WEST VIRGINIA CODE: §22A-6-3

§22A-6-3. Board continued; membership; method of nomination and appointment; meetings; vacancies; quorum.

(a) The Board of Coal Mine Health and Safety is continued, and commencing July 1, 2010, is a separate independent board within the Department of Commerce. The board consists of six voting members and one ex officio, nonvoting member who are residents of this state, and who are appointed as follows:

(1) The Governor shall appoint, by and with the advice and consent of the Senate, three members to represent the viewpoint of those operators in this state. When such members are to be appointed, the Governor shall request from the major trade association representing operators in this state a list of three nominees for each such position on the board. All such nominees shall be persons with special experience and competence in health and safety. There shall be submitted with such list a summary of the qualifications of each nominee. If the full lists of nominees are submitted in accordance with the provisions of this subdivision, the Governor shall make the appointments from the persons so nominated. For purposes of this subdivision, the major trade association representing operators in this state is that association which represents operators accounting for over one half of the coal produced in mines in this state in the year prior to the year in which the appointment is to be made.

(2) The Governor shall appoint, by and with the advice and consent of the Senate, three members who can reasonably be expected to represent the viewpoint of the working miners of this state. When members are to be appointed, the Governor shall request from the major employee organization representing coal miners within this state a list of three nominees for each position on the board. The highest ranking official within the major employee organization representing coal miners within this state shall submit a list of three nominees for each such position on the board. The nominees shall have a background in health and safety. The Governor shall make the appointments from the requested list of nominees.

(3) All appointments made by the Governor under the provisions of subdivisions (1) and (2) of this subsection shall be with the advice and consent of the Senate; and

(4) The Director of the Office of Miners' Health, Safety and Training or his or her designee serves as an ex officio, nonvoting member.

(b) Members serving on the board on January 1, 2017, shall continue to serve for a minimum of three years until June 30, 2020. The term is three years. Members are eligible for reappointment.

(c) Commencing on July 1, 2017, the board shall assume all powers and responsibilities of the Board of Miners' Training, Education and Certification established pursuant to §22A-7-1

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et seq. of this code and the Mine Safety Technology Task Force established pursuant to §22A-11-1 *et seq*. of this code.

(d) The Governor shall appoint, subject to the approval of a majority of the members of the board appointed under subdivisions (1) and (2), subsection (a) of this section, a Health and Safety Administrator in accordance with the provisions of §22A-6-6 of this code, who shall certify all official records of the board. The Health and Safety Administrator shall be a full-time officer of the Board of Coal Mine Health and Safety with the duties provided for in §22A-6-6 of this code. The Health and Safety Administrator shall have such education and experience as the Governor deems necessary to properly investigate areas of concern to the board in the development of rules governing mine health and safety. The Governor shall appoint as Health and Safety Administrator a person who has an independent and impartial viewpoint on issues involving mine safety. The Health and Safety Administrator shall be a person who has not been during the two years immediately preceding appointment, and is not during his or her term, an officer, trustee, director, substantial shareholder, contractor, consultant, or employee of any coal operator, or an employee or officer of an employee organization or a spouse of any such person. The Health and Safety Administrator shall have the expertise to draft proposed rules and shall prepare such rules as are required by this code and on such other areas as will improve coal mine health and safety.

(e) The board shall meet at least once during each calendar month, or more often as may be necessary, and at other times upon the call of the chair, or upon the request of any three members of the board. Under the direction of the board, the Health and Safety Administrator shall prepare an agenda for each board meeting giving priority to the promulgation of rules as may be required, from time to time, by this code, and as may be required to improve coal mine health and safety. The Health and Safety Administrator shall provide each member of the board with notice of the meeting and the agenda as far in advance of the meeting as practical, but in any event, at least five days prior thereto. A meeting of the board may not be conducted unless said notice and agenda are given to the board members at least five days in advance, as provided herein, except in cases of emergency, as declared by the director, in which event members shall be notified of the board meeting and the agenda: *Provided*, That upon agreement of a majority of the quorum present, any scheduled meeting may be ordered recessed to another day certain without further notice of additional agenda.

When proposed rules are to be finally adopted by the board, copies of such proposed rules shall be delivered to members not less than five days before the meeting at which such action is to be taken. If not so delivered, any final adoption or rejection of rules shall be considered on the second day of a meeting of the board held on two consecutive days, except that by the concurrence of at least four members of the board, the board may suspend this rule of procedure and proceed immediately to the consideration of final adoption or rejection of rules. When a member fails to appear at three consecutive meetings of the board or at one half of the meetings held during a one-year period, the Health and Safety Administrator shall notify the member and the Governor of such fact. Such member shall be removed by the Governor unless good cause for absences is shown.

(f) Whenever a vacancy on the board occurs, nominations and appointments shall be made in the manner prescribed in this section. In the case of an appointment to fill a vacancy, nominations of three persons for each such vacancy shall be requested by and submitted to the Governor within 30 days after the vacancy occurs by the major trade association or major employee organization, if any, which nominated the person whose seat on the board is vacant. The vacancy shall be filled by the Governor within 30 days of his or her receipt of the list of nominations.

(g) A quorum of the board is four members which shall include at least two members representing the viewpoint of operators and at least two members representing the viewpoint of the working miners, and the board may act officially by a majority of those members who are present, except that a vote of the board may not be taken unless all six voting members are present.

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