

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 547

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO MINERAL RIGHTS; AMENDING SECTION 47-703, IDAHO CODE, TO REVISE
2 PROVISIONS REGARDING LOCATOR WORK AND TO MAKE TECHNICAL CORRECTIONS;
3 AMENDING SECTION 47-704, IDAHO CODE, TO REVISE PROVISIONS REGARDING
4 LEASES OF MINERAL RIGHTS IN STATE LANDS AND TO PROVIDE FOR TERMS AND
5 CONDITIONS OF CERTAIN MINERAL LEASES; AMENDING SECTION 47-707, IDAHO
6 CODE, TO REVISE PROVISIONS REGARDING FORFEITURE OF LEASES; PROVIDING
7 SEVERABILITY; AND DECLARING AN EMERGENCY.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 47-703, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 47-703. EXPLORATION LOCATIONS ON STATE LANDS. (1) Location for explo-
13 ration purposes may be made upon lands belonging to the state of Idaho in
14 which the mineral rights are reserved or belong to the state, including the
15 beds of all navigable rivers in the state of Idaho and all portions of said
16 navigable rivers between the natural or ordinary high water marks, provid-
17 ing that no exploration location may be made on any lands for which a mineral
18 lease application has been made and is pending as provided in section 47-704,
19 Idaho Code; providing further, that no exploration location may be made for
20 salable minerals as that term is used in section 47-701, Idaho Code.

21 (2) Such locations when made upon surveyed land shall conform to le-
22 gal subdivisions. When made upon the beds of navigable rivers, they shall
23 not exceed one-half (1/2) river mile. When made on surveyed land, they shall
24 not exceed twenty (20) acres except that when made upon surveyed land desig-
25 nated as a lot, they may equal one-half (1/2) of said lot. Descriptions of
26 locations made on the beds of navigable rivers, the boundaries of which shall
27 have been meandered, shall be described as near as may be with the lotting of
28 the fractional subdivisions bordering upon the navigable rivers, and the de-
29 scription of the location shall be so accurately drawn and tied to the gov-
30 ernment corners that the ground may be accurately located and so described
31 that the location may be accurately platted upon the books of the state board
32 of land commissioners.

33 (3) The discoverer of a mineral deposit, or a person desiring to
34 prospect for mineral shall immediately post conspicuously on each twenty
35 (20) acre tract or fraction thereof, or each one-half (1/2) river mile, that
36 he desires to locate, an exploration certificate of location declaring that
37 he has made such discovery, or ~~and~~ declaring that he desires to prospect
38 for mineral, together with the date of such discovery or declaration. Said
39 certificate shall be in such form as the board may prescribe. The locator
40 shall be allowed twenty (20) days from such date to file an exact copy of ex-
41 ploration certificate of location with the state board of land commissioners
42 and pay the appropriate fees. Said certificate shall designate the legal

1 subdivisions located, and shall be recorded in the office of said board as of
 2 the date of filing, and an entry of such location shall be made upon the plat
 3 and tract books.

4 (4) The locator shall be entitled to hold said location for a period of
 5 two (2) years from the first of the month following the date of recording and
 6 by performing one hundred dollars (\$100) worth of work during each year for
 7 each location.

8 (5) Work, within the meaning of this ~~section~~ chapter shall consist
 9 of tunnels, shafts, or other mining excavations or development, including
 10 drilling by conventional methods and pits or shafts sunk to determine the
 11 value of the gravels. Work shall ~~not~~ include roads, trails, buildings, ma-
 12 chinery, or other surface improvement. All such work may be done at one (1)
 13 place on the location or at as many places as the locator may desire, and in
 14 case two (2) or more locations are under the same ownership, then said work
 15 may be performed on any one (1) or more locations. Work so performed as an-
 16 nual assessment, where performed for the benefit of a group contiguous and
 17 under common ownership, shall be such that it shall be of material benefit to
 18 each and every location forming the contiguous group.

19 (6) Written proof that such work has been done shall be filed with the
 20 state board of land commissioners, on such forms and in such manner as ~~they~~
 21 it shall prescribe. Such procedure shall empower the locator to retain pos-
 22 session of and prospect said location for a period of two (2) years, at the
 23 end of which time he shall be required to take a lease upon such terms as may
 24 be agreed upon by the state board of land commissioners. Provided, that the
 25 right granted under this section to prospect for mineral and to make loca-
 26 tions shall not extend to lands in the possession of a purchaser under con-
 27 tract of sale from the state.

28 SECTION 2. That Section 47-704, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 47-704. LEASES OF MINERAL RIGHTS IN STATE LANDS. (1) The state board of
 31 land commissioners may lease in tracts ~~not exceeding six hundred forty (640)~~
 32 ~~acres~~ of sizes as the board may deem fair for prospecting, exploration, and
 33 mining ~~purposes, and of mineral deposits~~, except for leases for oil, gas and
 34 other hydrocarbons, that may be contained in any portion of the unsold lands
 35 of the state or that may be contained in state lands sold with a reservation
 36 of mineral deposits or that belong to the state of Idaho by reason of being
 37 situate between the high water marks of navigable rivers of the state, for
 38 such annual rental, not less than one dollar (\$1.00) per acre per annum, and
 39 for such royalty upon the product as the board may deem fair and in the in-
 40 terest of the state, except in the case of state oil and gas leases wherein
 41 the royalty to the state shall be not less than twelve and one-half ~~per cent~~
 42 percent (12 1/2%), and provided that the minimum royalty shall not be less
 43 than two and one-half ~~per cent~~ percent (2 1/2%). ~~The rental paid for any year~~
 44 ~~shall be deducted from the royalties as they accrue for that year and not more~~
 45 than market conditions.

46 (2) All mineral leases, except leases for oil, gas, and other hydrocar-
 47 bons, and geothermal resources of state school lands and for lands belonging
 48 to the state of Idaho, ~~other than school lands~~, shall be for a term of ~~ten (10)~~

1 up to twenty (20) years, and so long thereafter as shall be continued if any
 2 of the following provisions are met:

3 (a) Precious metals, minerals, salable minerals, mineral concen-
 4 trates, mineral products, and or ores, or any of them, are produced in
 5 paying quantities, or as much longer thereafter as;

6 (b) The lessee has negotiated and remitted a prepaid royalty no less
 7 than five dollars (\$5.00) per acre per year;

8 (c) The lessee in good faith shall conducts exploration, prospecting,
 9 work, or mining operations thereon;

10 (d) The mineral lease is undergoing a regulatory approval process for
 11 exploration, prospecting, or mining; or

12 (e) The lessee conducts work on land adjacent or near the leased
 13 premises as a single mining operation, including construction of in-
 14 frastructure associated with mining. together with the right to use
 15 and occupy so much of the surface of said land as may be required for
 16 all purposes reasonably incident to the prospecting for, exploration
 17 for, development of, production, refining, processing and marketing
 18 of said precious metals, minerals, salable minerals, and ores produced
 19 from said lands, including the right to construct and maintain thereon
 20 all works, buildings, plants, waterways, roads, communication lines,
 21 reservoirs, tanks or other structures necessary to the full enjoyment
 22 thereon for the purpose of the lease.

23 (3) Provided, that the leaseholder of any mineral lease except leases
 24 for oil, gas, and other hydrocarbons, and geothermal resources heretofore or
 25 hereafter issued, upon the expiration of the initial lease and all renewals
 26 thereof, shall be given the preferential right to renew such lease or renewal
 27 leases under such readjustment of the terms and conditions as the board may
 28 determine to be necessary in the interest of the state.

29 (4) All applications received, whether by mail or by personal delivery
 30 over the counter, shall be immediately stamped with the date and hour of fil-
 31 ing. Simultaneous filings result when two (2) or more applications are re-
 32 ceived for the same lands during the same hour of the same day. Simultaneous
 33 filings shall be resolved by competitive bidding. This provision does not
 34 apply to applications received from an applicant having a preferential right
 35 under ~~subsection (5) of this section~~. In the absence of a simultaneous fil-
 36 ing, and except for lands and resources which may be designated for competi-
 37 tive bidding, right of priority to a mineral lease shall be determined by the
 38 first qualified applicant who shall file a completed, signed application on
 39 the form of the department of lands or exact copy thereof between the hours
 40 of ~~eight~~ 8:00 a.m. and ~~five~~ 5:00 p.m. during any business day, together with
 41 the application fee set by the board.

42 (5) Applications for mineral leases shall be made under oath in such
 43 form as the board may prescribe, and the applicant shall describe the land,
 44 specify the particular mineral or minerals, and give such additional in-
 45 formation as may be required by the rules and regulations of the board. If
 46 the applicant for a lease has previously filed a certificate of location,
 47 as provided in section 47-703, Idaho Code, upon any part of the land desired
 48 to be leased, such application shall be given a preferential right to the
 49 land covered by his location; that no lands upon which a mineral location
 50 has been duly made and recorded as provided in section 47-703, Idaho Code,

1 shall be leased for mining purposes during the two (2) year periods to any
2 applicant except the person having made such location; provided, however,
3 that no locations may be made for oil and gas deposits or lands, or geothermal
4 resources.

5 (6) Any motorized exploration as defined in section 47-703, Idaho Code,
6 on the lands between the ordinary high water marks of any navigable river
7 of the state shall be prohibited except upon written approval by the board
8 and submission of a bond to the department in the form and amount set by the
9 board; and, if applicable, an operator shall also comply with the Idaho
10 dredge and placer mining protection act, chapter 13, title 47, Idaho Code;
11 provided, that in all instances an operator shall comply with the stream
12 protection act, and all other applicable laws and rules of the state.

13 (7) Upon receipt by the state board of land commissioners of an appli-
14 cation to lease any lands which may belong to the state of Idaho by reason of
15 being situate between the high water marks of navigable rivers of the state,
16 the board shall cause, at the expense of the applicant, a notice of such ap-
17 plication to be published once a week for two (2) issues in a newspaper of
18 general circulation in the county or counties in which said lands described
19 in said application are situated. The board or its authorized representa-
20 tive shall hold a public hearing on the application, if requested in writ-
21 ing, no later than thirty (30) days after the last published notice by ten
22 (10) persons whose lawful rights to use the waters applied for may be injured
23 thereby, or by an association presenting a petition with signatures of not
24 less than ten (10) such aggrieved parties; provided that the board may order
25 a public hearing in the first instance. The board shall consider fully all
26 written and oral submissions respecting the application.

27 (8) Provided, however, that the state board of land commissioners shall
28 send notice of any such application for leasing the bed of navigable rivers
29 to the director of the department of water resources, who, if the director
30 thinks advisable, shall at the expense of the applicant make an investiga-
31 tion. If said investigation shows that the rights of interested parties may
32 be jeopardized by the issuance of the proposed lease, the director shall give
33 notice of such applications to parties affected thereby. If it shall appear
34 to the state board of land commissioners that the leasing of any lands be-
35 tween the high water marks of any navigable river will be injurious to the
36 rights of any person or persons having the right to the use of the waters
37 thereof, for irrigation, power, or any other lawful purpose, the state board
38 of land commissioners shall deny such application.

39 (9) Mineral leases granted according to this section, including but not
40 limited to leases that have been awarded but not executed, shall comply with
41 the following terms and conditions:

42 (a) After granting of a lease, no fees or payments shall be charged to
43 lessees except for royalty payments, including prepaid and production,
44 and rent per acre per annum.

45 (b) Rent per acre per annum may be indexed for inflation, but no more
46 than three percent (3%) per annum. The rental paid shall be deducted
47 from the royalties as they accrue for the life of the lease.

48 (c) No more than one (1) lease may be issued for the same mineral on the
49 same land.

1 (d) Only one (1) lessee may hold multiple mineral leases on the same
 2 land.

3 (e) In the event of an exchange or sale involving leased lands, the pur-
 4 chaser shall accept and be assigned to perform the exact terms and con-
 5 ditions set forth in the lease as the lessor.

6 (f) The leaseholder demonstrates a mineral resource is present on the
 7 public lands using industry standard to estimate or project a mineral
 8 resource that is likely viable for future mineral development. The
 9 board shall recognize its role as a partner on behalf of state lands and
 10 provide confidentiality to the leaseholders regarding resource esti-
 11 mates that may be reported. If the leaseholder determines in the future
 12 to drop any mineral lease, the board may use this information for pub-
 13 lic consumption to encourage and support mineral development on those
 14 leases.

15 (g) No less than one hundred eighty (180) days prior to the expiration
 16 date of the mineral lease, lease terms and conditions shall be fairly
 17 modified and readjusted if needed. If an agreement cannot be reached,
 18 the lessor and lessee shall engage in good faith mediation. The lease
 19 shall remain in full force and effect during the mediation.

20 SECTION 3. That Section 47-707, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 47-707. FORFEITURE OF LEASES. All leases of mineral deposits shall be
 23 conditional upon payment of the rental in advance annually, and upon the pay-
 24 ment of the royalty provided for in the lease, ~~and such other provisions as~~
 25 ~~may be provided by the board,~~ and upon the violation of any of the conditions
 26 of the lease, the board may at its option, after thirty (30) days' notice by
 27 registered mail, cancel the lease. Upon failure or refusal of the lessee to
 28 accept the readjustment of terms and conditions determined by the board at
 29 the end of any lease period, such failure or refusal shall work a forfeiture
 30 of the preferential right of the lessee. A forfeiture of such lease, and all
 31 rights of the lessee thereunder, may be declared by the state board of land
 32 commissioners for a violation of any of the terms or conditions of said lease
 33 or of any rule or regulation of said board with respect thereto or of any of
 34 the provisions of this chapter.

35 SECTION 4. SEVERABILITY. The provisions of this act are hereby declared
 36 to be severable and if any provision of this act or the application of such
 37 provision to any person or circumstance is declared invalid for any reason,
 38 such declaration shall not affect the validity of the remaining portions of
 39 this act.

40 SECTION 5. An emergency existing therefor, which emergency is hereby
 41 declared to exist, this act shall be in full force and effect on and after its
 42 passage and approval.