STATE OF NEW YORK

1307

2017-2018 Regular Sessions

IN SENATE

January 9, 2017

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:

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

ARTICLE 28

DIVISION OF MINERAL RESOURCES

Section 825-a. Establishment of division of mineral resources.
825-b. Definitions.
825-c. Powers and duties.
825-d. Transfer of powers, duties and functions.
825-e. Transfer of records.
825-f. Transfer of employees.
825-g. Continuity of authority.
825-h. Completion of unfinished business.
825-i. Terms occurring in laws, contracts and other documents.
825-j. Existing rights and remedies preserved.
825-k. Pending actions and proceedings.

§ 825-a. Establishment of division of mineral resources. There is hereby established the division of mineral resources which shall exercise powers and duties provided in this article.

§ 825-b. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Director" means the director of the division of mineral resources.

2. "Division" means the division of mineral resources.

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

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§ 825-c. Powers and duties. The division shall be responsible for ensuring the environmentally sound, economic development of New York's non-renewable energy and mineral resources for the benefit of current and future generations. The division shall further monitor the extraction of oil and gas, and require the reclamation of land after mining.

§ 825-d. Transfer of powers, duties and functions. All powers, duties and functions conferred upon the department of environmental conservation by article twenty-three of the environmental conservation law, shall be transferred to and assumed by the division.

§ 825-e. Transfer of records. The department of environmental conservation shall deliver to the board all books, papers, records and property as requested by the board.

§ 825-f. Transfer of employees. Upon the transfer of the functions of article twenty-three of the environmental conservation law, any affected employees may be transferred to the division in accordance with section seventy of the civil service law.

§ 825-g. Continuity of authority. For the purpose of succession to all functions, powers, duties and obligations transferred and assigned to, devolved upon and assumed by the division shall be deemed and held to constitute the continuation of article twenty-three of the environmental conservation law pertaining to the powers and functions transferred.

§ 825-h. Completion of unfinished business. Any business or other matter undertaken or commenced by the department of environmental conservation under article twenty-three of the environmental conservation law pertaining to or connected with the functions, powers, obligations and duties transferred and assigned to the division, and pending on the effective date of this article may be conducted and completed by the division in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the department of environmental conservation.

§ 825-i. Terms occurring in laws, contracts and other documents. Whenever the department of environmental conservation is referred to or designated in any law, contract or documents pertaining to the functions, powers, obligations and duties transferred and assigned to the division, such reference or designation shall be deemed to refer to the division.

§ 825-j. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by reason of this title.

§ 825-k. Pending actions and proceedings. No action or proceeding pending at the time when this article shall take effect, brought by or against the department of environmental conservation relating to the function, power or duty transferred to or devolved upon the division shall be affected by this article, but the same may be prosecuted or defended in the name of the division accountability and upon application to the court, the division shall be substituted as a party.

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

4. "Commissioner" shall mean the state Commissioner of Environmental Conservation, except for the purposes of article twenty-three of this chapter, commissioner shall mean the director of the division of mineral resources.

11. "Department" shall mean the state Department of Environmental Conservation, except for the purposes of article twenty-three of this chapter, department shall mean the division of mineral resources.

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

3. "Commissioner" means the commissioner of environmental conservation, **except for the purposes of this article, commissioner shall mean the director of the division of mineral resources**.

4. "Department" means the department of environmental conservation**, except for the purposes of this article, department shall mean the division of mineral resources**.

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

(2) The records subject to this paragraph may be excepted from disclosure after the applicable six-month period pursuant to the provisions of subdivision two of section eighty-seven of the public officers law provided, however, that such records cannot be excepted from disclosure for longer than two years after the commencement of the applicable six-month period. A written request for the exception by the person furnishing the records will not be considered unless it is submitted to the department at least thirty days before the expiration date of the applicable six-month period. The request for the exception from disclosure must be sent by certified mail, return receipt requested, and addressed to the New York State Department of Environmental Conservation, [~~**Division of Mineral Resources,**~~] Records Custodian, Albany, New York. Any person may make a request to the department for disclosure of records pursuant to this subparagraph in accordance with article six of the public officers law.

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