WEST VIRGINIA CODE: §22A-6-7

§22A-6-7. Coal Mine Safety and Technical Review Committee; membership; method of nomination and appointment; meetings; quorum; powers and duties of the committee; powers and duties of the Board of Coal Mine Health and Safety.

(a) The State Coal Mine Safety and Technical Review Committee is continued, and commencing July 1, 2010, is a separate independent committee within the Department of Commerce. The purposes of this committee are to:

(1) Assist the Board of Coal Mine Health and Safety in the development of technical data relating to mine safety issues, including related mining technology;

(2) Provide suggestions and technical data to the board and propose rules with general mining industry application;

(3) Accept and consider petitions submitted by individual mine operators or miners seeking site-specific rulemaking pertaining to individual mines and make recommendations to the board concerning such rulemaking; and

(4) Provide a forum for the resolution of technical issues encountered by the board, safety education, and coal advocacy programs.

(b) The committee shall consist of two members who shall be residents of this state and who shall be appointed as hereinafter specified in this section:

(1) The Governor shall appoint one member to represent the viewpoint of the coal operators in this state from a list containing one or more nominees submitted by the major trade association representing coal operators in this state within 30 days of submission of such nominee or nominees.

(2) The Governor shall appoint one member to represent the viewpoint of the working miners of this state from a list containing one or more nominees submitted by the highest ranking official within the major employee organization representing coal mines within this state within 30 days of submission of the nominee or the nominees.

(3) The members appointed in accordance with the provisions of subdivisions (1) and (2) of this subsection shall be initially appointed to serve a term of three years. The members serving on the effective date of this article may continue to serve until their terms expire.

(4) The members appointed in accordance with the provisions of subdivisions (1) and (2) of this subsection may be, but are not required to be, members of the Board of Coal Mine Health and Safety, and shall be compensated on a per diem basis in the same amount as provided in §22A-6-10 of this code, plus all reasonable expenses.

WV Legislature

(c) The committee shall meet at least once during each calendar month, or more often as may be necessary.

(d) A quorum of the committee shall require both members and the committee may only act officially by a quorum.

(e) The committee may review any matter relative to mine safety and mining technology and may pursue development and resolution of issues related thereto. The committee may make recommendations to the board for the promulgation of rules with general mining industry application. Upon receipt of a unanimous recommendation for rule making from the committee and only thereon, the board may adopt or reject such rule, without modification except as approved by the committee: *Provided*, That any adopted rule shall not reduce or compromise the level of safety or protection below the level of safety or protection afforded by applicable statutes and rules. When so promulgated, such rules shall be effective, notwithstanding the provisions of applicable statutes.

(f) (1) Upon application of a coal mine operator, or on its own motion, the committee shall have the authority to accept requests for site-specific rule making on a mine-by-mine basis, and make unanimous recommendations to the board for site-specific rules thereon. The committee shall have authority to approve a request if it concludes that the request does not reduce or compromise the level of safety or protection afforded miners below the level of safety or protection afforded by any applicable statutes or rules. Upon receipt of a request for site-specific rule making, the committee may investigate the conditions in the specific mine in question, which investigation shall include consultation with the mine operator and authorized representatives of the miners. Such authorized representatives of the miners shall include any person designated by the employees at the mine, persons employed by an employee organization representing one or more miners at the mine, or a person designated as a representative by one or more persons at the mine.

(2) If the committee determines to recommend a request made pursuant to subdivision (1) of this subsection, the committee shall provide the results of its investigation to the Board of Coal Mine Health and Safety along with recommendations for the development of the site-specific rules applicable to the individual mine, which recommendations may include a written proposal containing draft rules.

(3) Within 30 days of receipt of the committee's recommendation, the board shall adopt or reject, without modification, except as approved by the committee, the committee's recommendation to promulgate site-specific rules applicable to an individual mine adopting such site-specific rules only if it determines that the application of the requested rule to such mine will not reduce or compromise the level of safety or protection afforded miners below that level of safety or protection afforded by any applicable statutes. When so promulgated, such rules shall be effective notwithstanding the provisions of applicable statutes.

(g) The board shall consider all rules proposed by the Coal Mine Safety and Technical Review Committee and adopt or reject, without modification, except as approved by the

W. Legislature

committee, such rules, dispensing with the preliminary procedures set forth in §22A-6-5(a)(1) through §22A-6-5(a)(7) of this code; and, in addition, with respect to site-specific rules also dispensing with the procedures set forth in §22A-6-4(c)(4) through §22A-6-4(c)(8) of this code.

(h) In performing its functions, the committee shall have access to the services of the coal mine Health and Safety Administrator appointed under §22A-6-6 of this code. The director shall make clerical support and assistance available in order that the committee may carry out its duties. Upon the request of both members of the committee, the Health and Safety Administrator shall draft proposed rules and reports or make investigations.

(i) The powers and duties provided for in this section for the committee are not intended to replace or precondition the authority of the Board of Coal Mine Health and Safety to act in accordance with §22A-6-1 through §22A-6-6 and §22A-6-8 through §22A-6-10 of this code.

(j) Appropriations for the funding of the committee and to effectuate this section shall be made to a budget account hereby established for that purpose in the General Revenue Fund. Such account shall be separate from any accounts or appropriations for the Office of Miners' Health, Safety, and Training.

(k) Notwithstanding any provision of this section or code to the contrary, if an issue to be decided by the committee ends in a tie vote of the committee members, the Director of the Office of Miners' Health, Safety, and Training, or his or her designee, may vote to break the tie.

WV Legislature