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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



ENROLLED

House Bill No. 2901

(By Delegates Caputo, Butcher, Tucker, Kuhn,
Frederick, Fletcher and Coleman)



Passed April 13, 2001

In Effect Ninety Days from Passage

FILED

2001 MAY -2 P 7:40

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H. B. 2901

(BY DELEGATES CAPUTO, BUTCHER, TUCKER, KUHN,
FREDERICK, FLETCHER AND COLEMAN)

[Passed April 13, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article six, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to membership of the board of coal mine health and safety; and setting forth new provisions regarding the method and nomination of members.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. BOARD OF COAL MINE HEALTH AND SAFETY.

§22A-6-3. Board continued; membership; method of nomination and appointment; meetings; vacancies; quorum.

1 (a) The board of coal mine health and safety, heretofore
2 established, is continued as provided by this article. The board

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3 consists of seven members who are residents of this state, and
4 who are appointed as hereinafter specified in this section:

5 (1) The governor shall appoint, by and with the advice and
6 consent of the Senate, three members to represent the viewpoint
7 of those operators in this state. When such members are to be
8 appointed, the governor shall request from the major trade
9 association representing operators in this state a list of three
10 nominees for each such position on the board. All such nomi-
11 nees shall be persons with special experience and competence
12 in health and safety. There shall be submitted with such list a
13 summary of the qualifications of each nominee. If the full lists
14 of nominees are submitted in accordance with the provisions of
15 this subdivision, the governor shall make the appointments
16 from the persons so nominated. For purposes of this subdivi-
17 sion, the major trade association representing operators in this
18 state is that association which represents operators accounting
19 for over one half of the coal produced in mines in this state in
20 the year prior to the year in which the appointment is to be
21 made.

22 (2) The governor shall appoint, by and with the advice and
23 consent of the Senate, three members who can reasonably be
24 expected to represent the viewpoint of the working miners of
25 this state. When members are to be appointed, the governor
26 shall request from the major employee organization represent-
27 ing coal miners within this state a list of three nominees for
28 each position on the board. The highest ranking official within
29 the major employee organization representing coal miners
30 within this state shall submit a list of three nominees for each
31 such position on the board. The nominees shall have a back-
32 ground in health and safety. The governor shall make the
33 appointments from the requested list of nominees.

34 (3) All appointments made by the governor under the
35 provisions of subdivisions (1) and (2), of this subsection shall
36 be with the advice and consent of the Senate.

37 (4) The seventh member of the board is the director of the
38 office of miners' health, safety and training, or his or her
39 designee, who serves as chair of the board as an ex officio
40 nonvoting member, except that the director may vote if there is
41 a tie vote when the board is acting pursuant to subsection (e),
42 section four of this article or subdivision (3), subsection (f),
43 section seven of this article. The director shall furnish to the
44 board such secretarial, clerical, technical, research and other
45 services as are necessary to the conduct of the business of the
46 board, not otherwise furnished by the board.

47 (b) Members serving on the board on the effective date of
48 this article may continue to serve until the expiration of their
49 terms. Thereafter, members shall be nominated and appointed
50 in the manner provided for in this section and shall serve for a
51 term of three years. Members are eligible for reappointment.

52 (c) On or after the first day of January, two thousand two,
53 the governor shall appoint, subject to the approval of a majority
54 of the members of the board appointed under subdivisions (1)
55 and (2), subsection (a) of this section, a health and safety
56 administrator in accordance with the provisions of section six
57 of this article, who shall certify all official records of the board.
58 The health and safety administrator shall be a full-time officer
59 of the board of coal mine health and safety with the duties
60 provided for in section six of this article. The health and safety
61 administrator shall have such education and experience as the
62 governor deems necessary to properly investigate areas of
63 concern to the board in the development of rules governing
64 mine health and safety. The governor shall appoint as health
65 and safety administrator a person who has an independent and
66 impartial viewpoint on issues involving mine safety. The health
67 and safety administrator shall be a person who has not been
68 during the two years immediately preceding appointment, and
69 is not during his or her term, an officer, trustee, director,
70 substantial shareholder, contractor, consultant or employee of

71 any coal operator, or an employee or officer of an employee
72 organization or a spouse of any such person. The health and
73 safety administrator shall have the expertise to draft proposed
74 rules and shall prepare such rules as are required by this code
75 and on such other areas as will improve coal mine health and
76 safety.

77 (d) The board shall meet at least once during each calendar
78 month, or more often as may be necessary, and at other times
79 upon the call of the chair, or upon the request of any three
80 members of the board. Under the direction of the board, the
81 health and safety administrator shall prepare an agenda for each
82 board meeting giving priority to the promulgation of rules as
83 may be required from time to time by this code, and as may be
84 required to improve coal mine health and safety. The health and
85 safety administrator shall provide each member of the board
86 with notice of the meeting and the agenda as far in advance of
87 the meeting as practical, but in any event, at least five days
88 prior thereto. No meeting of the board shall be conducted unless
89 said notice and agenda are given to the board members at least
90 five days in advance, as provided herein, except in cases of
91 emergency, as declared by the chair, in which event members
92 shall be notified of the board meeting and the agenda in a
93 manner to be determined by the chair: *Provided*, That upon
94 agreement of a majority of the quorum present, any scheduled
95 meeting may be ordered recessed to another day certain without
96 further notice of additional agenda.

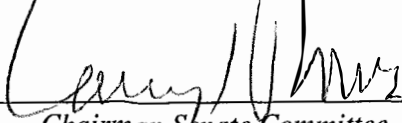
97 When proposed rules are to be finally adopted by the board,
98 copies of such proposed rules shall be delivered to members not
99 less than five days before the meeting at which such action is to
100 be taken. If not so delivered, any final adoption or rejection of
101 rules shall be considered on the second day of a meeting of the
102 board held on two consecutive days, except that by the concur-
103 rence of at least four members of the board, the board may
104 suspend this rule of procedure and proceed immediately to the

105 consideration of final adoption or rejection of rules. When a
106 member fails to appear at three consecutive meetings of the
107 board or at one half of the meetings held during a one-year
108 period, the health and safety administrator shall notify the
109 member and the governor of such fact. Such member shall be
110 removed by the governor unless good cause for absences is
111 shown.

112 (e) Whenever a vacancy on the board occurs, nominations
113 and appointments shall be made in the manner prescribed in this
114 section: *Provided*, That in the case of an appointment to fill a
115 vacancy, nominations of three persons for each such vacancy
116 shall be requested by and submitted to the governor within
117 thirty days after the vacancy occurs by the major trade associa-
118 tion or major employee organization, if any, which nominated
119 the person whose seat on the board is vacant. The vacancy shall
120 be filled by the governor within thirty days of his receipt of the
121 list of nominations.

122 (f) A quorum of the board is five members which shall
123 include the director of the office of miners' health, safety and
124 training, or his or her designee, at least two members represent-
125 ing the viewpoint of operators and at least two members
126 representing the viewpoint of the working miners, and the board
127 may act officially by a majority of those members who are
128 present, except that no vote of the board may be taken unless all
129 seven members are present.

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



Chairman Senate Committee



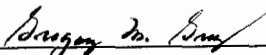
Chairman House Committee

Originating in the House.

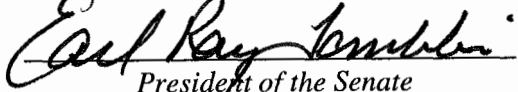
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Clerk of the Senate



Clerk of the House of Delegates

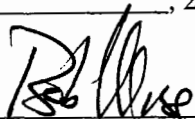


President of the Senate



Speaker of the House of Delegates

The within is appended this the 2nd
day of May, 2001.



Governor

PRESENTED TO THE

GOVERNOR

Date

4/24/01

Time

4:58 pm