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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 2896

(By Delegates Douglas, Kuhn, Perdue,
Prunty, Flanigan, Angotti and Ellem)

Passed April 14, 2001

In Effect Ninety Days from Passage

FILED

2001 MAY -2 A 11: 18

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H. B. 2896

(BY DELEGATES DOUGLAS, KUHN, PERDUE,
PRUNTY, FLANIGAN, ANGOTTI AND ELLEM)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and three, article seven, chapter twenty-two-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the oil and gas inspectors' examining board; removing minimum salary provisions; revising grievance procedures; revising procedures of appeal of suspension or dismissal; levels of grievance proceedings; and revising qualifications to serve on board.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article seven, chapter twenty-two-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 7. OIL AND GAS INSPECTORS' EXAMINING BOARD.

§ 22C-7-2. Oil and gas inspectors; eligibility for appointment; qualifications; salary; expenses; removal.

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1 (a) No person is eligible for appointment as an oil and gas
2 inspector or supervising inspector unless, at the time of his or
3 her probationary appointment, such person (1) is a citizen of
4 West Virginia, in good health, and of good character, reputation
5 and temperate habits; (2) has had at least six years' actual
6 relevant experience in the oil and gas industry: Provided, That
7 not exceeding three years of such experience shall be satisfied
8 by any combination of (i) a bachelor of science degree in
9 science or engineering which shall be considered the equivalent
10 of three years' actual relevant experience in the oil and gas
11 industry, (ii) an associate degree in petroleum technology which
12 shall be considered the equivalent of two years actual relevant
13 experience in the oil and gas industry, and (iii) actual relevant
14 environmental experience including, without limitation,
15 experience in wastewater, solid waste or reclamation each full
16 year of which shall be considered as a year of actual relevant
17 experience in the oil and gas industry; and (3) has good
18 theoretical and practical knowledge of oil and gas drilling and
19 production methods, practices and techniques, sound safety
20 practices and applicable mining laws.

21 (b) In order to qualify for appointment as an oil and gas
22 inspector or supervising inspector, an eligible applicant shall
23 submit to a written and oral examination by the oil and gas
24 inspectors' examining board and shall furnish such evidence of
25 good health, character and other facts establishing eligibility as
26 such board may require. If such board finds after investigation
27 and examination that an applicant (1) is eligible for appoint-
28 ment and (2) has passed all written and oral examinations, the
29 board shall add such applicant's name and grade to the register
30 of qualified eligible candidates and certify its action to the
31 director of the division of environmental protection. No
32 candidate's name may remain on the register for more than
33 three years without re-qualifying.

34 (c) Within the limits provided by law, the salary of each
35 inspector and of the supervising inspector shall be fixed by the
36 director, and the oil and gas inspectors' examining board may
37 make recommendations for salary determinations. In fixing
38 salaries of the oil and gas inspectors and of the supervising
39 inspector, the director shall consider ability, performance of
40 duty and experience. Inspectors and supervising inspectors are
41 entitled to mileage expense reimbursement at the rate estab-
42 lished for in-state travel of public employees, in the governor's
43 travel rules, as administered by the department of administra-
44 tion. No reimbursement for traveling expenses may be made
45 except upon an itemized account of such expenses submitted by
46 the inspector or supervising inspector, as the case may be, who
47 shall verify, upon oath, that such expenses were actually
48 incurred in the discharge of official duties.

49 (d)(1) For grievances concerning matters other than suspen-
50 sion or dismissal, inspectors may file written grievances in
51 accordance with the procedures set forth article six-a, chapter
52 twenty-nine, of this code. For a level one grievance, the
53 inspector shall file the grievance with the supervising inspector.
54 For a level two grievance, the inspector shall file the grievance
55 with the chief of the office of oil and gas.

56 (2) An inspector or the supervising inspector, after having
57 received a permanent appointment, shall be suspended or
58 dismissed by the chief of the office of oil and gas only for
59 physical or mental impairment, incompetency, neglect of duty,
60 drunkenness, malfeasance in office or other good cause.

61 (3) Not less than twenty reputable citizens engaged in oil
62 and gas drilling and production operations in the state may
63 petition the chief of the office of oil and gas for the dismissal of
64 an inspector or the supervising inspector. If such petition is
65 verified by at least one of the petitioners, based on actual
66 knowledge of the affiant, and alleges facts which, if true,

67 warrant the removal of the inspector or supervising inspector,
68 the chief shall cause an investigation of the facts to be made. If,
69 after such investigation, the chief finds that there is substantial
70 evidence which, if true, warrants dismissal of the inspector or
71 supervising inspector, the chief shall bring the petition before
72 the oil and gas inspectors' examining board requesting dis-
73 missal of the inspector or supervising inspector.

74 (4) A level three grievance is a hearing before the board to
75 consider the appeal of a level two grievance, the appeal of
76 suspension or dismissal by the chief, or a citizens' petition
77 seeking dismissal of an inspector or supervising inspector. For
78 any level three grievance, the chief may not preside over the
79 hearing and may not vote. The remaining members of the board
80 shall select a member of the board to serve as acting chair, who
81 may not vote.

82 (5) An appeal of an inspector from a suspension or dis-
83 missal by the chief may be filed by the end of the tenth day
84 following the suspension or dismissal notwithstanding the time
85 limits and requirements set forth in subsection c, section four,
86 article six-a of chapter twenty-nine of this code.

87 (6) On receipt of an appeal of a level two grievance, an
88 appeal of suspension or dismissal by the chief, or a citizens'
89 petition seeking dismissal of an inspector or the supervising
90 inspector, the oil and gas inspectors' examining board shall
91 promptly notify the inspector or supervising inspector, as the
92 case may be, to appear before it at a time and place designated
93 in said notice, which time shall be not less than fifteen days nor
94 more than thirty days thereafter notwithstanding the time limits
95 and requirements set forth in subsection c, section four, article
96 six-a of chapter twenty-nine of this code. There shall be
97 attached to the copy of the notice served upon the inspector or
98 supervising inspector a copy of the appeal or petition filed with
99 such board.

100 (7) At the time and place designated in said notice, the oil
101 and gas inspectors' examining board shall conduct a level three
102 grievance proceeding in which the testimony shall be recorded
103 to enable a transcript to be prepared for any further appeal. The
104 board shall hear all evidence offered in support of the appeal or
105 petition and on behalf of the inspector or supervising inspector.
106 Each witness shall be sworn and a transcript shall be made of
107 all evidence taken and proceedings had at any such hearing. No
108 continuance may be granted except for good cause shown.

109 (8) The acting chair of the board may administer oaths and
110 subpoena witnesses.

111 (9) An inspector or supervising inspector who willfully
112 refuses or fails to appear before such board, or having appeared,
113 refuses to answer under oath any relevant question on the
114 ground that the inspector's testimony or answer might incrimi-
115 nate such inspector, or refuses to accept a grant of immunity
116 from prosecution on account of any relevant matter about which
117 the inspector may be asked to testify at such hearing before
118 such board, forfeits the inspector's position notwithstanding any
119 provisions to the contrary in section six, article six-a, chapter
120 twenty-nine of this code.

121 (10) If, after hearing, the oil and gas inspectors' examining
122 board finds that the inspector or supervising inspector should be
123 suspended, dismissed or otherwise disciplined, it shall enter an
124 order to that effect. An appeal of the decision of the board shall
125 proceed as a level four proceeding under the provisions of
126 subsection d, section four, article six-a, chapter twenty-nine.
127 The provisions of subsection (e) of that section regarding an
128 expedited grievance shall not apply to oil and gas inspectors.

**§ 22C-7-3. Oil and gas inspectors' examining board created;
composition; appointment, term and compensa-
tion of members; meetings; powers and duties
generally.**

1 (a) (1) There is hereby continued an oil and gas inspectors'
2 examining board consisting of five members, two of whom
3 shall be ex officio members and three of whom shall be
4 appointed by the governor, by and with the advice and consent
5 of the Senate. Appointed members may be removed only for the
6 same causes and like manner as elective state officers. One
7 member of the board shall be the representative of the public at
8 large and shall be a person who is knowledgeable about the
9 subject matter of this article and has no direct financial interest
10 in oil and gas production other than the receipt of royalty
11 payments which do not exceed ten percent of his or her annual
12 income and who by reason of previous training or experience
13 may reasonably be said to represent the viewpoint of surface
14 owners or environmental organizations: *Provided*, That the
15 public member serving on the board on the first day of January,
16 two thousand one, shall remain on the board until the expiration
17 of his term and is also eligible for reappointment. One member
18 shall be a person who by reason of previous training and
19 experience may reasonably be said to represent the viewpoint
20 of independent oil and gas operators. One member shall be a
21 person who by reason of previous training and experience may
22 reasonably be said to represent the viewpoint of major oil and
23 gas producers.

24 (2) The chief of the office of oil and gas of the division of
25 environmental protection and the chief of the office of water
26 resources of the division of environmental protection or their
27 designees shall be ex officio members.

28 (3) The appointed members of the board shall be appointed
29 for overlapping terms of six years, except that the original
30 appointments shall be for terms of two, four and six years,
31 respectively. Any member whose term expires may be reap-
32 pointed by the governor.

33 (4) The board shall pay each member the same compensa-
34 tion and expense reimbursement as is paid to members of the
35 legislature for their interim duties as recommended by the
36 citizens legislative compensation commission and authorized
37 by law for each day or portion thereof engaged in the discharge
38 of official duties.

39 (5) The chief of the office of oil and gas or the chief's
40 designee serving pursuant to subdivision two of this subsection
41 shall serve as chair of the board: *Provided*, That for any level
42 three grievance proceeding the chief or the chief's designee
43 may not serve as a chair or vote. The board shall elect a
44 secretary from its members.

45 (6) Members of the board, before performing any duty,
46 shall take and subscribe to the oath required by section five,
47 article IV of the constitution of West Virginia.

48 (7) The board shall meet at such times and places as shall
49 be designated by the chair. It is the duty of the chair to call a
50 meeting of the board on the written request of two members.
51 Notice of each meeting shall be given in writing to each
52 member by the secretary at least five days in advance of the
53 meeting. A majority of members is a quorum for the transaction
54 of business.

55 (b) In addition to other powers and duties expressly set
56 forth elsewhere in this article, the board shall:

57 (1) Establish, and from time to time revise, forms of
58 application for employment as an oil and gas inspector and
59 supervising inspector, which shall include the applicant's social
60 security number, and forms for written examinations to test the
61 qualifications of candidates, with such distinctions, if any, in
62 the forms for oil and gas inspector and supervising inspector as
63 the board may from time to time deem necessary or advisable;

64 (2) Adopt and promulgate reasonable rules relating to the
65 examination, qualification and certification of candidates for
66 appointment, and relating to hearings for removal of inspectors
67 or the supervising inspector, required to be held by this article.
68 All of such rules shall be printed and a copy thereof furnished
69 by the secretary of the board to any person upon request;

70 (3) Conduct, after public notice of the time and place
71 thereof, examinations of candidates for appointment. By
72 unanimous agreement of all members of the board, one or more
73 members of the board or an employee of the division of
74 environmental protection may be designated to give to a
75 candidate the written portion of the examination;

76 (4) Prepare and certify to the director of the division of
77 environmental protection a register of qualified eligible
78 candidates for appointment as oil and gas inspectors or as
79 supervising inspectors, with such differentiation, if any,
80 between the certification of candidates for oil and gas inspec-
81 tors and for supervising inspectors as the board may from time
82 to time consider necessary or advisable. The register shall list
83 all qualified eligible candidates in the order of their grades, the
84 candidate with the highest grade appearing at the top of the list.
85 After each meeting of the board held to examine such candi-
86 dates and at least annually, the board shall prepare and submit
87 to the director of the division of environmental protection a
88 revised and corrected register of qualified eligible candidates
89 for appointment, deleting from such revised register all persons:
90 (a) Who are no longer residents of West Virginia; (b) who have
91 allowed a calendar year to expire without, in writing, indicating
92 their continued availability for such appointment; (c) who have
93 been passed over for appointment for three years; (d) who have
94 become ineligible for appointment since the board originally
95 certified that such persons were qualified and eligible for
96 appointment; or (e) who, in the judgment of at least three

97 members of the board, should be removed from the register for
98 good cause;

99 (5) Cause the secretary of the board to keep and preserve
100 the written examination papers, manuscripts, grading sheets and
101 other papers of all applicants for appointment for such period
102 of time as may be established by the board. Specimens of the
103 examinations given, together with the correct solution of each
104 question, shall be preserved permanently by the secretary of the
105 board;

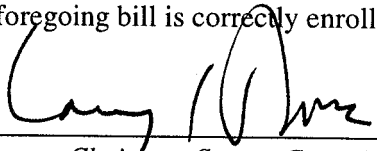
106 (6) Issue a letter or written notice of qualification to each
107 successful eligible candidate;

108 (7) Hear and determine proceedings for the suspension,
109 dismissal or other discipline of inspectors or the supervising
110 inspector in accordance with the provisions of this article;

111 (8) Make an annual report to the governor concerning the
112 administration of oil and gas inspection personnel in the state
113 service; making such recommendations as the board considers
114 to be in the public interest; and

115 (9) Render such advice and assistance to the director of the
116 division of environmental protection as the director shall from
117 time to time determine necessary or desirable in the perfor-
118 mance of such duties.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



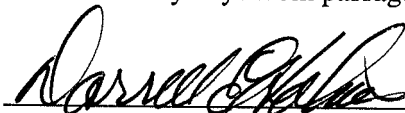
Chairman Senate Committee



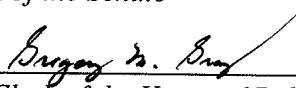
Chairman House Committee

Originating in the House.

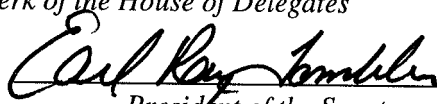
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

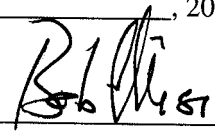


President of the Senate



Speaker of the House of Delegates

The within is approved this the 1st
day of May, 2001.



Governor

PRESENTED TO THE

GOVERNOR

Date 4/27/01

Time 4:20 pm