

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3051

BY DELEGATES MALLOW, LONGANACRE, KIMES AND

BARNHART

[Introduced March 10, 2021; Referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §22-6-2 the Code of West Virginia, 1931, as amended, relating to
 2 requiring the secretary of the Department of Environmental Protection to adopt rules
 3 relating to the standardization of leases, deeds or contracts relating to oil and gas,
 4 consistent in format with the purpose of making the terms of these documents less
 5 confusing to the landowners.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 6. OFFICE OF OIL AND GAS; OIL AND GAS WELLS; ADMINISTRATION;
 ENFORCEMENT.**

**§22-6-2. Secretary -- Powers and duties generally; department records open to public;
 inspectors.**

1 (a) The secretary shall have as his or her duty the supervision of the execution and
 2 enforcement of matters related to oil and gas set out in this article and in §22-6a-1 *et seq.*, §22-
 3 8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code.

4 (b) The secretary ~~is authorized to~~ may propose rules for legislative approval in accordance
 5 with ~~the provisions of~~ §29A-3-1 *et seq.* of this code necessary to effectuate the above stated
 6 purposes.

7 (c) The secretary shall have full charge of the oil and gas matters set out in this article and
 8 in §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of
 9 this code. In addition to all other powers and duties conferred upon him or her, the secretary shall
 10 ~~have the power and duty to:~~

11 (1) Supervise and direct the activities of the Office of Oil and Gas and see that the
 12 purposes set forth in subsections (a) and (b) of this section are carried out;

13 (2) Determine the number of supervising oil and gas inspectors and oil and gas inspectors
 14 needed to carry out the purposes of this article and §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et*
 15 *seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code and appoint them as such. All appointees

16 must be qualified civil service employees, but no person is eligible for appointment until he or she
17 has served in a probationary status for a period of six months to the satisfaction of the secretary;

18 (3) Supervise and direct such oil and gas inspectors and supervising inspectors in the
19 performance of their duties;

20 (4) Make investigations or inspections necessary to ensure compliance with and to enforce
21 the provisions of this article and §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et*
22 *seq.*, and §22-21-1 *et seq.* of this code;

23 (5) Prepare report forms to be used by oil and gas inspectors or the supervising inspector
24 in making their findings, orders, and notices, upon inspections made in accordance with this article
25 and §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of
26 this code;

27 (6) Employ a hearing officer and such clerks, stenographers, and other employees, as
28 may be necessary to carry out his or her duties and the purposes of the Office of Oil and Gas and
29 fix their compensation;

30 (7) Hear and determine applications made by owners, well operators and coal operators
31 for the annulment or revision of orders made by oil and gas inspectors or the supervising
32 inspector, and to make inspections, in accordance with the provisions of this article and articles
33 eight and nine of this chapter;

34 (8) Cause a properly indexed permanent and public record to be kept of all inspections
35 made by the secretary or by oil and gas inspectors or the supervising inspector;

36 (9) Conduct research and studies as the secretary ~~shall deem~~ determines necessary to
37 aid in protecting the health and safety of persons employed within or at potential or existing oil or
38 gas production fields within this state, to improve drilling and production methods and to provide
39 for the more efficient protection and preservation of oil- and gas-bearing rock strata and property
40 used in connection therewith;

41 (10) Collect a permit fee of \$400 for each permit application filed other than an application

42 for a deep well, horizontal wells regulated pursuant to §22-6A-1 *et seq.* of this code, or a coalbed
43 methane well; and collect a permit fee of \$650 for each permit application filed for a deep well:
44 *Provided, That* no permit application fee is required when an application is submitted solely for
45 the plugging or replugging of a well, or to modify an existing application for which the operator
46 previously has submitted a permit fee under this section. All application fees required hereunder
47 are in lieu of and not in addition to any fees imposed under §22-11-1 *et seq.* of this code relating
48 to discharges of stormwater but are in addition to any other fees required by the provisions of this
49 article: *Provided, however, That* upon a final determination by the United States Environmental
50 Protection Agency regarding the scope of the exemption under section 402(l)(2) of the federal
51 Clean Water Act (33 U.S.C. 1342(l)(2)), which determination requires a “national pollutant
52 discharge elimination system” permit for stormwater discharges from the oil and gas operations
53 described therein, any permit fees for stormwater permits required under §22-11-1 *et seq.* of this
54 code for such operations may not exceed \$100.

55 (11) Perform all other duties which are expressly imposed upon the secretary by the
56 provisions of this chapter;

57 (12) Perform all duties as the permit issuing authority for the state in all matters pertaining
58 to the exploration, development, production, storage and recovery of this state’s oil and gas;

59 (13) Adopt rules with respect to the issuance, denial, retention, suspension or revocation
60 of permits, authorizations and requirements of this chapter, which rules shall assure that the rules,
61 permits and authorizations issued by the secretary are adequate to satisfy the purposes of this
62 article and §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et*
63 *seq.* of this code particularly with respect to the consolidation of the various state and federal
64 programs which place permitting requirements on the exploration, development, production,
65 storage and recovery of this state’s oil and gas; ~~and~~

66 (14) Adopt rules, no later than July 1, 2021, with respect to the standardization of leases,
67 deeds or contracts relating to oil and gas, consistent in format with the purpose of making the

68 terms of these documents less confusing to the landowners. The rules shall also provide that all
69 leases, deeds or contracts relating to oil and gas, or renewals or extensions of any of these
70 documents dated after July 1, 2021, shall conform to these rules; and

71 (14) (15) Perform such acts as may be necessary or appropriate to secure to this state the
72 benefits of federal legislation establishing programs relating to the exploration, development,
73 production, storage and recovery of this state's oil and gas, which programs are assumable by
74 the State.

75 (d) The secretary ~~shall have authority to~~ may visit and inspect any well or well site and any
76 other oil or gas facility in this state and may call for the assistance of any oil and gas inspector or
77 inspectors or supervising inspector whenever such assistance is necessary in the inspection of
78 any such well or well site or any other oil or gas facility. Similarly, all oil and gas inspectors and
79 supervising inspectors ~~shall have authority to~~ may visit and inspect any well or well site and any
80 other oil or gas facility in this state. Such inspectors shall make all necessary inspections of oil
81 and gas operations required by this article and §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*,
82 §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code; administer and enforce all oil and gas laws
83 and rules; and perform other duties and services as may be prescribed by the secretary. The
84 inspectors shall note and describe all violations of this article and §22-6a-1 *et seq.*, §22-8-1 *et*
85 *seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code and promptly report
86 those violations to the secretary in writing, furnishing at the same time a copy of the report to the
87 operator concerned. Any well operator, coal operator operating coal seams beneath the tract of
88 land, or the coal seam owner or lessee, if any, if said owner or lessee is not yet operating said
89 coal seams beneath said tract of land may request the secretary to have an immediate inspection
90 made. The operator or owner of every well or well site or any other oil or gas facility shall cooperate
91 with the secretary, all oil and gas inspectors and the supervising inspector in making inspections
92 or obtaining information.

93 (e) Subject to ~~the provisions of~~ §29B-1-1 *et seq.* of this code, all records of the office shall

94 be open to the public.

NOTE: The purpose of this bill is to require the secretary of the Department of Environmental Protection to adopt rules relating to the standardization of leases, deeds or contracts relating to oil and gas, consistent in format with the purpose of making the terms of these documents less confusing to the landowners.

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