

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4 By: Representative Courtway

As Engrossed: H1/29/97

# A Bill

HOUSE BILL 1293

## For An Act To Be Entitled

8 "AN ACT PERTAINING TO THE PROCEDURES REQUIRED BEFORE HARVESTING,  
9 PRODUCTION OR MINING OF NON-RENEWABLE RESOURCES IN LANDS WITHIN  
10 THE STATE PARKS OF ARKANSAS WILL BE PERMITTED."

## Subtitle

14 "PROCEDURES FOR HARVESTING, PRODUCTION  
15 OR MINING OF NON-RENEWABLE RESOURCES IN  
16 STATE PARKS."

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21 SECTION 1. For purposes of this act:

22 (1) "Commission" means the State Parks, Recreation, and Travel  
23 Commission or any other employee of the State Parks, Recreation & Travel  
24 Commission.

25 (2) "Commissioner" means the Commissioner of State Lands or employee of  
26 the Commissioner of State Lands.

27 (3) "Non-renewable resource" means diamonds, coal, oil, natural gas,  
28 sand and gravel, uranium, sulphur, lignite, and any other substance that is  
29 ordinarily and naturally considered a mineral in this state.

30 (4) "State park" shall mean all properties within the classifications  
31 as set forth in Arkansas Code § 22-4-201

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33 SECTION 2. (a) No lease or permit for the harvesting, production,  
34 excavation or removal of non-renewable resources located in the state parks of  
35 this state shall be awarded unless and until the Commission or Commissioner  
36 has been authorized to grant a lease or permit as expressed by the approval of  
37 a majority of the qualified electors of the state voting on the issue at a

1 statewide general or special election, in the manner hereinafter prescribed.

2 (b) This act shall not apply to the non-commercial harvesting,  
3 production, excavation or removal of sand and gravel as prescribed under §22-  
4 5-802 and §22-5-814.

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6 SECTION 3. (a)(1) The Commission or the Commissioner shall notify the  
7 Governor and all members of the General Assembly at each members' resident  
8 mailing address, in writing, of the intent to grant a lease or permit for the  
9 harvesting, production, excavation or removal of a non-renewable resource  
10 located within a state park. The notice shall include a description of the  
11 non-renewable resource and the state park.

12 (2)The notice shall be conveyed to the Governor and the members of the  
13 General Assembly at least twenty (20) days prior to submitting notice to the  
14 Secretary of State.

15

16 SECTION 4. (a) After receipt of the notice, the Secretary of State  
17 shall cause to be published the information set forth in (b), by at least two  
18 (2) insertions in a newspaper of general circulation in each county of the  
19 state. The first insertion shall be published not less than thirty (30) days  
20 nor more than sixty (60) days before the next statewide election. The second  
21 insertion shall be published not less than ten (10) days nor more than twenty  
22 (20) days before the next statewide election.

23 (b)The notice shall read substantially as follows:

24 "NOTICE is hereby given that at the statewide election to be held on the  
25 \_\_\_\_\_ day of \_\_\_\_\_, the question of granting \_\_\_\_\_ the  
26 authority to execute a lease or permit for harvesting, production, excavation  
27 or removal of \_\_\_\_\_ will be placed upon the ballot for the approval or  
28 rejection by the qualified electors of the state voting at the election."

29 (c) Within the time prescribed by law for the certification of other  
30 questions to be submitted to a vote of the people at a general or special  
31 election, the Secretary of State shall certify to the county boards of  
32 election commissioners of the several counties of the state the question as  
33 set forth in the notice provided for in subsection (b) of this section.

34 (d) The county board of election commissioners of each county shall  
35 cause to be printed on the election ballot the following:

1 "FOR authorizing the \_\_\_\_\_ to grant a lease or permit for the  
2 harvesting, production, excavation and removal of \_\_\_\_\_ in  
3 \_\_\_\_\_ State Park.

4 AGAINST authorizing the \_\_\_\_\_ to grant a lease or permit for the  
5 harvesting, production, excavation and removal of \_\_\_\_\_ in  
6 \_\_\_\_\_ State Park."

7 \_\_\_\_\_ (e) Each county board of election commissioners shall canvass the vote  
8 and, as in the instance of other statewide measures voted on by the people,  
9 certify the results thereof to the Secretary of State who shall forthwith  
10 tabulate all returns so received and, by published notice in a newspaper  
11 having a statewide circulation, proclaim the result of the election, setting  
12 out in the proclamation the total vote for and against the question submitted  
13 as provided in subsection (d) of this section. The result of the election as  
14 so proclaimed shall be conclusive unless challenged in a court of proper  
15 jurisdiction within thirty (30) days after the date of the first publication  
16 of the proclamation. All contests in relation thereto shall be under the  
17 general election laws of this state.

18 \_\_\_\_\_ (f) It is not the intent of the General Assembly that a special  
19 election be called for the sole purpose of submitting the issue to the  
20 qualified voters of the state. The issue shall be submitted to the qualified  
21 voters of this state at a statewide election being held for other purposes.

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23 SECTION 5. (a)(1) Upon approval by the voters, the Commission or  
24 Commissioner shall cause to be published daily in a newspaper of general  
25 circulation in this state for no fewer than two (2) consecutive weeks, and at  
26 least one (1) time in a newspaper of general circulation in the county or  
27 counties in which the state park is located, a notice that it is authorized to  
28 grant a lease or permit for the harvesting, production, excavation and removal  
29 of the non-renewable resource approved by the voters.

30 \_\_\_\_\_ (2) The notice shall contain a description of the permit or lease to be  
31 granted (including the acreage involved), the minimum fee or royalty, and the  
32 terms and conditions prescribed for the permit or lease and shall state that  
33 persons may bid on the lease or permit by filing a sealed bid in writing with  
34 the appropriate office within the time specified in the notice. The notice  
35 shall include provisions and specifications for the reclamation of the land at

1 the end of the lease or permit term.

2 (b) The lease or permit shall be awarded to the bidder agreeing to pay  
3 the highest royalty or other fee to this state, but if two (2) or more bids  
4 are, in the judgment of the Commission or Commissioner, reasonably close, an  
5 open auction between the high bidders may be required.

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7 SECTION 6. (a) Every person obtaining a lease or permit under this Act  
8 shall keep an accurate record and account of all non-renewable resources taken  
9 and shall file with the Revenue Division of the Department of Finance and  
10 Administration not later than the tenth day of each month an itemized verified  
11 statement by the lessee or permittee of the total conventional weight or  
12 volume of the non-renewable resources removed or extracted from the state park  
13 during the preceding month. These reports shall be made on forms prescribed  
14 by the Revenue Division of the Department of Finance and Administration.  
15 Copies shall be sent to the Commission and the Commissioner.

16 (b)(1) The lessee or permittee shall pay monthly to the Commission or  
17 the Commissioner royalties on the amount of actual consideration for the non-  
18 renewable resource taken from the state park under the conditions of the lease  
19 or permit issued by the Commission or Commissioner.

20 (2) The Commission or Commissioner may require the posting of a  
21 corporate surety bond by any lessee or permittee to guarantee the payment of  
22 taxes, royalties, fees, and cost of reclamation.

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24 SECTION 7. The provisions of this act supersede contrary provisions in  
25 § 22-5-801 et seq. and all other contrary provisions of law applicable to the  
26 granting of a lease or permit for the harvesting, production or mining of non-  
27 renewable resources, except for the non-commercial harvesting, production or  
28 mining of sand or gravel in Arkansas state parks.

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30 SECTION 8. Notwithstanding any other provision of law, upon passage of  
31 this act, no tests, surveys, core drills or other actions or steps relating  
32 to, affecting or dealing with non-renewable resources within the state parks  
33 shall be conducted except as may be required by the Commission to determine  
34 solely:

35 (1) The estimate of the quantities of such non-renewable resources and

1 (2) The feasibility of harvesting, producing, excavating or removing  
2 such non-renewable resources.

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4 SECTION 9. Arkansas Code 22-5-817 is amended to read as follows:

5 "§ 22-5-817. Leasing at Crater of Diamonds State Park.

6 ~~—— (a)(1) The State Parks, Recreation, and Travel Commission, through the~~  
7 ~~Department of Parks and Tourism, is authorized to execute a lease after~~  
8 ~~securing the advice of the Legislative Council for the exploration and~~  
9 ~~production of diamonds at the Crater of Diamonds State Park.~~

10 ~~—— (2) After securing the advice of the Legislative Council, the commission~~  
11 ~~shall have full authority to determine whether the lease shall be executed,~~  
12 ~~the area of the park to be included in any lease, the method of selecting the~~  
13 ~~lessee, benefits, and improvements for the park to be made by the lessee, the~~  
14 ~~royalty payments to be paid the commission by any lessee, and any and all~~  
15 ~~other terms of the lease; provided, however, any lease executed by the~~  
16 ~~commission shall contain plans for the continued operation and improvement of~~  
17 ~~the park, including long-range plans that provide finders keepers diamond~~  
18 ~~hunting opportunities for visitors to the park.~~

19 ~~—— (b)(1) The lease may be executed pursuant to the solicitation of bids or~~  
20 ~~pursuant to negotiation without bids as may be determined by the commission.~~

21 ~~—— (2) The lease may include such area of the park lands and may provide for~~  
22 ~~such royalty payments on the production of diamonds as the commission may deem~~  
23 ~~appropriate.~~

24 ~~—— (c) The authority granted the commission in this section shall be~~  
25 ~~exclusive and neither the provisions of §§ 22-5-801 - 22-5-813 nor any other~~  
26 ~~provisions of law shall be applicable with respect to the leasing of lands in~~  
27 ~~the Crater of Diamonds State Park for the exploration for and production of~~  
28 ~~diamonds.~~

29 ~~—— (d) If a lease is executed by the commission for the exploration and~~  
30 ~~production of diamonds at the Crater of Diamonds State Park as authorized in~~  
31 ~~this section by this act and all other provisions of the laws of this state,~~  
32 ~~the first two hundred thousand dollars (\$200,000) of the royalty payments~~  
33 ~~received by the commission under the lease shall be deposited by the~~  
34 ~~commission in the State Treasury as special revenues and credited to the~~  
35 ~~Crater of Diamonds State Park Improvement Fund, which is hereby created on the~~

1 books of the Treasurer of State, the Auditor of State and the Chief Fiscal  
2 Officer of the State and there to be used by the State Parks, Recreation, and  
3 Travel Commission for maintenance and improvements at the Crater of Diamonds  
4 State Park, as appropriations are available. The balance of the royalty  
5 payments shall be deposited by the commission in the State Treasury as special  
6 revenues and credited to the Arkansas State Parks Trust Fund, there to be used  
7 by the State Parks, Recreation, and Travel Commission, as appropriations are  
8 available. The commission shall annually expend at least ninety percent (90%)  
9 of the funds available for the purpose of development, preservation, and  
10 protection of the infrastructure in the existing state parks of Arkansas."

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12 SECTION 10. All provisions of this act of a general and permanent  
13 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
14 Code Revision Commission shall incorporate the same in the Code.

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16 SECTION 11. If any provision of this act or the application thereof to  
17 any person or circumstance is held invalid, such invalidity shall not affect  
18 other provisions or applications of the act which can be given effect without  
19 the invalid provision or application, and to this end the provisions of this  
20 act are declared to be severable.

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22 SECTION 12. All laws and parts of laws in conflict with this act are  
23 hereby repealed.

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*/s/Rep. Courtway*

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