WEST VIRGINIA CODE: §22-3-31

§22-3-31. Conflict of interest prohibited; criminal penalties therefor; employee protection.

(a) No employee of the division engaged in the enforcement or administration of this article or employee of the surface mine board performing any function or duty under this article shall have a direct or indirect financial interest in any surface-mining operation. Whoever knowingly violates the provisions of this subsection is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $2,500, or imprisoned in the county jail not more than one year, or both fined and imprisoned. The director shall establish methods by which the provisions of this subsection will be monitored and enforced, including appropriate provisions for the filing and the review of statements and supplements thereto concerning any financial interest which may be affected by this subsection.

(b) No person shall discharge or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that the employee or representative has filed, instituted, or caused to be filed or instituted, any proceeding under this article, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this article.

(c) Any employee or a representative of employees who has reason to believe that he or she has been fired or otherwise discriminated against by any person in violation of subsection (b) of this section may, within thirty days after the alleged violation occurs, petition to the surface mine board for a review of the firing or discrimination. The employee or representative is the petitioner and shall serve a copy of the petition upon the person or operator who will be the respondent. The participants shall be given ten days' written notice of the hearing before the board and the hearing shall be held within thirty days of the filing of the petition. The board shall have the same powers and shall hear the petition in the same manner as provided in article one, chapter twenty-two-b of this code.

(d) If the board finds that the alleged violation did occur, it shall issue an order incorporating therein findings of fact and conclusions requiring the participant committing the violation to take such affirmative action to abate the violation by appropriate action, including, but not limited to, the hiring or reinstatement of the employee or representative to his former position with compensation. If the board finds no violation, it shall issue a finding to that effect. Orders issued by the board under this section shall be subject to judicial review in the same manner as other orders of the board issued under this article or article one, chapter twenty-two-b of this code.

(e) Whenever an order is issued under this section to abate any violation, at the request of the petitioner a sum equal to the aggregate costs and expenses, including attorneys' fees to have been reasonably incurred by the petitioner for, or in connection with, the institution

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and prosecution of the proceedings, shall be assessed against the person committing the violation.

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