

## No. 57

## AN ACT

## HB 561

Amending the act of January 19, 1968 (P.L.996), entitled "An act authorizing the creation of indebtedness of five hundred million dollars for the conservation and reclamation of land and water resources; defining the powers and duties of certain offices, agencies and political subdivisions; providing for the allotment of proceeds hereunder including Commonwealth grants; prescribing standards and making appropriations," granting the Secretary of Mines and Mineral Industries the right to enter certain premises and abate stream pollution from and restore abandoned strip mine areas, and providing for liens upon such land and for acquisition of property interests.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Clause (1) of subsection (a) of section 16, act of January 19, 1968 (P.L.996), known as "The Land and Water Conservation and Reclamation Act," is amended to read:

Section 16. Allotment of Moneys.—(a) The moneys received by the Commonwealth from the issuance and sale of bonds and notes pursuant to this act when appropriated by the General Assembly from the development fund shall be allotted for the following specific purposes:

(1) To the Department of Mines and Mineral Industries the sum of two hundred million dollars (\$200,000,000) for the elimination of land and water scars created by past coal mining practices, one hundred fifty million dollars (\$150,000,000) of which shall be used for the prevention, control and elimination of stream pollution from mine drainage and may include the restoration of abandoned strip mine areas [**provided such land is publicly owned**], twenty-five million dollars (\$25,000,000) of which shall be used for the prevention, control and elimination of air pollution from abandoned burning coal refuse banks provided such land and bank material is publicly owned, and twenty-five million dollars (\$25,000,000) of which shall be used for the prevention of surface subsidence above abandoned mine operations, for the control and extinguishment of surface and underground fires from abandoned mines and for administration expenses attendant thereto.

Pending the acquisition by the Commonwealth, a county or a municipality, *when necessary*, of any land [**involved in**] *or other property interest required to combat* stream pollution, air pollution, subsidence or mine fires, whenever the Secretary of Mines and Mineral Industries makes a finding of fact that: (i) a mine fire, refuse bank fire, *stream pollution resulting from an abandoned strip mine area*, or subsidence resulting from mining is at a stage where *in the public interest* immediate action [**must**] *should* be taken; and (ii) *in the cases of mine fires, refuse bank fires or subsidence*, an emergency exists and no other person or agency will act to combat the condition; and (iii) the owners of the property upon

which entry must be made to combat the mine fire, refuse bank fire, *stream pollution resulting from an abandoned strip mine area*, or subsidence resulting from mining are not known, are not readily available or will not give permission for the Secretary of Mines and Mineral Industries, political subdivisions of the Commonwealth or municipalities, their agents, employes or contractors to enter upon such premises, or the delay entailed in reaching said owners and in securing from them the right to enter upon the premises *in the case of mine fires, refuse bank fires and subsidence* constitutes a clear and immediate danger to the life or property of others.

Then, upon giving notice to the owners if known or by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipality in which the land lies, and filing with the prothonotary of the court of common pleas of the county in which said premises lie of such intention of entry or taking, in conformity with the provisions of the "Eminent Domain Code," the Secretary of Mines and Mineral Industries, political subdivisions of the Commonwealth or municipalities, their agents, employes or contractors, shall have the right to enter upon the premises to combat the mine fire, refuse bank fire, *stream pollution resulting from an abandoned strip mine area*, or subsidence resulting from mining and to do all necessary or expedient to do so. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall immediately become a charge against such land and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry. Within six months after the completion of any of the work herein contemplated on any property, the Secretary of Mines and Mineral Industries shall itemize the moneys so expended and shall file a statement thereof in the office of the prothonotary of the county in which the land lies. Such statement shall constitute a lien upon the said land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon said land. *The lien shall not exceed an amount determined by a board of viewers, appointed as provided in the "Eminent Domain Code," to be the market value of the land immediately after the Department of Mines and Mineral Industries has completed its work, and the lien shall extend only to that portion of the premises directly involved in the work of the Department of Mines and Mineral Industries under this act.*

(I) The Department of Mines and Mineral Industries shall have the power and authority, if not granted it otherwise, to engage in the work aforesaid and to do all things necessary and expedient to effect such programs.

(II) The Department of Mines and Mineral Industries shall have the power and authority to construct and operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The

extent of this control and treatment may be dependent upon the ultimate use of the water: Provided, That the above provisions of this paragraph shall not be deemed in any way to repeal or supersede any portion of the act of June 22, 1937 (P.L.1987), as amended, known as "The Clean Streams Law," and no control or treatment hereunder shall be in any way less than that required under the act of June 22, 1937 (P.L.1987), as amended, known as "The Clean Streams Law." The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plant. In the operation of such plant or plants the Department of Mines and Mineral Industries shall have the power to permit coal mine operators or owners to discharge their mine drainage to such plant or plants and the Secretary of Mines and Mineral Industries shall have the authority to charge coal mine operators or owners for the treatment of such mine drainage. The charge to the coal mine operators or owners for the treatment of such mine drainage shall be based upon their proportional share of the capital and operating cost and the quantity and quality of the pollutant. Further, the Secretary of Mines and Mineral Industries shall have the authority to sell any by-product or products resulting from the operation of such plants. Any such moneys so received shall be placed in the General Fund and are hereby appropriated to the Department of Mines and Mineral Industries.

(III) The Secretary of Mines and Mineral Industries shall have the power and authority to establish rules and regulations and establish rates to implement the foregoing paragraph. Such rules and regulations may provide for the escrowing of payments made prior to the construction or operation of the plant or plants.

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Section 2. This act shall take effect immediately.

APPROVED—The 5th day of March, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 57.



*Robert L. Kelley*  
Secretary of the Commonwealth.