WEST VIRGINIA CODE CHAPTER 22A ARTICLE 6

WV Legislature

§22A-6-1. Declaration of legislative findings and purpose.

(a) The Legislature hereby finds and declares that:

(1) The Legislature concurs with the congressional declaration made in the Federal Coal Mine Health and Safety Act of 1969 that "the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource -- the miner";

(2) Coal mining is highly specialized, technical and complex and it requires frequent review, refinement and improvement of standards to protect the health and safety of miners;

(3) During each session of the Legislature, coal mine health and safety standards are proposed which require knowledge and comprehension of scientific and technical data related to coal mining;

(4) The formulation of appropriate rules and practices to improve health and safety and provide increased protection of miners can be accomplished more effectively by persons who have experience and competence in coal mining and coal mine health and safety.

(b) In view of the foregoing findings, it is the purpose of this article to:

(1) Continue the board of coal mine health and safety;

(2) Require such board to continue as standard rules the coal mine health and safety provisions of this code;

(3) Compel the board to review such standard rules and, when deemed appropriate to improve or enhance coal mine health and safety, to revise the same or develop and promulgate new rules dealing with coal mine health and safety; and

(4) Authorize such board to conduct such other activities as it deems necessary to implement the provisions of this chapter.

WV Legislature

§22A-6-2. Definitions.

Unless the context in which a word or phrase appears clearly requires a different meaning, the words and phrases defined in section two, article one of this chapter have, when used in this article, the meaning therein assigned to them. For the purpose of this article, "board" means the Board of Coal Mine Health and Safety continued by section three of this article.

WV Legislature

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

WV Legislature

(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,

WV Legislature

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.

WV Legislature

§22A-6-4. Board powers and duties.

(a) The board shall adopt as standard rules the "coal mine health and safety provisions of this chapter". Such standard rules and any other rules shall be adopted by the board without regard to the provisions of chapter twenty-nine-a of this code. The Board of Coal Mine Health and Safety shall devote its time toward promulgating rules in those areas specifically directed by this chapter and those necessary to prevent fatal accidents and injuries.

(b) The board shall review such standard rules and, when deemed appropriate to improve or enhance coal mine health and safety, revise the same or develop and promulgate new rules dealing with coal mine health and safety.

(c) The board shall develop, promulgate and revise, as may be appropriate, rules as are necessary and proper to effectuate the purposes of article two of this chapter and to prevent the circumvention and evasion thereof, all without regard to the provisions of chapter twenty-nine-a of this code:

(1) Upon consideration of the latest available scientific data in the field, the technical feasibility of standards, and experience gained under this and other safety statutes, such rules may expand protections afforded by this chapter notwithstanding specific language therein, and such rules may deal with subject areas not covered by this chapter to the end of affording the maximum possible protection to the health and safety of miners.

(2) No rules promulgated by the board shall reduce or compromise the level of safety or protection afforded miners below the level of safety or protection afforded by this chapter.

(3) Any miner or representative of any miner, or any coal operator has the power to petition the Circuit Court of Kanawha County for a determination as to whether any rule promulgated or revised reduces the protection afforded miners below that provided by this chapter, or is otherwise contrary to law: Provided, That any rule properly promulgated by the board pursuant to the terms and conditions of this chapter creates a rebuttable presumption that said rule does not reduce the protection afforded miners below that provided by this chapter.

(4) The director shall cause proposed rules and a notice thereof to be posted as provided in section eighteen, article one of this chapter. The director shall deliver a copy of such proposed rules and accompanying notice to each operator affected. A copy of such proposed rules shall be provided to any individual by the director's request. The notice of proposed rules shall contain a summary in plain language explaining the effect of the proposed rules.

(5) The board shall afford interested persons a period of not less than thirty days after releasing proposed rules to submit written data or comments. The board may, upon the expiration of such period and after consideration of all relevant matters presented, promulgate such rules with such modifications as it may deem appropriate.

WV Legislature

(6) On or before the last day of any period fixed for the submission of written data or comments under subdivision (5) of this section, any interested person may file with the board written objections to a proposed rule, stating the grounds therefor and requesting a public hearing on such objections. As soon as practicable after the period for filing such objections has expired, the board shall release a notice specifying the proposed rules to which objections have been filed and a hearing requested.

(7) Promptly after any such notice is released by the board under subdivision (6) of this section, the board shall issue notice of, and hold a public hearing for the purpose of receiving relevant evidence. Within sixty days after completion of the hearings, the board shall make findings of fact which shall be public, and may promulgate such rules with such modifications as it deems appropriate. In the event the board determines that a proposed rule should not be promulgated or should be modified, it shall within a reasonable time publish the reasons for its determination.

(8) All rules promulgated by the board shall be published in the State Register and continue in effect until modified or superseded in accordance with the provisions of this chapter.

(d) To carry out its duties and responsibilities, the board is authorized to employ such personnel, including legal counsel, experts and consultants, as it deems necessary. In addition, the board, within the appropriations provided for by the Legislature, may conduct or contract for research and studies and is entitled to the use of the services, facilities and personnel of any agency, institution, school, college or university of this state.

(e) The director shall within sixty days of a coal mining fatality or fatalities provide the board with all available reports regarding such fatality or fatalities.

The board shall review all reports and any recommended rules submitted by the director, receive any additional information it requests, and may, on its own initiative, investigate the circumstances surrounding a coal mining fatality or fatalities and ascertain the cause or causes of such coal mining fatality or fatalities. In order to investigate a coal mining fatality or fatalities, a majority of the board must vote in favor of commencing an investigation. Within ninety days of the receipt of the Federal Mine Safety and Health Administration's fatal accident report and the director's report and recommended rules, the board shall review and consider the presentation of said report and rules and the results of its own investigation, if any, and, if a majority of all voting board members determines that additional rules can assist in the prevention of the specific type of fatality, the board shall either accept and promulgate the director's recommended rules, amend the director's recommended rules or draft new rules as are necessary to prevent the recurrence of such fatality. If the board chooses to amend the director's recommended rules or draft its own rules, a vote is required within one hundred twenty days as to whether to promulgate the amended rule or the rule drafted by the board: Provided, That the board may, by majority vote, find that exceptional circumstances exist and the deadline cannot be met: Provided, however, That under no circumstances shall such deadline be extended by more than a total of ninety days. A majority vote of the board is required to promulgate any such rule.

WV Legislature

The board shall annually, not later than July 1, review the major causes of coal mining injuries during the previous calendar year, reviewing the causes in detail, and shall promulgate such rules as may be necessary to prevent the recurrence of such injuries.

Further, the board shall, on or before January 10, of each year, submit a report to the Governor, President of the Senate and Speaker of the House, which report shall include, but is not limited to:

(1) The number of fatalities during the previous calendar year, the apparent reason for each fatality as determined by the Office of Miners' Health, Safety and Training and the action, if any, taken by the board to prevent such fatality;

(2) Any rules promulgated by the board during the last year;

(3) What rules the board intends to promulgate during the current calendar year;

(4) Any problem the board is having in its effort to promulgate rules to enhance health and safety in the mining industry;

(5) Recommendations, if any, for the enactment, repeal or amendment of any statute which would cause the enhancement of health and safety in the mining industry;

(6) Any other information the board deems appropriate;

(7) In addition to the report by the board, as herein contained, each individual member of said board has right to submit a separate report, setting forth any views contrary to the report of the board, and the separate report, if any, shall be appended to the report of the board and be considered a part thereof.

WV Legislature

§22A-6-5. Preliminary procedures for promulgation of rules.

(a) Prior to the posting of proposed rules as provided for in subsection (c), section four of this article, the board shall observe the preliminary procedure for the development of rules set forth in this section:

(1) During a board meeting or at any time when the board is not meeting, any board member may suggest to the Health and Safety Administrator, or such administrator on his or her own initiative may develop, subjects for investigation and possible regulation;

(2) Upon receipt of a suggestion for investigation, the Health and Safety Administrator shall prepare a report, to be given at the next scheduled board meeting, of the technical evidence available which relates to such suggestion, the staff time required to develop the subject matter, the legal authority of the board to act on the subject matter, including a description of findings of fact and conclusions of law which will be necessary to support any proposed rules;

(3) The board shall by majority vote of those members who are present determine whether the Health and Safety Administrator shall prepare a draft rule concerning the suggested subject matter;

(4) After reviewing the draft rule, the board shall determine whether the proposed rules should be posted and made available for comment as provided for in section four of this article;

(5) The board shall receive and consider those comments to the proposed rules as provided for in section four of this article;

(6) The board shall direct the Health and Safety Administrator to prepare for the next scheduled board meeting findings of fact and conclusions of law for the proposed rules, which may incorporate comments received and technical evidence developed, and which are consistent with section four of this article;

(7) The board shall adopt or reject or modify the proposed findings of fact and conclusions of law; and

(8) The board shall make a final adoption or rejection of the rules.

(b) By the concurrence of at least four members of the board, the board may dispense with the procedure set out in subsection (a) of this section or any other procedural rule established, except that the board shall in all instances when adopting rules prepare findings of fact and conclusions of law consistent with this section and section four of this article.

(c) Without undue delay, the board shall adopt an order of business for the conduct of meetings which will promote the orderly and efficient consideration of proposed rules in accordance with the provisions of this section.

WV Legislature

§22A-6-6. Health and Safety Administrator; qualifications; duties; employees; compensation.

(a) The Governor shall appoint the Health and Safety Administrator of the board for a term of employment of one year, and the Health and Safety Administrator employed on January 1, 2017 shall complete a three-year term until June 30, 2020, unless he or she is determined to have committed misfeasance, malfeasance or nonfeasance as referenced herein. The Health and Safety Administrator shall be entitled to have his or her contract of employment renewed on an annual basis except where such renewal is denied for cause: Provided, That the Governor has the power at any time to remove the Health and Safety Administrator for misfeasance, malfeasance or nonfeasance: Provided, however, That the board has the power to remove the Health and Safety Administrator without cause upon the concurrence of five members of the board.

(b) The Health and Safety Administrator shall work at the direction of the board, independently of the Director of the Office of Miners' Health, Safety and Training and has such authority and shall perform such duties as may be required or necessary to effectuate this article.

(c) In addition to the Health and Safety Administrator, there shall be such other employees hired by the Health and Safety Administrator as the board determines to be necessary. The Health and Safety Administrator shall provide supervision and direction to the other employees of the board in the performance of their duties.

(d) The employees of the board shall be compensated at rates determined by the board. The salary of the Health and Safety Administrator shall be fixed by the Governor: Provided, That the salary of the Health and Safety Administrator shall not be reduced during his or her annual term of employment or upon the renewal of his or her contract for an additional term. Such salary shall be fixed for any renewed term at least ninety days before the commencement thereof.

(e) (1) Appropriations for the salaries of the Health and Safety Administrator and any other employees of the board and for necessary office and operating expenses shall be made to a budget account established for those purposes in the General Revenue Fund. Such account shall be separate from any accounts or appropriations for the Office of Miners' Health, Safety and Training.

(2) Expenditures from the funds established in section three hundred ten, article two-a; section seven, article six; section four, article seven; section three, article eleven of this chapter shall be by the Health and Safety Administrator for administrative and operating expenses, such operating expenses include mine health and safety, research, education and training programs as determined by the entities.

(f) The Health and Safety Administrator shall review all coal mining fatalities and major causes of injuries as mandated by section four of this article. An analysis of such fatalities

www.legislature

and major causes of injuries shall be prepared for consideration by the board within ninety days of the occurrence of the accident.

(g) At the direction of the board, the administrator shall also conduct an annual study of occupational health issues relating to employment in and around coal mines of this state and submit a report to the board with findings and proposals to address the issues raised in such study. The administrator is responsible for preparing the annual reports required by subsection (e), section four of this article and section nine of this article.

(h) The administrator shall provide administrative assistance to the The State Coal Mine Safety and Technical Review Committee, Board of Coal Mine Health and Safety, and serve as the legislative liaison for budgetary issues. The Administrator shall serve as an ex officio, nonvoting member on The State Coal Mine Safety and Technical Review Committee.

(i) The administrator shall submit to each board or commission for its approval, the proposed budget of the board or commission before submitting it to the Secretary of Revenue.

(j) The administrator shall prepare and submit to the Director of the Office of Miners' Health, Safety and Training, no less than on a quarterly basis, a report that summarizes the coal mine health and safety standard rules under consideration by the Board of Coal Mine Health and Safety, as well as the meetings and meeting agendas of the board.

WV Legislature

§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.

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

WV Legislature

(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 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

WV Legislature

§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

§22A-6-8. Effect of rules.

The standard rules and any rules promulgated by the board have the same force and effect of law as if enacted by the Legislature as a part of article two of this chapter and any violation of any such rule is a violation of law or of a health or safety standard within the meaning of this chapter.

WV Legislature

§22A-6-9. Reports.

Prior to each regular session of the Legislature, the board shall submit to the Legislature an annual report upon the subject matter of this article, the progress concerning the achievement of its purpose and any other relevant information, including any recommendations it deems appropriate.

WV Legislature

§22A-6-10. Compensation and expenses of board members.

Each member of the board not otherwise employed by the state shall be paid the same compensation, and each member of the board shall be paid the expense reimbursement, as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion thereof engaged in the discharge of official duties. In the event the expenses are paid by a third party, the member shall not be reimbursed by the state. The reimbursement shall be paid out of the State Treasury upon a requisition upon the State Auditor, properly certified by the Office of Miners' Health, Safety and Training. No employer shall prohibit a member of the board from exercising leave of absence from his or her place of employment in order to attend a meeting of the board or a meeting of a subcommittee of the board, or to prepare for a meeting of the board, any contract of employment to the contrary notwithstanding.

WV Legislature

§22A-6-11. Study of methane detecting shut off devices.

[Repealed.]

WV Legislature

§22A-6-12. Study of whistleblower protections.

[Repealed.]

WV Legislature

§22A-6-13. Study of ingress and egress to bleeder and gob areas of longwall panels and pillar.

[Repealed.]

WV Legislature

§22A-6-14. Study of mandatory substance abuse program.

The Board of Coal Mine Health and Safety is directed to study the mandatory substance abuse screening policy and program requirements of article one-a of this chapter and make recommendations to the director regarding: (a) Establishment of guidelines to be employed by the Board of Appeals when administering disciplinary actions to certified persons pursuant to article one-a of this chapter; (b) requiring certification by the Office of Miners' Health, Safety and Training of persons who regularly work at mines who are not presently required to obtain certification; and (c) establishment of additional minimum requirements, parameters, methodologies and protocols to be integrated into the substance abuse screening policy and program requirements of article one-a of this chapter. By August 31, 2012, the board shall submit its report to the director. The director is authorized to propose for legislative promulgation, legislative rules pursuant to article three, chapter twenty-nine-a of this code regarding the implementation of the findings of this study. These rules shall be initially promulgated as emergency rules by the director pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of the code by December 31, 2012, and shall include the establishment of certification requirements recommended by the board for persons who regularly work at mines that are not presently required to obtain certification and establishment of guidelines to be employed by the Board of Appeals when administering disciplinary actions to certified persons pursuant to article one-a of this chapter.

WV Legislature