WEST VIRGINIA CODE: §22-6-39

§22-6-39. Injunctive relief.

(a) In addition to other remedies, and aside from various penalties provided by law, whenever it appears to the director that any person is violating or threatening to violate any provision of this article, any order or final decision of the director, or any lawful rule promulgated hereunder, the director may apply in the name of the state to the circuit court of the county in which the violations or any part thereof has occurred, is occurring or is about to occur, or the judge thereof in vacation, for an injunction against such persons and any other persons who have been, are or are about to be involved in any practices, acts or admissions so in violation, enjoining such person or persons from any violation or violations. Such application may be made and prosecuted to conclusion, whether or not any violation or violations have resulted or shall result, in prosecution or conviction under the provisions of this article.

(b) Upon application by the director, the circuit courts of this state may, by mandatory or prohibitory injunction compel compliance with the provisions of this article, and all orders and final decisions of the director. The court may issue a temporary injunction in any case pending a decision on the merits of any application filed. Any other section of this code to the contrary notwithstanding, the state shall not be required to furnish bond or other undertaking as a prerequisite to obtaining mandatory, prohibitory or temporary injunctive relief under the provisions of this article.

(c) The judgment of the circuit court upon application permitted by the provisions of this section, shall be final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals. Any such appeal shall be sought in the manner and within the time provided by law for appeals from circuit courts in other civil actions.

(d) The director shall be represented in all such proceedings by the Attorney General or the Attorney General's assistants or in such proceedings in the circuit courts by the prosecuting attorney of the several counties as well, all without additional compensation. The director, with the written approval of the Attorney General, may employ special counsel to represent the director in any such proceedings.

(e) If the director shall refuse or fail to apply for an injunction to enjoin a violation or threatened violation of any provision of this article, any order or final decision of the director, or any rules promulgated hereunder, within ten days after receipt of a written request to do so by any well operator, coal operator, operating coal seams beneath the tract of land, or the coal seam owner or lessee, if any, if said owner or lessee is not yet operating said coal seams beneath said tract of land, adversely affected by such violation or threatened violation, the person making such request may apply on their own behalf for an injunction to enjoin such violation or threatened violation in any court in which the director might have brought suit. The director shall be made party defendant in such application in addition to

WV Legislature

the person or persons violating or threatening to violate any provisions of this article, any final order or decision of the director, or any rule promulgated hereunder. The application shall proceed and injunctive relief may be granted in the same manner as if the application had been made by the director: Except that the court may require a bond or other undertaking from the plaintiff.

WV Legislature