BILL NUMBER: Assembly Bill 368 (Skinner) as introduced February 23, 2009

SUMMARY

This bill delays the effective date of a quitclaim deed, a document by which a person with a mineral extraction lease with the State Lands Commission (SLC) disclaims any interest in the property, until such time that the lessee restores the lease premises and the SLC formally accepts the quitclaim.

PURPOSE OF THE BILL

The effect of this bill would be that mining lessees would have to continue to pay rent before and during the reclamation process, which would bring additional revenue to the Teachers' Retirement Fund (TRF) for purchasing power protection.

BOARD POSITION

Support. The proposal gives the Commission greater administrative oversight of its leased lands during the lengthy reclamation process and will provide modest additional revenue from land rentals credited to the TRF. This proposal is consistent with the Board's policy to "preserve the assets and minimize the liabilities of the funds administered by CalSTRS."

LEGISLATIVE HISTORY

<u>Chapter 985, Statutes of 1988 (AB 59—Elder)</u> required that revenues to the claim of the State of California to school lands within the Elk Hills Naval Petroleum Reserve be deposited in the School Land Bank Fund and that interest earnings there from be transmitted to the TRF and distributed to retirants and beneficiaries whose allowances are below 75% of original purchasing power.

<u>Chapter 879, Statutes of 1984 (AB 3105—Stirling)</u> established a School Land Bank Fund to be used for the acquisition of income-producing property for the benefit of CalSTRS supplemental Cost-of-Living Adjustment (COLA) benefit recipients.

<u>Chapter 1070, Statutes of 1984 (AB 2867—Hauser)</u> specified that the provisions of Chapter 1213, Statutes of 1983 (SB 638—Deddeh), which directed that all revenues from school and lieu lands be deposited in the TRF, not apply to revenues from certain specified indemnity lands received after July 1, 1980 and leased for geothermal development.

<u>AB 1070—Stirling, (Died)</u> provided for the deposit of all revenues from the sale or use of school lands or lieu lands to the credit of the TRF. Also added a new chapter titled State Teachers' Retirement Lands Act that provided for proceeds from the sale and use of school lands are vested for the sole purpose of meeting CalSTRS obligations and for the transfer of the management of such land to CalSTRS upon adoption of a resolution by the Teachers' Retirement Board.

<u>Chapter 1213, Statutes of 1983 (SB 638—Deddeh)</u> transferred revenues from the sale or use of school lands or lieu lands to the TRF. Provided that the net revenues be allocated on a supplemental cost-of-living adjustment (COLA) for retirants, disabilitants, and beneficiaries are prescribed the manner of distribution of supplemental payments.

PROGRAM BACKGROUND

The State Lands Commission, through its State School Lands Management Program manages approximately 469,000 acres of school lands held in fee ownership by the State, and the reserved mineral interests on approximately 790,000 acres of school lands where the surface estate previously has been sold.

Management of the Program is split between two SLC divisions, the Land Management Division (LMD) and the Mineral Resources Management Division (MRMD). The LMD is responsible for the Surface Management Program under which all surface resources on school lands, with the exception of mineral activities, are administered. The MRMD is responsible for the Geothermal, Mineral, and Oil & Gas Programs, which involve the leasing of school lands for geothermal resources development, mining activities, and oil and gas development. Most of the 469,000 acres of school lands are isolated, landlocked parcels, with the majority being non-productive desert lands. However, close to a quarter of the total school land acreage is leased for revenue generating purposes.

"School lands" are what remain of the nearly 5.5 million acres throughout the State originally granted to California by the Congress in March of 1853 to benefit public education. The State retains surface and mineral ownership of these school lands and retains only the mineral rights on an additional 790,000 acres. Today these lands are held in trust for the betterment of the common schools of the State and the revenue, by statute, supports CalSTRS. Over half of the "school lands" are located in the California desert.

Surface Rentals Income

Pursuant to Public Resources Code Section 6217.5 directs all net revenues derived from the use of school lands (for example, royalties, rents, and interest generated from promissory notes) be deposited into the State Treasury to the credit of the TRF, which benefits the California State Teachers' Retirement System (CalSTRS). Total revenue deposited into the TRF from approximately 140 revenue-generating leases in 2006-07 totaled $143,745. General surface leasing involves ongoing activities, including processing new applications, re-issuing expired leases, processing lease assignments and amendments, conducting rent reviews, terminating old leases, and conducting other surface management activities.

Summary of Revenue Generated
From Surface Management Rental Program

Fiscal Year:	**Total Revenue Generated to TRF:**
1997-98	$ 368,572
1998-99	$ 452,605
1999-00	$ 695,343
2000-01	$ 510,119
2001-02	$ 487,936
2002-03	$ 300,570
2003-04	$ 241,025
2004-05	$ 156,281
2005-06	$ 151,586
2006-07	$ 143,745
	$3,507,782

According to SLC staff, revenue will continue to be generated from existing surface use leases and new leases (when appropriate) on school lands parcels. Staff also expects to receive new revenues from the ground leasing of two parcels of school lands in Barstow, San Bernardino County. Because of SLC staff's management, approximately 19 acres of prime commercially zoned land now is available for long-term ground leasing.

ANALYSIS:

Existing Law:

Allows a state leaseholder at any time to make and file with the State Lands Commission a written quitclaim deed or relinquishment of all rights under any lease or of any portion of a lease with the Commission to be released. Such quitclaim or relinquishment shall be effective as of the date of its filing, subject to the continued obligation of the lessee to make payment of all rentals and royalties in accordance with the applicable lease terms and regulations.

This bill:

Specifically, this proposal:

- Delays the effective date of a quitclaim deed of a lease with the SLC until such time that the lessee removes all production facilities and the reclamation of the lease premises and SLC formally accepts the quitclaim.
- Clarifies that these changes apply to all mineral extraction leases – solid minerals as well as oil and gas.

AB 368 would allow a lessee to continue to have the right to quitclaim a portion or all of a lease at its discretion. However, a quitclaim would not be effective until accepted by the SLC and all production facilities have been removed and the lease premises restored. This means that the lessee will continue to be liable for the payment of a land rent.

In the realm of solid mineral extraction leases, under current law, the lessee may be required by State and county agencies to reclaim lands for up to ten years upon cessation of production until adequate revegetation and other desired reclamation is achieved. The SLC does not receive any compensation during this period in which the lessee is required to occupy and reclaim the lands, nor does the Commission have the opportunity to manage these lands for other uses.

The SLC will sponsor this proposal and has stated this legislation is necessary to provide the Commission with greater administrative control over state owned lands during the time period in which they are reclaimed after mining. It will also provide some minor additional revenue from land rentals. SLC believes it is appropriate for the State to continue receiving rent during the reclamation period in which the lessee must continue to occupy the land in order to achieve adequate reclamation and alternate uses of the land are precluded.

FISCAL IMPACT

Benefit Program Cost – Upon implementation and incorporation into new mineral extraction leases, the fiscal impact would result in a modest increase in revenue generated from rental payments of several thousands of dollars which would be credited to the TRF. The total revenue deposited into the Teachers' Retirement Fund from approximately 140 revenue-generating leases in 2007-08 totaled $143,745.

Presently, the SLC's solid mineral leases range from 10 acres to 16,040 acres and most have rentals of $1 per acre. Oil and gas leases are under 5760 acres and geothermal leases range from 130 acres to 2500 acres. Pre-production and production lands rentals vary from $0 to $100 per acre.

Administrative Costs/Savings – None.

SUPPORT

California State Lands Commission.

CalSTRS

OPPOSITION

None known.

ARGUMENTS

Pro:

- Gives the SLC greater administrative oversight of its leased lands during reclamation periods.
- Will provide minor additional revenue from rentals to School Lands Lease Fund to be deposited in the Teachers' Retirement Fund.

Con:

- Mining companies should not have to pay the State land rent for mining lands when the land is no longer used for mining operations.

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