

## No. 1977-36

## AN ACT

## HB 449

Amending the act of May 31, 1945 (P.L.1198, No.418), entitled, as amended, "An act providing for the conservation and improvement of land affected in connection with surface mining; regulating such mining; and providing penalties," adding a definition of "cash," providing for the protection of water supplies, granting certain appeal rights and providing for the recovery of certain costs.

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

Section 1. Section 3, act of May 31, 1945 (P.L.1198, No.418), known as the "Surface Mining Conservation and Reclamation Act," is amended by adding a definition to read:

Section 3. Definitions.—The following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

\* \* \*

*"Cash" shall include, when used in regard to bond requirements, certificates of deposit.*

Section 2. Section 4.2 of the act is amended by adding subsections to read:

Section 4.2. Health and Safety.—\* \* \*

*(f) Any surface mining operator who affects a public or private water supply by contamination or diminution shall restore or replace the affected supply with an alternate source of water adequate in quantity and quality for the purposes served by the supply. If any operator shall fail to comply with this provision, the secretary may issue such orders to the operator as are necessary to assure compliance.*

*(g) Any operator aggrieved by the secretary's order issued pursuant to subsection (f) shall have the right within thirty (30) days of receipt of such order to appeal to the Environmental Hearing Board. Hearings under this subsection and any subsequent appeal shall be in accordance with section 1921(a), act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," and the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law."*

*(h) If the secretary finds (i) that immediate replacement of an affected water supply used for potable or domestic needs is required to protect health and safety, and (ii) that the operator has appealed or failed to comply with an order issued pursuant to subsection (f), the secretary may, in his discretion, restore or replace the affected water supply with an alternate source of water utilizing moneys from the surface mining conservation and reclamation fund. The secretary shall recover the costs of*

***restoration or replacement, including costs incurred for design and construction of facilities, from the responsible operator or operators. Any such costs recovered shall be deposited in the fund.***

Section 3. This act shall take effect immediately.

APPROVED—The 25th day of July, A. D. 1977.

MILTON J. SHAPP