WEST VIRGINIA CODE: §22-1-17

§22-1-17. Special reclamation fund advisory council.

(a) There is hereby created within the Department of Environmental Protection a special reclamation fund advisory council. The council's purpose is to ensure the effective, efficient and financially stable operation of the special reclamation fund. The special reclamation advisory council shall consist of eight members, including the secretary of the Department of Environmental Protection or his or her designee, the treasurer of the State of West Virginia or his or her designee, the director of the national mine land reclamation center at West Virginia University and five members to be appointed by the Governor with the advice and consent of the Senate.

(b) Each appointed member of the council shall be selected based on his or her ability to serve on the council and effectuate its purposes. The Governor shall appoint, from a list of three names submitted by the major trade association representing the coal industry regulated under article three of this chapter, a member to represent the interests of the industry. The Governor shall appoint, from a list of three names submitted by organizations advocating environmental protection, one member to represent the interest of environmental protection organizations. The Governor shall appoint, from a list of four names submitted by the coal mining industry and the organizations advocating environmental protection, one member who, by training and profession, is an actuary or an economist. The Governor shall appoint, from a list of three names submitted by the united mine workers of America, one member to represent the interests of coal miners. The Governor shall appoint a member to represent the interests of the general public.

(c) The terms of all members shall begin on July 1, 2002. The secretary shall be an ex officio, nonvoting member and serve as chairperson of the council. The terms of the Governor's appointees shall be for six years. Appointees may be reappointed to serve on the council. The terms of the appointed members first taking office are to be expired as designated by the Governor at the time of the nomination, two at the end of the second year, two at the end of the fourth year and one at the end of the sixth year. As the original appointments expire, each subsequent appointment will be for a full six-year term. Any appointed member whose term has expired shall serve until a successor has been duly appointed and qualified. Any person appointed to fill a vacancy is to serve only for the unexpired term.

(d) Appointed members of the council shall be paid the same compensation and expense reimbursement as is provided for members of the Legislature pursuant to sections six and eight, article two-a, chapter four of this code. Council members who are state employees or officials shall be reimbursed for expenses in accordance with the applicable agency's policy.

(e) The council shall meet at the call of the chairperson or his or her designee, but not less than once every six months. The secretary shall provide funds for necessary administrative and technical services for the council from the special reclamation fund.

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(f) The council shall, at a minimum:

(1) Study the effectiveness, efficiency and financial stability of the special reclamation fund with an emphasis on development of a financial process that ensures long-term stability of the special reclamation program;

(2) Identify and define problems associated with the special reclamation fund, including, but not limited to, the enforcement of federal and state law, regulation and rules pertaining to contemporaneous reclamation;

(3) Evaluate bond forfeiture collection, reclamation efforts at bond forfeiture sites and compliance with approved reclamation plans as well as any modifications;

(4) Provide a forum for a full and fair discussion of issues relating to the special reclamation fund;

(5) Contract with a qualified actuary who shall make a determination as to the special reclamation fund's fiscal soundness. This determination shall be completed on December 31, 2004, and every four years thereafter. The review is to include an evaluation of the present and prospective assets and liabilities of the special reclamation fund; and

(6) Study and recommend to the Legislature alternative approaches to the current funding scheme of the special reclamation fund, considering revisions which will assure future proper reclamation of all mine sites and continued financial viability of the state's coal industry.

(g) On or before January 1, 2003, and every year thereafter, the council shall submit to the Legislature and the Governor a report on the adequacy of the special reclamation tax and the fiscal condition of the special reclamation fund. The report shall, at a minimum, contain:

(1) A recommendation as to whether or not any adjustments to the special reclamation tax should be made considering the cost, timeliness and adequacy of bond forfeiture reclamation, including water treatment;

(2) A discussion of the council's required study issues as set forth in subsection (f) of this section; and

(3) The availability of federal abandoned mine lands funds for West Virginia reclamation projects.

WV Legislature