

SENATE BILL NO. 520

INTRODUCED BY T. TEZAK, V. RICCI, J. FULLER, C. GLIMM, B. USHER, B. PHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING MINING LEASES ON STATE LANDS; REVISING THE TERM OF LEASES ISSUED FOR MINING METALLIFEROUS MINERALS OR GEMS AND NONMETALLIC MINERALS; REVISING LIMITS ON PUBLIC INSPECTION RIGHTS; PROVIDING FOR MODIFICATION OF LEASES ISSUED FOR MINING NONMETALLIC MINERALS; PROVIDING DEFINITIONS; AMENDING SECTIONS 77-3-102, 77-3-117, 77-3-130, 77-3-203, AND 77-3-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-3-102, MCA, is amended to read:

"77-3-102. Mining leases authorized -- term of leases -- definitions. (1) The board may, in its discretion and subject to the other provisions of this part, lease state lands, including the beds of navigable streams and the beds of navigable bodies of water and the reserved mineral rights of the state in lands sold or leased by the state, to any person, association, or corporation for the purpose of prospecting for or mining metalliferous minerals or gems.

(2) ~~(a) These leases may be for a period of time determined by the board, subject to limitations contained in the grants by which the state has acquired title to lands or mineral rights so leased~~ Subject to subsections (2)(b) and (2)(c), mining leases must be issued for:

(i) a primary term of not less than 10 years and to be held by production for as long thereafter as metalliferous minerals or gems are produced in commercial quantities; or

(ii) if the lands are subject to limitations contained in grants by which the state acquired title to the lands or mineral rights to be leased, a period determined by the board to be in accordance with the limitations.

(b) If a lease issued under this part, a corresponding permit issued pursuant to Title 82, chapter 4, or a proposed evaluation under Title 75 is challenged before an administrative agency or in court, ENJOINED OR INEFFECTIVE DUE TO A TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, OR OTHER EQUITABLE RELIEF, OR

IF ITS ISSUANCE IS POSTPONED BY A CHALLENGE REQUIRING FURTHER AGENCY REVIEW, THEN the primary term of the lease described in subsection (2)(a) must be commensurately extended for the period that the lease, permit, or action is ~~subject to a challenge~~ ENJOINED OR INEFFECTIVE.

(c) If a lease is issued under this part and an exploration license provided for in 82-4-332 is obtained on the leased land, the lease must be extended commensurately with the period for which the exploration license is authorized and for which exploration is occurring on the leased land.

(3) As long as a lessee complies with the terms and conditions of a lease, the lease may not be terminated at the end of the primary term of the lease described in subsection (2)(a) if the lands are covered and described by a mining permit issued under Title 82, chapter 4, or are described in a mine-site location permit under Title 82, chapter 4.

~~(3)~~(4) Leases issued under this part must give the lessee, so-as long as the lessee complies with the terms and conditions of the lease, the exclusive right of possession of the lands or mineral rights leased, subject to any reservations contained in the leases.

(4)(5) In making the leases, the board may exercise business discretion as long as this part is not violated.

(6) As used in this section, the following definitions apply:

(a) "Commercial quantities" means a quantity of metalliferous minerals or gems that can be sold at a profit.

(b) "Covered and described" or "described" means, under a mine permit or a mine-site location permit, that the leased lands or a portion of the leased lands within or outside the boundaries of the permit area are expected to be affected or disturbed at some point during the term of the permittee's exploration activities or surface mining or underground mining operations and are identified in the permittee's license or permit application."

Section 2. Section 77-3-117, MCA, is amended to read:

"77-3-117. Modification of lease provisions. The board, by agreement with the permittee or lessee, may, in its discretion and upon such terms as it considers best, amend or modify the terms and conditions within the limitations of this part or extend the term of any lease or prospecting permit issued under this part,

subject to the limitations contained in 77-3-102(1) and (2)."

Section 3. Section 77-3-130, MCA, is amended to read:

"77-3-130. Limitation on public inspection rights. The department ~~may~~shall withhold from public inspection any information obtained from a mining lessee or permittee under this part if the information relates to the ~~geology of the mining lease or permit~~ PROPRIETARY GEOLOGICAL INFORMATION. The withholding is effective for as long as the department considers it necessary, but in no event may be less than 5 years after expiration of the lease or permit, either to protect the mining lessee's or permittee's economic interest in the PROPRIETARY geologic information against unwarranted injury or to protect the public's best interest."

Section 4. Section 77-3-203, MCA, is amended to read:

"77-3-203. Duration of lease. (1) (a) Subject to subsections (1)(b) and (1)(c), a lease must be issued for:

(i) ~~No such lease shall be made for a longer a primary term of not less than 10 years- and to be held by production for as long thereafter as nonmetallic minerals are produced in commercial quantities; or~~

(ii) if the lands are subject to limitations contained in grants by which the state acquired title to the lands or mineral rights to be leased, a period determined by the board to be in accordance with the limitations.

(b) If a lease issued under this part, a corresponding permit issued pursuant to Title 82, chapter 4, or a proposed evaluation under Title 75 is challenged before an administrative agency or in court, ENJOINED OR INEFFECTIVE DUE TO A TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, OR OTHER EQUITABLE RELIEF, OR IF ITS ISSUANCE IS POSTPONED BY A CHALLENGE REQUIRING FURTHER AGENCY REVIEW, THEN the primary term of the lease described in subsection (1)(a) must be commensurately extended for the period that the lease, permit, or action is ~~subject to a challenge~~ ENJOINED OR INEFFECTIVE.

(c) If a lease is issued under this part and an exploration license as provided for in 82-4-332 is obtained on the leased lands, the lease must be extended commensurately with the period for which the exploration license is authorized and for which exploration is occurring on the leased lands.

(2) (a) As long as a lessee complies with the terms and conditions of a lease, the lease may not be terminated at the end of the primary term of the lease described in subsection (1)(a) if the lands are covered

and described by a mining permit issued under Title 82, chapter 4, or are described in a mine-site location permit under Title 82, chapter 4.

(b) If nonproduction may result in the termination of a lease under this part, the lessee may provide notice to the board of the lessee's election to pay a nonproduction royalty to extend the primary term of the lease for a one-time, subsequent term of 5 years. The board may determine the appropriate nonproduction royalty payment to be paid by the lessee.

(3) As used in this section, the following definitions apply:

(a) "Commercial quantities" means a quantity of nonmetallic minerals that can be sold at a profit.

(b) "Covered and described" or "described" means, under a mine permit or a mine-site location permit, that the leased lands or a portion of the leased lands within or outside the boundaries of the permit area are expected to be affected or disturbed at some point during the term of the permittee's exploration activities or surface mining or underground mining operations and are identified in the permit or permit application."

Section 5. Section 77-3-211, MCA, is amended to read:

"77-3-211. Limitation on public inspection rights. The department ~~may~~shall withhold from public inspection any information obtained from a lessee under this part if the information relates to ~~the geology of the mining lease~~ PROPRIETARY GEOLOGICAL INFORMATION. The withholding is effective for as long as the department considers it necessary, but in no event may be less than 5 years after the expiration of the lease or permit, either to protect the lessee's economic interest in the PROPRIETARY geologic information against unwarranted injury or to protect the public's best interest."

NEW SECTION. **Section 6. Modification of lease provisions.** The board, by agreement with the permittee or lessee, may, in its discretion and upon such terms as it considers best, amend or modify the terms and conditions within the limitations of this part or extend the term of any lease or prospecting permit issued under this part, subject to the limitations contained in 77-3-203.

NEW SECTION. **Section 7. Codification instruction.** [Section 6] is intended to be codified as an integral part of Title 77, chapter 3, part 2, and the provisions of Title 77, chapter 3, part 2, apply to [section 6].

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2 NEW SECTION. Section 8. **Effective date.** [This act] is effective on passage and approval.

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