

Bill Number: AB 1054 (Skinner) as amended June 19, 2012

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 (Commission) disclaims any interest in the property, until such time that the lessee restores the lease premises and the Commission formally accepts the quitclaim.

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 Teachers' Retirement Fund. This proposal is consistent with the Board's policy to "preserve the assets and minimize the liabilities of the funds administered by CalSTRS."

SUMMARY OF AMENDMENTS

- The June 19, 2012 amendments make several clarifying changes and adds a declaration that nothing in this section shall be interpreted to terminate, modify or replace any lease that was in effect prior to January 1, 2013.

REASON FOR THE BILL

The purpose of this legislation is to allow the Commission to continue to collect rent on public lands that are tied up by a lessee during reclamation. Although prohibited from leasing the land to another party, the Commission would be able to maximize the rent collected from quitclaimed land for which reclamation is underway which would bring additional revenue to the Teachers' Retirement Fund for purchasing power protection and shield the state from liability as lessees maintain insurance and bonding requirements.

ANALYSIS:

Existing Law:

Existing law requires a lease for the extraction of oil, gas, or mineral resources on state lands from the Commission. The lessee is authorized at any time to file a quitclaim deed or relinquishment of all rights under a lease or any portion of a lease comprising of a 10-acre parcel. The quitclaim or relinquishment is effective as of the date of its filing, which releases the lessee from the obligation to pay rent to the state subject to specified conditions.

This Bill:

AB 1054 requires a lessee of state land that has filed a quitclaim or relinquishment to continue to pay rent and maintain insurance and bonding during the reclamation

process and until the Commission provides approval releasing the lessee from all of its obligations.

Specifically, this proposal:

- Delays the effective date of a quitclaim deed of a lease with the Commission until such time that the lessee removes all production facilities and the reclamation of the lease premises is complete and Commission formally accepts the quitclaim.
- Clarifies that these changes apply to all mineral extraction leases – solid minerals as well as oil and gas.
- Prohibits the quitclaim or relinquishment from releasing the lessee or the lessee's surety from liability for the breach of an obligation of the lease if the lessee is in default at the time of the approval, rather than the filing, of the quitclaim or relinquishment.
- Requires a lessee's request for Commission acceptance of a quitclaim or relinquishment of all rights under a lease to be heard at the next regularly scheduled Commission meeting for which the request can be properly noticed.

This bill 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 Commission and all production facilities have been removed and the lease premises restored. This means that a lessee is subject to the continued obligation of the lease and the lessee's surety to pay all rentals and royalties that have accrued.

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 Commission 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 state is also put at risk of liability for personal injuries and property damage because the lessee is not obligated to maintain insurance and bonding.

This bill would decrease risk to the state by requiring lessees to maintain insurance and bonding requirements during the reclamation process and until the Commission formally accepts the quitclaim and would also require lessees to continue to pay rent until that process is complete. The Commission believes it is appropriate for mining lessees to continue paying 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.

The Commission is the sponsor of 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. This bill would likely result in minor increased revenues to the Teachers' Retirement Fund. The amount of such revenue amount would depend on the terms of new leases and when they may be terminated, which cannot be predicted. Upon completion or reclamation, a

lessee's request for quitclaim or relinquishment would be heard at the next regularly scheduled Commission meeting, thereby avoiding any delays in releasing a lessee from its obligations under the lease.

The Teachers' Retirement Board supported a nearly identical measure, AB 368 (Skinner), which passed the Legislature in 2009 but was ultimately vetoed by Governor Schwarzenegger. The Governor stated that he was unaware of any evidence indicating abuse of mineral extraction leases held by industry lease holders. Absent such evidence, the Governor added, "this bill appears to be a 'solution' in search of a problem."

LEGISLATIVE HISTORY

AB 1833 (Knight, 2012) would require all net revenues from the use of school lands and lieu lands, except as specified, to be deposited in the State School Fund and expended for the benefit of pupil instruction. AB 1833 has been dropped by the author.

AB 389 (Skinner, Vetoed, 2009) delayed the effective date of a quitclaim deed, a document by which a person with a mineral extraction lease with the Commission disclaims any interest in the property, until such time that the lessee restores the lease premises and the Commission formally accepts the quitclaim.

AB 59 (Elder, Chapter 985, Statutes of 1988) 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 percent of original purchasing power.

AB 3105 (Stirling, Chapter 879, Statutes of 1984) 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.

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

SB 638 (Deddeh, Chapter 1213, Statutes of 1983) transferred revenues from the sale or use of school lands or lieu lands to the Teachers' Retirement Fund. 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.

AB 1070 (Stirling, 1983) provided for the deposit of all revenues from the sale or use of school lands or lieu lands to the credit of the Teachers' Retirement Fund. 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.

AB 3402 (Shell, Chapter 1724, Statutes of 1955) enacted the Cunningham-Shell Tidelands Act of 1955 authorizing the Commission to lease state-owned tidelands for offshore oil and gas development as well as to protect tide and submerged lands against drainage from onshore drilling. Among other things, the statute allowed a state lease holder to file a quitclaim at any time for a portion or all of a mineral extraction lease to take effect upon the date of filing. The statute was in part a compromise between competing desires for uninhibited offshore development and for the preservation of esthetic and property values in highly developed coastal areas and established the basic parameters under which most of the state's offshore leases were issued.

PROGRAM BACKGROUND

When California achieved statehood, the federal government granted approximately 5.5 million acres of land to be used for the support of schools. Approximately 90 percent of the school lands were sold prior to the creation of the Commission in 1938. Proceeds went to the General Fund to pay for public education.

The 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 another 790,000 acres of school lands where the surface estate previously has been sold. 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. Since 1984, the remaining lands have been under the trusteeship of the Commission, with the proceeds from land sales reinvested into the trust and only the lease income flows to the Teacher Retirement System's Supplemental Benefit Maintenance Account (SBMA).

The 1984 legislation establishing the School Lands Bank Fund (SLBF) directed the Commission to consolidate and retain state school lands for revenue generation. Revenue is primarily generated from geothermal, oil and gas development, and mining activities. General surface leasing involves ongoing activities, including processing new applications, re-issuing expiring leases, processing lease assignments and amendments, conducting rent reviews, terminating old leases, and conducting other surface management activities. Presently, the Commission'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 less than 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.

Revenues derived from the use of school lands from the over 100 revenue-generating surface leases in 2010-11 fiscal year totaled \$5.1 million which represented an increase of 12 percent from the previous year. These funds are deposited in the State Treasurer's office to the credit of CalSTRS. These funds maintain the purchasing power of benefits paid from the Defined Benefit Program, in addition to the state contribution to the SBMA. CalSTRS is the beneficiary of the SLBF and has no authority over the daily management of the school lands within the trust. CalSTRS maintains an active dialogue with Commission staff regarding ongoing lease, acquisition, disposition and other significant transaction activity. CalSTRS provides an annual report to the CalSTRS Investment Committee on the activities and status of the fund.

In 2011-12, approximately 60,000 members will receive \$273 million in Supplemental Benefits. The benefits are paid quarterly to all benefit recipients whose purchasing power has fallen below 85 percent of the initial allowance, as long as funds are available.

FISCAL IMPACT

Program Cost – Upon implementation and incorporation into new mineral extraction leases, the fiscal impact would result in a revenue increase of several thousands of dollars annually for purchasing power protection generated from lease payments.

Administrative Costs/Savings – None.

SUPPORT

State Lands Commission (Sponsor)

OPPOSITION

None known.

ARGUMENTS

Pro: Gives the Commission greater administrative oversight of its leased lands during reclamation periods.

Provides minor additional revenue from rentals to School Lands Lease Fund to be deposited in the Teachers' Retirement Fund.

Decreases risk to the state by requiring lessees to maintain insurance and bonding requirements during the reclamation process and until the Commission formally accepts the quitclaim.

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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