

HOUSE BILL NO. 360

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Introduced: 2/24/12

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act enacting the Interstate Mining Compact and relating to the compact; relating**
2 **to the Interstate Mining Commission; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 27 is amended by adding a new chapter to read:

5 **Chapter 08. Interstate Mining Compact.**

6 **Sec. 27.08.010. Compact enacted.** The Interstate Mining Compact contained
7 in this section is enacted into law and entered into as follows:

8 **INTERSTATE MINING COMPACT**

9 **ARTICLE I**

10 **FINDINGS AND PURPOSE**

11 (a) The party states find that

12 (1) mining and the contributions thereof to the economy and well-
13 being of every state are of basic significance;

14 (2) the effects of mining on the availability of land, water, and other

1 resources for other uses present special problems which properly can be approached
2 only with due consideration for the rights and interests of those engaged in mining,
3 those using or proposing to use these resources for other purposes, and the public;

4 (3) measures for the reduction of the adverse effects of mining on land,
5 water, and other resources may be costly and the devising of means to deal with them
6 are of both public and private concern;

7 (4) such variables as soil structure and composition, physiography,
8 climatic conditions, and the needs of the public make impracticable the application to
9 all mining areas of a single standard for the conservation, adaptation, or restoration of
10 mined land, or the development of mineral and other natural resources, but justifiable
11 requirements of law and practice relating to the effects of mining on lands, water, and
12 other resources may be reduced in equity or effectiveness unless they pertain similarly
13 from state to state for all mining operations similarly situated;

14 (5) the states are in a position and have the responsibility to assure that
15 mining shall be conducted in accordance with sound conservation principles, and with
16 due regard for local conditions.

17 (b) The purposes of this compact are to

18 (1) advance the protection and restoration of land, water, and other
19 resources affected by mining;

20 (2) assist in the reduction or elimination or counteracting of pollution
21 or deterioration of land, water, and air attributable to mining;

22 (3) encourage, with due recognition of relevant regional, physical, and
23 other differences, programs in each of the party states which will achieve comparable
24 results in protecting, conserving, and improving the usefulness of natural resources, to
25 the end that the most desirable conduct of mining and related operations may be
26 universally facilitated;

27 (4) assist the party states in their efforts to facilitate the use of land and
28 other resources affected by mining, so that such use may be consistent with sound land
29 use, public health, and public safety, and to this end to study and recommend,
30 wherever desirable, techniques for improvement, restoration or protection of such land
31 and other resources;

1 (5) assist in achieving and maintaining an efficient and productive
2 mining industry and in increasing economic and other benefits attributable to mining.

3 ARTICLE II

4 DEFINITIONS

5 As used in this compact, the term

6 (1) "mining" means the breaking of the surface soil in order to facilitate
7 or accomplish the extraction or removal of minerals, ores, or other solid matter, any
8 activity or process constituting all or part of a process for the extraction or removal of
9 minerals, ores, and other solid matter from its original location, and the preparation,
10 washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to
11 make them suitable for commercial, industrial, or construction use, but shall not
12 include those aspects of deep mining not having significant effect on the surface, and
13 shall not include excavation of grading when conducted solely in aid of on-site
14 farming or construction;

15 (2) "state" means a state of the United States, the District of Columbia,
16 the Commonwealth of Puerto Rico, or Territory or Possession of the United States.

17 ARTICLE III

18 STATE PROGRAMS

19 Each party state agrees that within a reasonable time it will formulate and
20 establish an effective program for the conservation and use of mined land, by the
21 establishment of standards, enactment of laws, or the continuing of the same in force,
22 to accomplish

23 (1) the protection of the public and the protection of adjoining and
24 other landowners from damage to their lands and the structures and other property
25 thereon resulting from the conduct of mining operations or the abandonment or
26 neglect of land and property formerly used in the conduct of such operations;

27 (2) the conduct of mining and the handling of refuse and other mining
28 wastes in ways that will reduce adverse effects on the economic, residential,
29 recreational, or aesthetic value and utility of land and water;

30 (3) the institution and maintenance of suitable programs of adaptation,
31 restoration, and rehabilitation of mined lands;

1 (4) the prevention, abatement, and control of water, air, and soil
2 pollution resulting from mining - present, past, and future.

3 ARTICLE IV

4 POWERS

5 In addition to any other powers conferred upon the Interstate Mining
6 Commission, established by Article V of this compact, such commission shall have
7 the power to

8 (1) study mining operations, processes, and techniques for the purpose
9 of gaining knowledge concerning the effects of such operations, processes, and
10 techniques on land, soil, water, air, plant, and animal life, recreation, and patterns of
11 community or regional development or change;

12 (2) study the conservation, adaptation, improvement, and restoration of
13 land and related resources affected by mining;

14 (3) make recommendations concerning any aspect or aspects of law or
15 practice and governmental administration dealing with matters within the purview of
16 this compact;

17 (4) gather and disseminate information relating to any of the matters
18 within the purview of this compact;

19 (5) cooperate with the federal government and any public or private
20 entities having interests in any subject coming within the purview of this compact;

21 (6) consult, upon the request of a party state and within available
22 resources, with the officials of such state in respect to any problem within the purview
23 of this compact;

24 (7) study and make recommendations with respect to any practice,
25 process, technique, or course of action that may improve the efficiency of mining or
26 the economic yield from mining operations;

27 (8) study and make recommendations relating to the safeguarding of
28 access to resources which are or may become the subject of mining operations to the
29 end that the needs of the economy for the products of mining may not be adversely
30 affected by unplanned or inappropriate use of land and other resources containing
31 minerals or otherwise connected with actual or potential mining sites.

ARTICLE V

THE COMMISSION

(a) There is hereby created an agency of the party states to be known as the "Interstate Mining Commission", hereinafter called "the commission." The commission shall be composed of one commissioner from each party state who shall be the governor thereof. Pursuant to the laws of the party state, each governor may have the assistance of an advisory body, including membership from mining industries, conservation interests, and such other public and private interests as may be appropriate, in considering problems relating to mining and in discharging the responsibilities as a commissioner on the commission. In any instance where a governor is unable to attend a meeting of the commission or perform any other function in connection with the business of the commission, the governor shall designate an alternate who shall represent the governor and act in the governor's place and stead. The designation of an alternate shall be communicated by the governor to the commission in such manner as its bylaws may provide.

(b) The commissioners shall be entitled to one vote each on the commission. No action of the commission making a recommendation pursuant to Article IV-3, IV-7, and IV-8 or requesting, accepting, or disposing of funds, services, or other property pursuant to this paragraph, Article V(g), V(h), or VII shall be valid unless taken at a meeting at which a majority of the total number of votes on the commission is cast in favor thereof. All other action shall be by a majority of those present and voting; provided that action of the commission shall be only at a meeting at which a majority of the commissioners, or their alternates, is present. The commission may establish and maintain such facilities as may be necessary for the transaction of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(c) The commission shall have a seal.

(d) The commission shall elect annually, from among its members, a chair, a vice-chair, and a treasurer. The commission shall appoint an executive director and fix the executive director's duties and compensation. Such executive director shall serve at the pleasure of the commission. The executive director, the treasurer, and such other

1 personnel as the commission shall designate shall be bonded. The amount or amounts
2 of such bond or bonds shall be determined by the commission.

3 (e) Irrespective of the civil service, personnel, or other merit system laws of
4 any of the party states, the executive director, with the approval of the commission,
5 shall appoint, remove, or discharge such personnel as may be necessary for the
6 performance of the commission's functions, and shall fix the duties and compensation
7 of such personnel.

8 (f) The commission may establish and maintain independently or in
9 conjunction with a party state, a suitable retirement system for its employees.
10 Employees of the commission shall be eligible for social security coverage in respect
11 of old age and survivor's insurance provided that the commission takes such steps as
12 may be necessary pursuant to the laws of the United States, to participate in such
13 program of insurance as a governmental agency or unit. The commission may
14 establish and maintain or participate in such additional programs of employee benefits
15 as it may deem appropriate.

16 (g) The commission may borrow, accept, or contract for the services of
17 personnel from any state, the United States, or any other governmental agency, or
18 from any person, firm, association, or corporation.

19 (h) The commission may accept for any of its purposes and functions under
20 this compact any and all donations, and grants of money, equipment, supplies,
21 materials, and services, conditional or otherwise, from any state, the United States, or
22 any other governmental agency, or from any person, firm, association, or corporation,
23 and may receive, utilize, and dispose of the same. Any donation or grant accepted by
24 the commission pursuant to this paragraph or services borrowed pursuant to paragraph
25 (g) of this Article shall be reported in the annual report of the commission. Such report
26 shall include the nature, amount, and conditions, if any, of the donation, grant, or
27 services borrowed and the identity of the donor or lender.

28 (i) The commission shall adopt bylaws for the conduct of its business and shall
29 have the power to amend and rescind these bylaws. The commission shall publish its
30 bylaws in convenient form and shall file a copy thereof and a copy of any amendment
31 thereto, with the appropriate agency or officer in each of the party states.

1 (j) The commission annually shall make to the governor, legislature, and
2 advisory body required by Article V(a) of each party state a report covering the
3 activities of the commission for the preceding year, and embodying such
4 recommendations as may have been made by the commission. The commission may
5 make such additional reports as it may deem desirable.

6 ARTICLE VI

7 ADVISORY, TECHNICAL, AND REGIONAL COMMITTEES

8 The commission shall establish such advisory, technical, and regional
9 committees as it may deem necessary, membership on which shall include private
10 persons and public officials, and shall cooperate with the use and services of any such
11 committees and the organizations which the members represent in furthering any of its
12 activities. Such committees may be formed to consider problems of special interest to
13 any party states, problems dealing with particular commodities of types of mining
14 operations, problems related to reclamation, development, or use of mined land, or any
15 other matters of concern to the commission.

16 ARTICLE VII

17 FINANCE

18 (a) The commission shall submit to the governor or designated officer or
19 officers of each party state a budget of its estimated expenditures for such period as
20 may be required by the laws of that party state for presentation to the legislature
21 thereof.

22 (b) Each of the commission's budgets of estimated expenditures shall contain
23 specific recommendations of the amount or amounts to be appropriated by each of the
24 party states. The total amount of appropriations requested under any such budget shall
25 be apportioned among the party states as follows: one-half in equal shares, and the
26 remainder in proportion to the value of minerals, ores, and other solid matter mined. In
27 determining such values, the commission shall employ such available public source or
28 sources of information as, in its judgment, present the most equitable and accurate
29 comparisons among the party states. Each of the commission's budgets of estimated
30 expenditures and request for appropriations shall indicate the source or sources used in
31 obtaining information concerning value of minerals, ores, and other solid matter

1 mined.

2 (c) The commission shall not pledge the credit of any party state. The
3 commission may meet any of its obligations in whole or in part with funds available to
4 it under Article V(h) of this compact provided that the commission takes specific
5 action setting aside such funds prior to incurring any obligation to be met in whole or
6 in part in such manner. Except where the commission makes use of funds available to
7 it under Article V(h) thereof, the commission shall not incur any obligation prior to the
8 allotment of funds by the party states adequate to meet the same.

9 (d) The commission shall keep accurate accounts of all receipts and
10 disbursements. The receipts and disbursements of the commission shall be subject to
11 the audit and accounting procedures established under its bylaws. All receipts and
12 disbursements of funds handled by the commission shall be audited yearly by a
13 qualified public accountant and the report of the audit shall be included in and become
14 a part of the annual report of the commission.

15 (e) The accounts of the commission shall be open at any reasonable time for
16 inspection by duly constituted officers of the party states and by any persons
17 authorized by the commission.

18 (f) Nothing contained herein shall be construed to prevent commission
19 compliance with laws relating to audit or inspection of accounts by or on behalf of any
20 government contributing to the support of the commission.

21 ARTICLE VIII

22 ENTRY INTO FORCE AND WITHDRAWAL

23 (a) This compact shall enter into force when enacted into law by any four or
24 more states. Thereafter, this compact shall become effective as to any other state upon
25 its enactment thereof.

26 (b) Any party state may withdraw from this compact by enacting a statute
27 repealing the same, but no such withdrawal shall take effect until one year after the
28 governor of the withdrawing state has given notice in writing of the withdrawal to the
29 governors of all other party states. No withdrawal shall affect any liability already
30 incurred by or chargeable to a party state prior to the time of such withdrawal.

31 ARTICLE IX

1 EFFECT ON OTHER LAWS

2 Nothing in this compact shall be construed to limit, repeal, or supersede any
3 other law of any party state.

4 ARTICLE X

5 CONSTRUCTION AND SEVERABILITY

6 This compact shall be liberally construed so as to effectuate the purposes
7 thereof. The provisions of this compact shall be severable and if any phrase, clause,
8 sentence, or provision of this compact is declared to be contrary to the constitution of
9 any state or of the United States, or the applicability thereof to any government,
10 agency, person, or circumstance is held invalid, the validity of the remainder of this
11 compact and the applicability thereof to any government, agency, person, or
12 circumstance shall not be affected thereby. If this compact shall be held contrary to the
13 constitution of any state participating herein, the compact shall remain in full force
14 and effect as to the remaining party states and in full force and effect as to the state
15 affected as to all severable matters.

16 **Sec. 27.08.020. Alternate.** The governor may designate the commissioner of
17 natural resources as the governor's alternate to the Interstate Mining Commission.

18 **Sec. 27.08.030. Compact bylaws.** In accordance with art. V(i) of the compact,
19 the Interstate Mining Commission shall file copies of its bylaws and any amendments
20 to the bylaws with the commissioner of natural resources.

21 * **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).