

1 such offices, sections, agencies and other units of activity as may
2 be found by the secretary to be desirable for the orderly,
3 efficient and economical administration of the department and for
4 the accomplishment of its objects and purposes. The secretary may
5 appoint a deputy secretary, chief of staff, assistants, hearing
6 officers, clerks, stenographers and other officers, technical
7 personnel and employees needed for the operation of the department
8 and may prescribe their powers and duties and fix their
9 compensation within amounts appropriated.

10 (b) The secretary ~~has the power to~~ and may designate
11 supervisory officers or other officers or employees of the
12 department to substitute for him or her on any board or commission
13 established under this code or to sit in his or her place in any
14 hearings, appeals, meetings or other activities with such
15 substitute having the same powers, duties, authority and
16 responsibility as the secretary. The secretary ~~has the power to~~
17 may delegate, as he or she considers appropriate, to supervisory
18 officers or other officers or employees of the department his or
19 her powers, duties, authority and responsibility relating to
20 issuing permits, hiring and training inspectors and other employees
21 of the department, conducting hearings and appeals and such other
22 duties and functions set forth in this chapter or elsewhere in this
23 code.

24 (c) The secretary has responsibility for the conduct of the

1 intergovernmental relations of the department, including assuring:

2 (1) That the department carries out its functions in a manner
3 which supplements and complements the environmental policies,
4 programs and procedures of the federal government, other state
5 governments and other instrumentalities of this state; and

6 (2) That appropriate officers and employees of the department
7 consult with individuals responsible for making policy relating to
8 environmental issues in the federal government, other state
9 governments and other instrumentalities of this state concerning
10 differences over environmental policies, programs and procedures
11 and concerning the impact of statutory law and rules upon the
12 environment of this state.

13 (d) In addition to other powers, duties and responsibilities
14 granted and assigned to the secretary by this chapter, the
15 secretary is authorized and empowered to:

16 (1) Sign and execute in the name of the state by the
17 Department of Environmental Protection any contract or agreement
18 with the federal government or its departments or agencies,
19 subdivisions of the state, corporations, associations, partnerships
20 or individuals. ~~Provided, That~~ However, the powers granted to the
21 secretary to enter into agreements or contracts and to make
22 expenditures and obligations of public funds under this subdivision
23 may not exceed or be interpreted as authority to exceed the powers
24 granted by the Legislature to the various commissioners, directors

1 or board members of the various departments, agencies or boards
2 that comprise and are incorporated into each secretary's department
3 pursuant to the provisions of chapter five-f of this code;

4 (2) Conduct research in improved environmental protection
5 methods and disseminate information to the citizens of this state;

6 (3) Enter private lands to make surveys and inspections for
7 environmental protection purposes; to investigate for violations of
8 statutes or rules which the department is charged with enforcing;
9 to serve and execute warrants and processes; to make arrests; issue
10 orders, which for the purposes of this chapter include consent
11 agreements; and to otherwise enforce the statutes or rules which
12 the department is charged with enforcing;

13 (4) Require any applicant or holder of a permit to install,
14 establish, modify, operate or close a solid waste facility to
15 furnish the fingerprints of the applicant or permittee; any
16 officer, director or manager of the applicant or permittee; any
17 person owning a five percent or more interest, beneficial or
18 otherwise, in the applicant's or permittee's business; or any other
19 person conducting or managing the affairs of the applicant or
20 permittee or of the proposed licensed premises, in whole or in
21 part. These fingerprints may be used to obtain and review any
22 police record for the purposes set may be relevant pursuant to
23 section five, article fifteen of this chapter, and to use the
24 fingerprints furnished to conduct a criminal records check through

1 the Criminal Identification Bureau of the West Virginia State
2 Police and a national criminal history check through the Federal
3 Bureau of Investigation. The results of the checks shall be
4 provided to the secretary.

5 (5) Acquire for the state in the name of the Department of
6 Environmental Protection by purchase, condemnation, lease or
7 agreement, or accept or reject for the state, in the name of the
8 Department of Environmental Protection, gifts, donations,
9 contributions, bequests or devises of money, security or property,
10 both real and personal, and any interest in property;

11 (6) Provide for workshops, training programs and other
12 educational programs, apart from or in cooperation with other
13 governmental agencies, necessary to ensure adequate standards of
14 public service in the department. The secretary may provide for
15 technical training and specialized instruction of any employee.
16 Approved educational programs, training and instruction time may be
17 compensated for as a part of regular employment. The secretary is
18 authorized to pay out of federal or state funds, or both, as such
19 funds are available, fees and expenses incidental to the
20 educational programs, training and instruction. Eligibility for
21 participation by employees shall be in accordance with guidelines
22 established by the secretary;

23 (7) Issue certifications required under 33 U. S. C. §1341 of
24 the Federal Clean Water Act and enter into agreements in accordance

1 with the provisions of section seven-a, article eleven of this
2 chapter. Prior to issuing any certification the secretary shall
3 solicit from the Division of Natural Resources reports and comments
4 concerning the possible certification. The Division of Natural
5 Resources shall direct the reports and comments to the secretary
6 for consideration; and

7 (8) Notwithstanding any provisions of this code to the
8 contrary, employ in-house counsel to perform all legal services for
9 the secretary and the department, including, but not limited to,
10 representing the secretary, any chief, the department or any office
11 thereof in any administrative proceeding or in any proceeding in
12 any state or federal court. Additionally, the secretary may call
13 upon the Attorney General for legal assistance and representation
14 as provided by law.

15 (e) The secretary shall be appointed by the Governor, by and
16 with the advice and consent of the Senate, and serves at the will
17 and pleasure of the Governor.

18 (f) At the time of his or her initial appointment, the
19 secretary must be at least thirty years old and shall be selected
20 with special reference and consideration given to his or her
21 administrative experience and ability, to his or her demonstrated
22 interest in the effective and responsible regulation of the energy
23 industry and the conservation and wise use of natural resources.
24 The secretary must have at least a bachelor's degree in a related

1 field and at least three years of experience in a position of
2 responsible charge in at least one discipline relating to the
3 duties and responsibilities for which the secretary will be
4 responsible upon assumption of the office. The secretary may not
5 be a candidate for or hold any other public office, may not be a
6 member of any political party committee and shall immediately
7 forfeit and vacate his or her office as secretary in the event he
8 or she becomes a candidate for or accepts appointment to any other
9 public office or political party committee.

10 (g) The secretary shall receive an annual salary as provided
11 in section two-a, article seven, chapter six of this code and is
12 allowed and shall be paid necessary expenses incident to the
13 performance of his or her official duties. Prior to the assumption
14 of the duties of his or her office, the secretary shall take and
15 subscribe to the oath required of public officers prescribed by
16 section five, article IV of the Constitution of West Virginia and
17 shall execute a bond, with surety approved by the Governor, in the
18 penal sum of \$10,000, which executed oath and bond will be filed in
19 the Office of the Secretary of State. Premiums on the bond shall
20 be paid from the department funds.

21 (h) Notwithstanding any other provision of this code to the
22 contrary, any coal mining permit application pursuant to this
23 chapter shall be finalized by the Department of Environmental
24 Protection within six months after the applicant provides all

1 information required for a final decision to be made on the coal
2 mining permit application.

NOTE: This bill provides that all final actions by the Department of Environmental Protection regarding coal mine permits be completed within six months after the applicant provides all information required for a final decision to be made on the application for a coal mining permit.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.