter 79.01 RCW shall (~~in addition to the provisions contained in the form specified~~) provide for the payment to the state of production royalties (~~payable at specified periods and rates to be agreed upon by the department of natural resources and the applicant, but which periods and rates shall be in accordance with the rules and regulations promulgated by the department. The lessee, or his assigns, may apply for the renewal of the contract to the department within ninety days prior to the expiration of said contract. Upon receipt of such application, the department shall make the necessary investigation to determine whether the terms of the contract have been complied with, and if he [it] finds they have been complied with in good faith, he [it] shall then be required to issue a new contract of the premises described in the present contract, or any part thereof, upon the same terms and percentages as are provided for in the present contract. PROVIDED, That the prospecting or exploration period of the present contract shall be waived and the new contract shall specify an annual minimum royalty of not less~~

~~than two dollars and fifty cents per acre)) as set by the board of natural resources. A lessee shall pay in advance annually a minimum royalty which shall be set by the board of natural resources. The minimum royalty shall be allowed as a credit against production royalties due during the contract year.~~

NEW SECTION. Sec. 13. A new section is added to chapter 79.01 RCW to read as follows and to be codified as RCW 79.01.645:

The lessee may apply for the renewal of a mining contract, except placer mining contracts issued pursuant to section 2 of this act, to the department within ninety days before the expiration of the contract. Upon receipt of the application, the department shall make the necessary investigation to determine whether the terms of the contract have been complied with, and if the department finds they have been complied with in good faith, the department shall renew the contract. The terms and conditions of the renewal contract shall remain the same except for royalty rates, which shall be determined by reference to then existing law.

Sec. 14. Section 15, chapter 56, Laws of 1965 and RCW 79.01.650 are each amended to read as follows:

The state shall have the right to sell or otherwise dispose of any surface resource, timber, ((sand, or)) rock, gravel, sand, silt, coal, or hydrocarbons, except minerals or materials specifically covered by a mineral prospecting lease or mining contract, found upon the land during the period covered by said lease or contract. The state shall also have the right to enter upon such land and remove same, and shall not be obliged to withhold from any sale any timber for prospecting or mining purposes((:-PROVIDED, That the lessee shall be permitted to use timber as provided in this chapter and in rules and regulations promulgated by the department of natural resources)). The lessee shall, upon payment to the department of natural resources, have the right to cut and use timber found on the leased premises for mining purposes as provided in rules adopted by the department.

NEW SECTION. Sec. 15. A new section is added to chapter 79.01 RCW to read as follows and to be codified as RCW 79.01.651:

The department may issue permits for recreational mineral prospecting in designated areas containing noneconomic mineral deposits. The term of a permit shall not exceed one year. Designated areas, equipment allowed, methods of prospecting, as well as other appropriate permit conditions, shall be set in rules adopted by the department. Fees shall be set by the board of natural resources.

Sec. 16. Section 39, chapter 21, Laws of 1982 1st ex. sess. and RCW 79.90.330 are each amended to read as follows:

The department of natural resources ~~((shall have the power to execute))~~ may issue permits and leases(;) for prospecting, placer mining contracts, and contracts for the mining of valuable minerals and specific

materials, except rock, gravel, sand, silt, coal, or hydrocarbons, upon and from any aquatic lands belonging to the state, or which have been sold and the minerals thereon reserved by the state (~~(, to any person;)~~) in tracts (~~(of)~~) not to exceed (~~((the equivalent of one section and not less than the equivalent of one-sixteenth of a section in legal subdivisions according to the United States government surveys))~~) six hundred forty acres or an entire government-surveyed section. The procedures contained at RCW 79.01.616 through (~~(79.01.650))~~ 79.01.651, inclusive, shall apply thereto.

NEW SECTION. Sec. 17. Section 160, chapter 255, Laws of 1927, section 10, chapter 56, Laws of 1965 and RCW 79.01.636 are each repealed.

Passed the Senate February 20, 1987.

Passed the House March 27, 1987.

Approved by the Governor April 3, 1987.

Filed in Office of Secretary of State April 3, 1987.

## CHAPTER 21

[Substitute Senate Bill No. 5318]

### BURNING PERMITS—FIRE PROTECTION DISTRICT REVOCATION AUTHORITY

AN ACT Relating to clarifying fire protection districts' authority to issue or revoke burning permits due to air pollution conditions; and amending RCW 52.12.101.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 20, chapter 254, Laws of 1947 as amended by section 1, chapter 229, Laws of 1984 and RCW 52.12.101 are each amended to read as follows:

In any district in which the commissioners have adopted and published a resolution assuming the authority of issuing burning permits, a person, firm, or corporation shall not start, permit, or cause to be started or permitted an open fire on any land within a fire protection district, without a written permit issued by the district under terms and conditions as the district establishes by resolution. A fire district shall not assume authority to issue a burning permit for a fire on any forest or cut over land, except as otherwise provided by law. A fire district shall have the authority to revoke a permit issued by the district for the protection of life or property or to prevent or abate the nuisances caused by such burning.

Passed the Senate February 25, 1987.

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