

1039

2015-2016 Regular Sessions

I N   S E N A T E

January 8, 2015

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Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law and the environmental conservation law, in relation to establishing the division of mineral resources and transferring certain powers and duties from the department of environmental conservation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The executive law is amended by adding a new article 28 to  
2     read as follows:

3   ARTICLE 28

4                                     DIVISION OF MINERAL RESOURCES

5     SECTION 825-A. ESTABLISHMENT OF DIVISION OF MINERAL RESOURCES.

6             825-B. DEFINITIONS.

7             825-C. POWERS AND DUTIES.

8             825-D. TRANSFER OF POWERS, DUTIES AND FUNCTIONS.

9             825-E. TRANSFER OF RECORDS.

10            825-F. TRANSFER OF EMPLOYEES.

11            825-G. CONTINUITY OF AUTHORITY.

12            825-H. COMPLETION OF UNFINISHED BUSINESS.

13            825-I. TERMS OCCURRING IN LAWS, CONTRACTS AND OTHER DOCUMENTS.

14            825-J. EXISTING RIGHTS AND REMEDIES PRESERVED.

15            825-K. PENDING ACTIONS AND PROCEEDINGS.

16     S 825-A. ESTABLISHMENT OF DIVISION OF MINERAL RESOURCES. THERE IS  
17     HEREBY ESTABLISHED THE DIVISION OF MINERAL RESOURCES WHICH SHALL EXER-  
18     CISE POWERS AND DUTIES PROVIDED IN THIS ARTICLE.

19     S 825-B. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS  
20     SHALL HAVE THE FOLLOWING MEANINGS:

21         1. "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF MINERAL RESOURCES.

22         2. "DIVISION" MEANS THE DIVISION OF MINERAL RESOURCES.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD01959-01-5

1 S 825-C. POWERS AND DUTIES. THE DIVISION SHALL BE RESPONSIBLE FOR  
2 ENSURING THE ENVIRONMENTALLY SOUND, ECONOMIC DEVELOPMENT OF NEW YORK'S  
3 NON-RENEWABLE ENERGY AND MINERAL RESOURCES FOR THE BENEFIT OF CURRENT  
4 AND FUTURE GENERATIONS. THE DIVISION SHALL FURTHER MONITOR THE  
5 EXTRACTION OF OIL AND GAS, AND REQUIRE THE RECLAMATION OF LAND AFTER  
6 MINING.

7 S 825-D. TRANSFER OF POWERS, DUTIES AND FUNCTIONS. ALL POWERS, DUTIES  
8 AND FUNCTIONS CONFERRED UPON THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-  
9 TION BY ARTICLE TWENTY-THREE OF THE ENVIRONMENTAL CONSERVATION LAW,  
10 SHALL BE TRANSFERRED TO AND ASSUMED BY THE DIVISION.

11 S 825-E. TRANSFER OF RECORDS. THE DEPARTMENT OF ENVIRONMENTAL CONSER-  
12 VATION SHALL DELIVER TO THE BOARD ALL BOOKS, PAPERS, RECORDS AND PROPER-  
13 TY AS REQUESTED BY THE BOARD.

14 S 825-F. TRANSFER OF EMPLOYEES. UPON THE TRANSFER OF THE FUNCTIONS OF  
15 ARTICLE TWENTY-THREE OF THE ENVIRONMENTAL CONSERVATION LAW, ANY AFFECTED  
16 EMPLOYEES MAY BE TRANSFERRED TO THE DIVISION IN ACCORDANCE WITH SECTION  
17 SEVENTY OF THE CIVIL SERVICE LAW.

18 S 825-G. CONTINUITY OF AUTHORITY. FOR THE PURPOSE OF SUCCESSION TO ALL  
19 FUNCTIONS, POWERS, DUTIES AND OBLIGATIONS TRANSFERRED AND ASSIGNED TO,  
20 DEVOLVED UPON AND ASSUMED BY THE DIVISION SHALL BE DEEMED AND HELD TO  
21 CONSTITUTE THE CONTINUATION OF ARTICLE TWENTY-THREE OF THE ENVIRONMENTAL  
22 CONSERVATION LAW PERTAINING TO THE POWERS AND FUNCTIONS TRANSFERRED.

23 S 825-H. COMPLETION OF UNFINISHED BUSINESS. ANY BUSINESS OR OTHER  
24 MATTER UNDERTAKEN OR COMMENCED BY THE DEPARTMENT OF ENVIRONMENTAL  
25 CONSERVATION UNDER ARTICLE TWENTY-THREE OF THE ENVIRONMENTAL CONSERVA-  
26 TION LAW PERTAINING TO OR CONNECTED WITH THE FUNCTIONS, POWERS, OBLI-  
27 GATIONS AND DUTIES TRANSFERRED AND ASSIGNED TO THE DIVISION, AND PENDING  
28 ON THE EFFECTIVE DATE OF THIS ARTICLE MAY BE CONDUCTED AND COMPLETED BY  
29 THE DIVISION IN THE SAME MANNER AND UNDER THE SAME TERMS AND CONDITIONS  
30 AND WITH THE SAME EFFECT AS IF CONDUCTED AND COMPLETED BY THE DEPARTMENT  
31 OF ENVIRONMENTAL CONSERVATION.

32 S 825-I. TERMS OCCURRING IN LAWS, CONTRACTS AND OTHER DOCUMENTS.  
33 WHENEVER THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IS REFERRED TO OR  
34 DESIGNATED IN ANY LAW, CONTRACT OR DOCUMENTS PERTAINING TO THE FUNC-  
35 TIONS, POWERS, OBLIGATIONS AND DUTIES TRANSFERRED AND ASSIGNED TO THE  
36 DIVISION, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO REFER TO THE  
37 DIVISION.

38 S 825-J. EXISTING RIGHTS AND REMEDIES PRESERVED. NO EXISTING RIGHT OR  
39 REMEDY OF ANY CHARACTER SHALL BE LOST, IMPAIRED OR AFFECTED BY REASON OF  
40 THIS TITLE.

41 S 825-K. PENDING ACTIONS AND PROCEEDINGS. NO ACTION OR PROCEEDING  
42 PENDING AT THE TIME WHEN THIS ARTICLE SHALL TAKE EFFECT, BROUGHT BY OR  
43 AGAINST THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION RELATING TO THE  
44 FUNCTION, POWER OR DUTY TRANSFERRED TO OR DEVOLVED UPON THE DIVISION  
45 SHALL BE AFFECTED BY THIS ARTICLE, BUT THE SAME MAY BE PROSECUTED OR  
46 DEFENDED IN THE NAME OF THE DIVISION ACCOUNTABILITY AND UPON APPLICATION  
47 TO THE COURT, THE DIVISION SHALL BE SUBSTITUTED AS A PARTY.

48 S 2. Subdivisions 4 and 11 of section 1-0303 of the environmental  
49 conservation law are amended to read as follows:

50 4. "Commissioner" shall mean the state Commissioner of Environmental  
51 Conservation, EXCEPT FOR THE PURPOSES OF ARTICLE TWENTY-THREE OF THIS  
52 CHAPTER, COMMISSIONER SHALL MEAN THE DIRECTOR OF THE DIVISION OF MINERAL  
53 RESOURCES.

54 11. "Department" shall mean the state Department of Environmental  
55 Conservation, EXCEPT FOR THE PURPOSES OF ARTICLE TWENTY-THREE OF THIS  
56 CHAPTER, DEPARTMENT SHALL MEAN THE DIVISION OF MINERAL RESOURCES.

1 S 3. Subdivisions 3 and 4 of section 23-0101 of the environmental  
2 conservation law, as amended by chapter 846 of the laws of 1981, are  
3 amended to read as follows:

4 3. "Commissioner" means the commissioner of environmental conserva-  
5 tion, EXCEPT FOR THE PURPOSES OF THIS ARTICLE, COMMISSIONER SHALL MEAN  
6 THE DIRECTOR OF THE DIVISION OF MINERAL RESOURCES.

7 4. "Department" means the department of environmental conservation,  
8 EXCEPT FOR THE PURPOSES OF THIS ARTICLE, DEPARTMENT SHALL MEAN THE DIVI-  
9 SION OF MINERAL RESOURCES.

10 S 4. Subparagraph 2 of paragraph d of subdivision 1 of section 23-0313  
11 of the environmental conservation law, as added by chapter 721 of the  
12 laws of 1989, is amended to read as follows:

13 (2) The records subject to this paragraph may be excepted from disclo-  
14 sure after the applicable six-month period pursuant to the provisions of  
15 subdivision two of section eighty-seven of the public officers law  
16 provided, however, that such records cannot be excepted from disclosure  
17 for longer than two years after the commencement of the applicable six-  
18 month period. A written request for the exception by the person furnish-  
19 ing the records will not be considered unless it is submitted to the  
20 department at least thirty days before the expiration date of the appli-  
21 cable six-month period. The request for the exception from disclosure  
22 must be sent by certified mail, return receipt requested, and addressed  
23 to the New York State Department of Environmental Conservation, [Divi-  
24 sion of Mineral Resources,] Records Custodian, Albany, New York. Any  
25 person may make a request to the department for disclosure of records  
26 pursuant to this subparagraph in accordance with article six of the  
27 public officers law.

28 S 5. This act shall take effect on the one hundred eightieth day after  
29 it shall have become a law; provided, however, that effective immediate-  
30 ly, the addition, amendment and/or repeal of any rule or regulation  
31 necessary for the implementation of this act on its effective date are  
32 authorized and directed to be made and completed on or before such  
33 effective date.