

46:3-27

LEGISLATIVE HISTORY CHECKLIST

NJSA 46:3-27 (Water rights excluded from conveyances of mineral rights)

LAWS 1981 CHAPTER 542

Bill No. A3377

Sponsor(s) Littell

Date Introduced May 4, 1981

Committee: Assembly ---

Senate ---

Amended during passage Yes according to Governor's recommendations Amendments denoted by asterisks

Date of Passage: Assembly May 14, 1981 Re-enacted 11-23-82

Senate June 18, 1981 Re-enacted 1-11-82

Date of approval Jan 12, 1982

Following statements are attached if available:

Sponsor statement Yes No (Below)

Committee Statement: Assembly ~~Yes~~ No

Senate ~~Yes~~ No

Fiscal Note ~~Yes~~ No

Veto Message Yes

Message on signing Yes

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

Sponsor's statement:

This legislation specifically excludes water and water rights from any conveyance or reservation or mineral rights contained in a deed or other instrument.

6/22/81

PP 134 1983

1-12-82

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 3377

STATE OF NEW JERSEY

INTRODUCED MAY 4, 1981

By Assemblyman LITTELL

(Without Reference)

AN ACT concerning the conveyance or reservation of mineral rights
and supplementing Title 46 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Every deed or other instrument which conveys or reserves
2 mineral rights in any land shall, unless otherwise expressly pro-
3 vided therein, be construed to exclude any and all water rights or
4 consideration thereof from any conveyance or reservation of
5 mineral rights. ***[As used in this act, "mineral" means any sub-**
6 **stance which can be extracted from beneath the surface of the earth,**
7 **including every constituent of the earth's crust; "mineral" shall not**
8 **mean water, steam, or any other geothermal substance or resource**
9 **lying near or underneath the surface of the earth.]***

1 2. This act shall take effect immediately.

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

STATE OF NEW JERSEY

EXECUTIVE DEPARTMENT

November 16, 1981

ASSEMBLY BILL NO. 3377

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 3377 without my approval.

This bill would exclude water and water rights from the general term "mineral" or "mineral rights" as used in deeds or other instruments which convey or reserve mineral rights in land.

The bill was introduced to clarify mineral rights and thereby settle a particular dispute in Sussex County. In doing so, however, it appears contrary to the weight of judicial authority in this and other jurisdictions in that it defines mineral as "any substance which can be extracted from beneath the surface of the earth, including every constituent of the earth's crust." Most courts have held that a grant or reservation of minerals does not include substances which would destroy the surface itself. See Hartwell v. Camman, 10 N.J. Eq. 128 (Ch. 1854).

I have no problem with the clarification of mineral rights on a prospective basis. I do not believe it advisable, however, to attempt to decide this case retroactively by including this expansive definition of mineral. This type of question is one of private law best dealt with by the courts based on the particulars of the agreement between the parties and precedent.

For these reasons, I hereby return Assembly Bill No. 3377 and recommend the following amendment:

Page 1, Section 1, Lines 5 through 9: After "." delete in their entirety.

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

JANUARY 13, 1982

FOR FURTHER INFORMATION:

Dave DeMaio - Bob Dowd

Governor Brendan Byrne has signed the following Assembly bills:

A-3709, sponsored by Assemblyman Karl Weidel (D-Mercer), corrects an oversight in the 1982 Appropriations Act by increasing the interest paid on delinquent accounts under the Temporary Disability Benefits Law. The Appropriations Act raised the interest paid on delinquent accounts under Unemployment Compensation. Employers receive one bill for both accounts.

A-3571, sponsored by Assemblywoman Leanna Brown (R-Morris), permits school boards to invest, with the employee's consent, a portion of an employee's pay in a mutual fund or annuity.

A-3432, sponsored by Assemblyman Thomas Gallo (D-Hudson), amends the Civil Service law so that a public employee who takes an authorized leave of absence without pay to serve in elective office may, upon returning to his original position, have his elective public service included in the computation of his Civil Service seniority rights. The bill is retroactive to 1979.

A-481, sponsored by Assemblyman David Schwartz (D-Middlesex), permits State grants under the "Inter-local Services Aid Act" for solid waste recycling and joint energy conservation services. The loans would be made by the Department of Community Affairs from an "economy in government" loan fund, which is sustained by repayment of loans.

A-3777, sponsored by Assemblyman Robert Littell (R-Sussex), defines the terms "minerals" and "mineral rights" as they pertain to deeds, leases or other legal instruments that convey or reserve such rights. Specifically, A-3777 provides that water and water rights are not "mineral rights" and must be specified in any leases, deeds or legal instruments.

A-3170, sponsored by Assemblyman John Markert (R-Bergen), permits a municipal government to refund all taxes collected on property owned by a charitable or religious organization, when such organization did not make a timely claim of exemption. However, there is a three year time limit and the organization must show good cause for not having filed for an exemption on time.

(MORE)