

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Originating

Senate Bill 714

BY SENATORS SMITH, PHILLIPS, BROWN, CAPUTO,
CLEMENTS, HAMILTON, JEFFRIES, NELSON, ROMANO,
SWOPE, AND SYPOLT

[Originating in the Committee on Energy, Industry,
and Mining; reported on February 23, 2022]

1 A BILL to amend and reenact §22A-6-7 of the Code of West Virginia, 1931, as amended, relating
2 to tie votes by the Coal Mine Safety and Technical Review Committee; and providing that
3 the Director of the Office of Miners' Health, Safety, and Training or his or her designee
4 may vote to break the tie.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. BOARD OF COAL MINE HEALTH AND SAFETY.

§22A-6-7. Coal Mine Safety and Technical Review Committee; membership; method of nomination and appointment; meetings; quorum; powers and duties of the committee; powers and duties of the Board of Coal Mine Health and Safety.

1 (a) The State Coal Mine Safety and Technical Review Committee is continued, and
2 commencing July 1, 2010, is a separate independent committee within the Department of
3 Commerce. The purposes of this committee are to:

4 (1) Assist the Board of Coal Mine Health and Safety in the development of technical data
5 relating to mine safety issues, including related mining technology;

6 (2) Provide suggestions and technical data to the board and propose rules with general
7 mining industry application;

8 (3) Accept and consider petitions submitted by individual mine operators or miners seeking
9 site-specific rulemaking pertaining to individual mines and make recommendations to the board
10 concerning such rulemaking; and

11 (4) Provide a forum for the resolution of technical issues encountered by the board, safety
12 education, and coal advocacy programs.

13 (b) The committee shall consist of two members who shall be residents of this state and
14 who shall be appointed as hereinafter specified in this section:

15 (1) The Governor shall appoint one member to represent the viewpoint of the coal
16 operators in this state from a list containing one or more nominees submitted by the major trade

17 association representing coal operators in this state within ~~thirty~~ 30 days of submission of such
18 nominee or nominees.

19 (2) The Governor shall appoint one member to represent the viewpoint of the working
20 miners of this state from a list containing one or more nominees submitted by the highest ranking
21 official within the major employee organization representing coal mines within this state within
22 ~~thirty~~ 30 days of submission of the nominee or the nominees.

23 (3) The members appointed in accordance with the provisions of subdivisions (1) and (2)
24 of this subsection shall be initially appointed to serve a term of three years. The members serving
25 on the effective date of this article may continue to serve until their terms expire.

26 (4) The members appointed in accordance with the provisions of subdivisions (1) and (2)
27 of this subsection may be, but are not required to be, members of the Board of Coal Mine Health
28 and Safety, and shall be compensated on a per diem basis in the same amount as provided in
29 ~~section ten of this article~~ §22A-6-10 of this code, plus all reasonable expenses.

30 (c) The committee shall meet at least once during each calendar month, or more often as
31 may be necessary.

32 (d) A quorum of the committee shall require both members and the committee may only
33 act officially by a quorum.

34 (e) The committee may review any matter relative to mine safety and mining technology
35 and may pursue development and resolution of issues related thereto. The committee may make
36 recommendations to the board for the promulgation of rules with general mining industry
37 application. Upon receipt of a unanimous recommendation for rule making from the committee
38 and only thereon, the board may adopt or reject such rule, without modification except as
39 approved by the committee: *Provided*, That any adopted rule shall not reduce or compromise the
40 level of safety or protection below the level of safety or protection afforded by applicable statutes
41 and rules. When so promulgated, such rules shall be effective, notwithstanding the provisions of
42 applicable statutes.

43 (f) (1) Upon application of a coal mine operator, or on its own motion, the committee ~~has~~
44 shall have the authority to accept requests for site-specific rule making on a mine-by-mine basis,
45 and make unanimous recommendations to the board for site-specific rules thereon. The
46 committee ~~has~~ shall have authority to approve a request if it concludes that the request does not
47 reduce or compromise the level of safety or protection afforded miners below the level of safety
48 or protection afforded by any applicable statutes or rules. Upon receipt of a request for site-
49 specific rule making, the committee may ~~conduct an investigation~~ investigate of the conditions in
50 the specific mine in question, which investigation shall include consultation with the mine operator
51 and authorized representatives of the miners. Such authorized representatives of the miners shall
52 include any person designated by the employees at the mine, persons employed by an employee
53 organization representing one or more miners at the mine, or a person designated as a
54 representative by one or more persons at the mine.

55 (2) If the committee determines to recommend a request made pursuant to subdivision (1)
56 of this subsection, the committee shall provide the results of its investigation to the Board of Coal
57 Mine Health and Safety along with recommendations for the development of the site-specific rules
58 applicable to the individual mine, which recommendations may include a written proposal
59 containing draft rules.

60 (3) Within ~~thirty~~ 30 days of receipt of the committee's recommendation, the board shall
61 adopt or reject, without modification, except as approved by the committee, the committee's
62 recommendation to promulgate site-specific rules applicable to an individual mine adopting such
63 site-specific rules only if it determines that the application of the requested rule to such mine will
64 not reduce or compromise the level of safety or protection afforded miners below that level of
65 safety or protection afforded by any applicable statutes. When so promulgated, such rules shall
66 be effective notwithstanding the provisions of applicable statutes.

67 (g) The board shall consider all rules proposed by the Coal Mine Safety and Technical
68 Review Committee and adopt or reject, without modification, except as approved by the

69 committee, such rules, dispensing with the preliminary procedures set forth in ~~subdivisions (1)~~
70 ~~through (7), subsection (a), section five~~ §22A-6-5(a)(1) through §22A-6-5(a)(7) of this code; and,
71 in addition, with respect to site-specific rules also dispensing with the procedures set forth in
72 ~~subdivisions (4) through (8), subsection (e), section four of this article~~ §22A-6-4(c)(4) through
73 §22A-6-4(c)(8) of this code.

74 (h) In performing its functions, the committee ~~has~~ shall have access to the services of the
75 coal mine Health and Safety Administrator appointed under §22A-6-6 of this code. The director
76 shall make clerical support and assistance available in order that the committee ~~can~~ may carry
77 out its duties. Upon the request of both members of the committee, the Health and Safety
78 Administrator shall draft proposed rules and reports or make investigations.

79 (i) The powers and duties provided for in this section for the committee are not intended
80 to replace or precondition the authority of the Board of Coal Mine Health and Safety to act in
81 accordance with ~~sections one through six and eight through ten of this article~~ §22A-6-1 through
82 §22A-6-6 and §22A-6-8 through §22A-6-10 of this code.

83 (j) Appropriations for the funding of the committee and to effectuate this section shall be
84 made to a budget account hereby established for that purpose in the General Revenue Fund.
85 Such account shall be separate from any accounts or appropriations for the ~~office of miners'~~
86 ~~health, safety and training~~ Office of Miners' Health, Safety, and Training.

87 (k) Notwithstanding any provision of this section or code to the contrary, if an issue to be
88 decided by the committee ends in a tie vote of the committee members, the Director of the Office
89 of Miners' Health, Safety, and Training, or his or her designee, may vote to break the tie.