

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Introduced**

**Senate Bill 488**

BY SENATOR MAYNARD

[Introduced January 15, 2020; referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §22C-9-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to membership of Oil and Gas Conservation Commission; revising qualifications of a  
 3 certain appointed member; and making technical changes.

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

**ARTICLE 9. OIL AND GAS CONSERVATION.**

**§22C-9-4. Oil and gas conservation commissioner and commission; commission membership; qualifications of members; terms of members; vacancies on commission; meetings; compensation and expenses; appointment and qualifications of commissioner; general powers and duties.**

1 (a) The “oil and gas conservation commission” shall be composed of five members. The  
 2 director of the Department of Environmental Protection and the chief of the office of oil and gas  
 3 shall be members of the commission ex officio. The remaining three members of the commission  
 4 shall be appointed by the Governor, by and with the advice and consent of the Senate, and may  
 5 not be employees of the Department of Environmental Protection. Of the three members  
 6 appointed by the Governor, one shall be an independent producer and at least one shall be a  
 7 public member not engaged in an activity under the jurisdiction of the Public Service Commission  
 8 or the federal energy regulatory commission. The third appointee shall possess ~~a degree from an~~  
 9 ~~accredited college or university in petroleum engineering or geology and must be a registered~~  
 10 ~~professional engineer with particular~~ knowledge and experience in the oil and gas industry and  
 11 shall serve as commissioner and as chair of the commission.

12 (b) The members of the commission appointed by the Governor shall be appointed for  
 13 overlapping terms of six years each, except that the original appointments shall be for terms of  
 14 two, four, and six years, respectively. Each member appointed by the Governor shall serve until  
 15 the members successor has been appointed and qualified. Members may be appointed by the  
 16 Governor to serve any number of terms. The members of the commission appointed by the  
 17 Governor, before performing any duty hereunder, shall take and subscribe to the oath required

18 by section 5, article IV of the Constitution of West Virginia. Vacancies in the membership  
19 appointed by the Governor shall be filled by appointment by the Governor for the unexpired term  
20 of the member whose office is vacant and such appointment shall be made by the Governor within  
21 60 days of the occurrence of such vacancy. Any member appointed by the Governor may be  
22 removed by the Governor in case of incompetency, neglect of duty, gross immorality, or  
23 malfeasance in office. A commission member's appointment shall be terminated as a matter of  
24 law if that member fails to attend three consecutive meetings. The Governor shall appoint a  
25 replacement within 30 days of the termination.

26 (c) The commission shall meet at such times and places as shall be designated by the  
27 chair. The chair may call a meeting of the commission at any time, and shall call a meeting of the  
28 commission upon the written request of two members or upon the written request of the oil and  
29 gas conservation commissioner or the chief of the office of oil and gas. Notification of each  
30 meeting shall be given in writing to each member by the chair at least 14 calendar days in advance  
31 of the meeting. Three members of the commission, at least two of whom are appointed members,  
32 shall constitute a quorum for the transaction of any business.

33 (d) The commission shall pay each member the same compensation as is paid to  
34 members of the Legislature for their interim duties as recommended by the citizens legislative  
35 compensation commission and authorized by law for each day or portion thereof engaged in the  
36 discharge of official duties and shall reimburse each member for actual and necessary expenses  
37 incurred in the discharge of official duties.

38 (e) The commission is hereby empowered, and it is the commission's duty to execute and  
39 carry out, administer, and enforce the provisions of this article in the manner provided herein.  
40 Subject to the provisions of §22C-9-3 of this code, the commission has jurisdiction and authority  
41 over all persons and property necessary therefor. The commission is authorized to make such  
42 investigation of records and facilities as the commission deems proper. In the event of a conflict  
43 between the duty to prevent waste and the duty to protect correlative rights, the commission's

44 duty to prevent waste shall be paramount.

45 (f) Without limiting the commission's general authority, the commission shall have specific  
46 authority to:

47 (1) Regulate the spacing of deep wells;

48 (2) Make and enforce reasonable rules and orders reasonably necessary to prevent  
49 waste, protect correlative rights, govern the practice and procedure before the commission, and  
50 otherwise administer the provisions of this article;

51 (3) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the  
52 production of any books, records, maps, charts, diagrams, and other pertinent documents, and  
53 administer oaths and affirmations to such witnesses, whenever, in the judgment of the  
54 commission, it is necessary to do so for the effective discharge of the commission's duties under  
55 the provisions of this article; and

56 (4) Serve as technical advisor regarding oil and gas to the Legislature, its members and  
57 committees, to the chief of office of oil and gas, to the Department of Environmental Protection  
58 and to any other agency of state government having responsibility related to the oil and gas  
59 industry.

60 (g) The commission may delegate to the commission staff the authority to approve or deny  
61 an application for new well permits, to establish drilling units or special field rules if:

62 (1) The application conforms to the rules of the commission; and

63 (2) No request for hearing has been received.

64 (h) The commission may not delegate its authority to:

65 (1) Propose legislative rules;

66 (2) Approve or deny an application for new well permits, to establish drilling units, or  
67 special field rules if the conditions set forth in subsection (g) of this section are not met; or

68 (3) Approve or deny an application for the pooling of interests within a drilling unit.

69 (i) Any exception to the field rules or the spacing of wells which does not conform to the

70 rules of the commission, and any application for the pooling of interests within a drilling unit, must  
71 be presented to and heard before the commission.

72 (j) The commission is hereby empowered, and it is the commission's duty to execute and  
73 carry out, administer, and enforce the relevant provisions of §37B-1-1 *et seq.* of this code  
74 concerning mineral development by covenants for all wells at all depths. The commission has  
75 jurisdiction and authority over all persons and property necessary therefor. The commission is  
76 authorized to make such investigation of records and facilities as the commission deems proper.

NOTE: The purpose of this bill is to eliminate the requirements that one of the appointed members of the oil and gas conservation commission be a registered professional engineer and have a degree in geology or petroleum engineering from an accredited university or college. The bill also makes technical changes to this section of code.

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