WEST VIRGINIA CODE CHAPTER 22 ARTICLE 23A

WV Legislature

§22-23A-1. Findings.

The Legislature finds:

(1) The coal industry is and has been for many years an integral part of the economic and social fabric of the state;

(2) That whole communities in this state rely in large part, if not completely, on the coal industry for their continuing vitality;

(3) That over the last decade changes in the mining industry have necessitated the development of diverse mining techniques;

(4) The coal industry remains essential to economic growth and progress in West Virginia and the United States. Coal continues to sustain our economy and provides the financial security as future diversity and expansion of our job base is explored;

(5) The state of West Virginia, through the Division of Environmental Protection, entered into an agreement on December 23, 1998, which imposed additional controls and oversight on the states' mine permitting process by the U.S. corps of engineers, U.S. environmental protection agency, U.S. office of surface mining and the U.S. fish and wildlife service;

(6) The agreement of December 23, 1998 further authorized the Division of Environmental Protection, in conjunction with the U.S. environmental protection agency, the U.S. fish and wildlife service, the U.S. army corps of engineers and the U.S. office of surface mining to undertake a two-year study of the effects of mountaintop mining practices which remains incomplete as of the effective date of this article;

(7) The state has committed significant funding and other resources to the study;

(8) The study is unprecedented in this country in its purpose and scope;

(9) The environmental impact statement which will be prepared upon the completion of the study may give rise to consideration of new or revised regulations, policies, guidelines or requirements which are untried or untested anywhere in this country;

(10) It is imperative that balance be sought between state rules designed to regulate and protect the environment and the state regulations designed to enhance the ability of the state to continue to market West Virginia coal throughout the nation and the world; and

(11) Requiring West Virginia, through new or amended policies, regulations, enforcement or permitting actions to meet requirements more stringent than those otherwise applicable in other states by the federal government and unnecessary for environmental protection would unfairly affect interstate competition for new mining development and employment opportunities.

WV Legislature

Wherefore the Legislature finds that prior to the implementation of any recommendation arising from the study that the Legislature has an obligation to review the same to protect the interests of the state and the citizens.

WV Legislature

§22-23A-2. Requiring Department of Environmental Protection to refrain from implementing or adopting rules or making certain commitments absent legislative approval; reporting required.

(a) The Division of Environmental Protection may not enter into any legally enforceable commitments related to the implementation of any recommendation which results from the mountaintop mining/valley fill environmental impact statement with any agency of the federal government unless the terms of the commitment are reported to the Legislature.

(b) The Division of Environmental Protection may not adopt or modify any rule, in whole or in part, to implement a recommendation resulting from the mountaintop mining/valley fill environmental impact statement except by legislative rule promulgated pursuant to article three, chapter twenty-nine-a of this code.

(c) Within ninety days of receipt of any final recommendation from any agency of the federal government related to the mountaintop mining/valley fill environmental impact statement, the director of the West Virginia Division of Environmental Protection shall forward such recommendation, embodied in a report, along with all scientific facts or technical evidence relating to and substantiating such recommendation, to the Governor, President of the Senate and the Speaker of the House of Delegates.

WV Legislature