

government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 28, 1985.

Passed the House April 28, 1985.

Approved by the Governor May 21, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 21, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval of two portions of Substitute Senate Bill No. 3384, entitled:

"AN ACT Relating to salmon enhancement."

The first two sentences of Section 8(1)(c) would require all facilities funded by the Salmon Enhancement Account to operate at full production capacity or be made available for volunteer cooperative projects to produce salmon for stocking state waters. This provision is apparently based on the idea that any hatchery not operated at full capacity is surplus. This is not the case. There are many good reasons for operating at less than full capacity, including disease control, water quantity and quality, and compliance with federal court orders.

The remainder of Section 8(1)(c) requires that the Salmon Advisory Council evaluate the operation of certain salmon hatcheries and report to the Legislature. I will request that the Council comply with this language.

Section 9 contains similar language relating to the Game Department. I am vetoing it for the same reasons.

With the exception of Sections 8(1)(c) and 9, Substitute Senate Bill No. 3384 is approved."

CHAPTER 459

[Engrossed Senate Bill No. 3400]

MINERAL EXPLORATION—LEASES—RENTAL—STATE MINE RESCUE PLAN—MINE RESCUE GOOD SAMARITAN LIABILITY

AN ACT Relating to the exploration and extraction of nonrenewable resources; amending RCW 79.01.668, 79.14.020, 79.14.030, 79.14.050, and 78.44.110; adding new sections to chapter 38.52 RCW; and adding new sections to chapter 43.12 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 167, chapter 255, Laws of 1927 and RCW 79.01.668 are each amended to read as follows:

At any time during the life of the option contract, the holder thereof may apply to the commissioner of public lands for a coal mining lease of the lands included therein, or such portion thereof as he may specify, for the purpose of mining and extraction of coal therefrom. Such coal mining lease shall be for such term, not more than twenty years, and in such form as may be prescribed by the commissioner of public lands, shall entitle the lessee to mine and sell and dispose of all coal underlying said lands and to occupy and use so much of the surface thereof as may be necessary for bunkers and other outside works, and for railroads, buildings, appliances

and appurtenances in connection with the mining operations. Such lease shall provide for the payment to the state of a royalty, according to the grade of coal, for each ton of two thousand (~~two hundred and forty~~) pounds of merchantable coal taken from the lands, as follows: For lignite coal of the class commonly found in Lewis and Thurston counties, not less than ten cents per ton; for subbituminous coal, not less than fifteen cents per ton; for high grade bituminous and coking coals, not less than twenty cents per ton; but such lease shall provide for the payment each year of a minimum royalty of not less than one nor more than ten dollars an acre for the lands covered thereby: PROVIDED, That the commissioner of public lands may agree with the lessee that said minimum royalty shall be graduated for the different years of said lease so that a lower minimum royalty shall be paid during the earlier years of the term. The minimum royalty fixed in the lease shall be paid in advance each year, and the lessee, at stated periods during the term of the lease, fixed by the commissioner, shall furnish to the commissioner of public lands a written report under oath showing the amount of merchantable coal taken from the land during the period covered by such report and shall remit therewith such sum in excess of the minimum royalty theretofore paid for the current year as may be payable as royalty for the period covered by such report.

~~((Failure on the part of any lessee to comply with the foregoing provisions, or of his lease, shall work a forfeiture of the lease, and no such forfeiture may be waived.))~~ The commissioner shall incorporate in every lease such provisions and conditions not inconsistent with the provisions of this chapter and not inconsistent with good coal mining practice as he shall deem necessary and proper for the protection of the state, and, in addition thereto, the commissioner shall be empowered to prescribe such rules and regulations, not inconsistent with this chapter and not inconsistent with good mining practice, governing the manner and methods of mining as in his judgment are necessary and proper.

Sec. 2. Section 2, chapter 131, Laws of 1955 and RCW 79.14.020 are each amended to read as follows:

The commissioner is authorized to lease public lands for the purpose of prospecting for, developing and producing oil, gas or other hydrocarbon substances. Each such lease is to be composed of not more than six hundred forty acres, except a lease on river bed, lake bed, tide and submerged lands which is to be composed of not more than one thousand nine hundred twenty acres. All leases shall contain such terms and conditions as may be prescribed by the rules and regulations adopted by the commissioner in accordance with the provisions of this chapter. ~~((Att))~~ Leases ~~((shall))~~ may be for an initial term ~~((s))~~ of from five up to ten years and may be extended for so long thereafter as lessee shall comply with the provisions hereof and (1) shall produce any of said substances from the leased lands, ((and shall comply with the provisions hereof;)) or (2) shall be engaged in drilling,

deepening, repairing, or redrilling any well thereon, or be thereafter excused therefrom but not to exceed a period of twenty years (~~(The lessee shall have preferential right to a new lease covering such lands for an additional twenty-year period on the same terms and conditions as set forth in such previous lease)~~), except the lease shall be continued for a producing well as long as it is producing or is covered by a unit plan to which the commissioner has consented to participate in under RCW 78.52.450.

Sec. 3. Section 3, chapter 131, Laws of 1955 as amended by section 1, chapter 151, Laws of 1980 and RCW 79.14.030 are each amended to read as follows:

The department of natural resources shall require as a prerequisite to the issuing of any lease a rental as set by the board of natural resources but not less than one dollar and twenty-five cents per acre or such prorated share of the rental per acre as the state's mineral rights ownership for the first year of such lease, payable in advance to the department of natural resources at the time the lease is awarded and a like rental annually in advance thereafter so long as such lease remains in force: PROVIDED, That such rental shall cease at such time as royalty accrues to the state from production from such lease. Commencing with the lease year beginning on or after oil, gas or other hydrocarbon substances are first produced in quantities deemed paying quantities by lessee on the land subject to such lease, lessee shall pay a minimum royalty as set by the board of natural resources but not less than five dollars per acre or fraction thereof or such prorated share of the rental per acre as the state's mineral rights ownership at the expiration of each year. Royalties payable by the lessee shall be the royalties from production as provided for in RCW 79.14.070 or the minimum royalty provided herein, whichever is greater: PROVIDED, That if such lease is unitized, the minimum royalty shall be payable only on the leased acreage after production is obtained in such paying quantities from such lease.

Sec. 4. Section 5, chapter 131, Laws of 1955 and RCW 79.14.050 are each amended to read as follows:

All leases shall provide that if oil, gas or other hydrocarbon substances are not encountered on or before the end of the initial (~~(five-year)~~) term, the lease shall not terminate if the lessee is then prosecuting drilling operations on the leased lands with due diligence, in which event the same shall remain in force so long as lessee shall keep one string of tools in operation on the leased lands, allowing not to exceed ninety days between the completion of one well and the commencement of the next until such substances are encountered in quantities deemed paying quantities by lessee. All leases shall further provide that if oil, gas or other hydrocarbon substances in paying quantities shall have been discovered on the leased lands prior to the expiration of the initial (~~(five-year)~~) term, then in the event at any time after the expiration of the initial (~~(five-year)~~) term production on the leased

land shall cease from any cause, the lease shall not terminate provided lessee resumes operations for the drilling of a well or the restoration of production within ninety days from such cessation. The lease shall remain in force during the prosecution of such operations, and if production results therefrom, then so long as production continues.

***Sec. 5. Section 12, chapter 64, Laws of 1970 ex. sess. as amended by section 4, chapter 215, Laws of 1984 and RCW 78.44.110 are each amended to read as follows:**

The permit fees required under this chapter shall be as follows:

(1) The basic fee for the permit shall be two hundred fifty dollars per permit year for each separate location, payable with submission of the application and annually thereafter with submission of the report required in RCW 78.44.130: PROVIDED, That permits for land not engaged in surface mining on or before June 7, 1984, shall be twenty-five dollars per permit year. A twenty-five dollar permit shall not constitute an operating permit. If a person holding a twenty-five dollar permit begins surface mining during the year, that person shall pay the remainder of the two hundred fifty dollar fee.

(2) In addition, there shall be a five dollar per acre fee for all acreage exceeding ten acres which was newly disturbed by surface mining during the previous permit year, which acreage fee shall be paid at the time of submission of the report required in RCW 78.44.130.

(3) All fees collected shall be deposited in the general fund.

***Sec. 5 was vetoed, see message at end of chapter.**

NEW SECTION. Sec. 6. A new section is added to chapter 38.52 RCW to read as follows:

The department of emergency management shall consult with appropriate local, state, federal, and private sector officials in developing a comprehensive state mine rescue plan. The plan shall identify mine rescue resources, set forth a framework for a coordinated response to mine rescue emergencies, identify shortfalls, and recommend solutions.

The draft of the comprehensive state mine rescue plan and a schedule for submittal of the final plan shall be submitted to the legislature on January 13, 1986.

NEW SECTION. Sec. 7. A new section is added to chapter 43.12 RCW to read as follows:

The department of natural resources shall work with federal officials and private mine owners to ensure the prompt sealing of open holes and mine shafts that constitute a threat to safety.

NEW SECTION. Sec. 8. A new section is added to chapter 43.12 RCW to read as follows:

The owner of each mine shall make a map of the surface of the property. The owner of each active mine shall make a map of the underground workings. All maps shall be filed with the department of natural resources.

The department shall establish by rule the scale and contents required for the maps.

NEW SECTION. Sec. 9. A new section is added to chapter 38.52 RCW to read as follows:

No person engaged in mine rescue or recovery work who, in good faith, renders emergency care, rescue, assistance, or recovery services at the scene of any emergency at or in a mine in this state or who employs, sponsors, or represents any person rendering emergency care, rescue, assistance, or recovery services shall be liable for any civil damages as a result of any act or omission by any person in rendering emergency care, rescue, assistance, or recovery service.

NEW SECTION. Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 27, 1985.

Passed the House April 27, 1985.

Approved by the Governor May 21, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 21, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to one section, Engrossed Senate Bill No. 3400, entitled:

"AN ACT Relating to the exploration and extraction of nonrenewable resources."

Section 5 of this bill would change the fees for surface mining permits. The current fee structure was instituted only a year ago and has been very positively received. In addition, the change proposed in this section would result in the need for a higher general fund subsidy of this activity in a time of severe revenue shortfalls. I believe that the current fee structure should receive a longer trial and a thorough evaluation before we consider changing it again.

With the exception of Section 5, Engrossed Senate Bill No. 3400 is approved."

CHAPTER 460

[Engrossed Substitute Senate Bill No. 3920]
TRANSPORTATION BUDGET

AN ACT Relating to transportation; amending RCW 46.68.110, 46.68.120, 82.39.010, and 82.39.030; amending section 9, chapter 181, Laws of 1979 ex. sess. (uncodified); making appropriations and authorizing expenditures; creating new sections; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The transportation budget of the state is hereby adopted and, subject to the provisions hereinafter set forth, the several amounts hereinafter specified, or so much thereof as may be necessary