

1 **H. B. 2862**

2
3 (By Delegates D. Poling, Campbell, Skaff,
4 Diserio and R. Phillips)

5
6 (By Request of the Department of Environmental Protection)

7 [Introduced March 7, 2013; referred to the
8 Committee on Energy, Industry and Labor, Economic
9 Development then the Judiciary.]

10
11 A BILL to amend and reenact §22-3-20 and §22-3-21 of the Code of
12 West Virginia, 1931, as amended, all relating to informal
13 conferences on surface mining permit applications; extending
14 time to hold informal conferences; and extending time from an
15 informal conference in which the secretary must issue or deny
16 a surface-mining permit.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §22-3-20 and §22-3-21 of the Code of West Virginia, 1931,
19 as amended, be amended and reenacted, all to read as follows:

20 **ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.**

21 **§22-3-20. Public notice; written objections; public hearings;**
22 **informal conferences.**

23 (a) At the time of submission of an application for a surface-
24 mining permit or a significant revision of an existing permit
25 pursuant to the provisions of this article, the applicant shall

1 submit to the ~~division~~ department a copy of the required
2 advertisement. At the time of submission, the applicant shall
3 place the advertisement in a local newspaper of general circulation
4 in the county of the proposed surface-mining operation at least
5 once a week for four consecutive weeks. The ~~director~~ secretary
6 shall notify various appropriate federal and state agencies as well
7 as local governmental bodies, planning agencies and sewage and
8 water treatment authorities or water companies in the locality in
9 which the proposed surface-mining operation will take place,
10 notifying them of the operator's intention to mine on a
11 particularly described tract of land and indicating the application
12 number and where a copy of the proposed mining and reclamation plan
13 may be inspected. These local bodies, agencies, authorities or
14 companies may submit written comments within a reasonable period
15 established by the ~~director~~ secretary on the mining application
16 with respect to the effect of the proposed operation on the
17 environment which is within their area of responsibility. Such
18 comments shall be immediately transmitted by the ~~director~~ secretary
19 to the applicant and to the appropriate office of the ~~division~~
20 department. The ~~director~~ secretary shall provide the name and
21 address of each applicant to the Commissioner of the Division of
22 Labor who shall within fifteen days from receipt notify the
23 ~~director~~ secretary as to the applicant's compliance, if necessary,
24 with section fourteen, article five, chapter twenty-one of this

1 code.

2 (b) Any person having an interest which is or may be adversely
3 affected, or the officer or head of any federal, state or local
4 governmental agency, has the right to file written objections to
5 the proposed initial or revised permit application for a surface-
6 mining operation with the ~~director~~ secretary within thirty days
7 after the last publication of the advertisement required in
8 subsection (a) of this section. Such objections shall be
9 immediately transmitted to the applicant by the ~~director~~ secretary
10 and shall be made available to the public. If written objections
11 are filed and an informal conference requested within thirty days
12 of the last publication of the above notice, the ~~director~~ secretary
13 shall then hold a conference in the locality of the proposed mining
14 within ~~three weeks~~ a reasonable time after the close of the public
15 comment period. Those requesting the conference shall be notified
16 and the date, time and location of the informal conference shall
17 also be advertised by the ~~director~~ secretary in a newspaper of
18 general circulation in the locality at least two weeks prior to the
19 scheduled conference date. The ~~director~~ secretary may arrange with
20 the applicant, upon request by any party to the conference
21 proceeding, access to the proposed mining area for the purpose of
22 gathering information relevant to the proceeding. An electronic or
23 stenographic record shall be made of the conference proceeding
24 unless waived by all parties. ~~Such~~ The record shall be maintained

1 and shall be accessible to the parties at their respective expense
2 until final release of the applicant's bond or other security
3 posted in lieu thereof. The ~~director's~~ secretary's authorized
4 agent ~~will~~ shall preside over the conference. In the event all
5 parties requesting the informal conference stipulate agreement
6 prior to the conference and withdraw their request, a conference
7 need not be held.

8 **§22-3-21. Decision of secretary on permit application; hearing**
9 **thereon.**

10 (a) If an informal conference has been held, the ~~director~~
11 secretary shall issue and furnish the applicant for a permit and
12 persons who were parties to the informal conference with the
13 written finding granting or denying the permit, in whole or in
14 part, and stating the reasons therefor within ~~thirty~~ sixty days of
15 the informal conference, notwithstanding the requirements of
16 subsection (a), section eighteen of this article.

17 (b) If the application is approved, the permit shall be
18 issued. If the application is disapproved, specific reasons
19 therefor must be set forth in the notification. Within thirty days
20 after the applicant is notified of the ~~director's~~ secretary's
21 decision, the applicant or any person with an interest which is or
22 may be adversely affected may request a hearing before the Surface
23 Mine Board as provided in article one, chapter twenty-two-b of this
24 code to review the ~~director's~~ secretary's decision.

NOTE: The purpose of this bill is to extend from three weeks to a reasonable time after the close of the public comment period the time in which the Department of Environmental Protection must hold an informal conference on a surface-mining permit application and extends from 30 days to 60 days from the informal conference the time in which the secretary must issue or deny a surface-mining permit.

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