§ 23-2722. Interstate mining compact.

The "interstate mining compact" is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

THE INTERSTATE MINING COMPACT

ARTICLE I

POLICIES AND PURPOSES

There is created the "interstate mining compact".

1.1 The party states find that:

(a) Mining and the contributions thereof to the economy and well-being of every state are of basic significance.

(b) The effects of mining on the availability of land, water and other resources for other uses present special problems which properly can be approached only with due consideration for the rights and interests of those engaged in mining, those using or proposing to use these resources for other purposes, and the public.

(c) Measures for the reduction of the adverse effects of mining on land, water and other resources may be costly and the devising of means to deal with them are of both public and private concern.

(d) Such variables as soil structure and composition, physiography, climatic conditions, and the needs of the public make impracticable the application to all mining areas of a single standard for the conservation, adaption, or restoration of mined land, or the development of mineral and other natural resources, but justifiable requirements of law and practice relating to the effects of mining on land, water, and other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all mining operations similarly situated.

(e) The states are in a position and have the responsibility to assure that mining shall be conducted in accordance with sound conservation principles, and with due regard for local conditions.

1.2 The purposes of this compact are to:

(a) Advance the protection and restoration of land, water and other

resources affected by mining.

(b) Assist in the reduction or elimination or counteracting of pollution or deterioration of land, water and air attributable to mining.

(c) Encourage, with due recognition of relevant regional, physical, and other differences, programs in each of the party states which will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated.

(d) Assist the party states in their efforts to facilitate the use of land and other resources affected by mining, so that such use may be consistent with sound land use, public health, and public safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration or protection of such land and other resources.

(e) Assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.

ARTICLE II
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

2.1 "Mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter, any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location, and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on site farming or construction.

2.2 "State" means a state of the United States, the District of Columbia, and the commonwealth of Puerto Rico, or a territory or possession of the United States.

ARTICLE III
THE COMMISSION

3.1 There is created the "interstate mining commission". The commission consists of one voting member from each state. The governor of each party state shall notify the commission in writing of the member and any alternates. An alternate may act on behalf of the member only in the member's absence. The method for selection and the expenses of each commission member shall be the responsibility of the member's respective state.

3.2 Each commission member is entitled to one vote. No action of the commission is binding unless a majority of the total membership cast their votes in the affirmative.

3.3 The commission shall elect annually from among its members a chairperson. The commission shall adopt and publish, in convenient form, by-laws, and policies which are not inconsistent with this compact, including procedure in regard to notice, conduct and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

3.4 The commission shall meet at least once annually and shall also meet upon the call of the chairperson or a commission member.

3.5 All meetings of the commission shall be open to the public with reasonable advance notice. The commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters; however, all commission actions and decisions shall be made in open meetings and appropriately recorded.

3.6 The commission may establish advisory committees for the purpose of advising the commission on any matters pertaining to mining.

3.7 The office of the commission shall be in a party state. The commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve

at the commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the commission.

3.8 The commission shall:

(a) Receive and act on the petition of a non-party state to become an eligible state.

(b) Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the commission.

(c) Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

ARTICLE IV
BUDGET

4.1 The commission shall submit to each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

4.2 Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-half in equal shares, and the remainder in proportion to the value of minerals, ores, and other solid matter mined. In determining such values, the commission shall employ such available public source or sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of minerals, ores, and other solid matter mined.

4.3 The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its by-laws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

4.4 The commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States (or any subdivision or agency thereof), or interstate agency, or from any institution, person, firm or corporation. The nature, amount and condition, if any, attendant upon any donation or grant accepted or received by the commission, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the commission.

4.5 The commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Liabilities of the commission are not liabilities of the party state. Members of the commission are not personally liable for actions taken by them in their official capacity.

(a) Nothing in this compact alters liability for any act, omission, course of conduct or liability resulting from any casual or other relationships.

(b) Any person aggrieved by a final decision of the commission may obtain judicial review of such decision in any court of jurisdiction by filing in such court a petition for review within sixty days after the commission's final decision.

ARTICLE V
POWERS

5.1 In addition to any other powers conferred upon the interstate mining commission, such commission shall have power to:

(a) Study mining operations, processes and techniques for the purpose of gaining knowledge concerning the effects of such operation, processes

and techniques on land, soil, water, air, plant and animal life, recreation, and patterns of community or regional development or change.

(b) Study the conservation, adaption, improvement and restoration of land and related resources affected by mining.

(c) Make recommendations concerning any aspect or aspects of law or practice and governmental administration dealing with matters within the purview of this compact.

(d) Gather and disseminate information relating to any of the matters within the purview of this compact.

(e) Cooperate with the federal government and any public or private entities having interest in any subject coming within the purview of this compact.

(f) Consult, upon the request of a party state and within resources available therefor, with the officials of such state in respect to any problems within the purview of this compact.

(g) Study and make recommendations with respect to any practice, process, techniques, or course of action that may improve the efficiency of mining or the economic yield from mining operations.

(h) Study and make recommendations relating to the safeguarding of access to resources which are or may become the subject of mining operations to the end that the needs of the economy for the products of mining may not be adversely affected by unplanned or inappropriate use of land and other resources containing minerals or otherwise connected with actual or potential mining sites.

ARTICLE VI
STATE PROGRAMS

6.1 Each party state agrees that within a reasonable time, it will formulate and establish an effective program for the conservation and use of mined land, by the establishment of standards, enactment of laws, or the continuing of the same in force, to accomplish:

(a) The protection of the public and the protection of adjoining, and other, landowners from damage to their lands and the structures and other property thereon resulting from the conduct of mining operations or the abandonment or neglect of land and property formerly used in the conduct of such operations.

(b) The conduct of mining and the handling of refuse and other mining

wastes in ways that will reduce adverse effects on the economic, residential, recreational or aesthetic value and utility of land and water.

(c) The institution and maintenance of suitable programs of adaption, restoration, and rehabilitation of mined lands.

(d) The prevention, abatement and control of water, air and soil pollution resulting from mining, present, past and future.

ARTICLE VII
ENTRY INTO FORCE AND WITHDRAWAL

7.1 This compact shall enter into force when enacted into law by any four or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

7.2 Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the withdrawing party state has given notice in writing of the withdrawal to all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE VIII
EFFECT ON OTHER LAWS

8.1 Nothing within this compact shall be construed to limit, repeal or supersede any other law of any party state.

ARTICLE IX
SEVERABILITY AND CONSTRUCTION

9.1 The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the constitution of any state participating therein,

the compact shall remain in full force and effect as to the state affected as to all severable matters.

9.2 The governor shall appoint one member and one alternate member to represent New York's interests on the interstate mining commission.