WEST VIRGINIA CODE CHAPTER 22B ARTICLE 2

WV Legislature

§22B-2-1. Air quality board; composition; appointment and terms of members; vacancies.

(a) On and after the effective date of this article, the "air pollution control commission", heretofore created, shall continue in existence and hereafter shall be known as the "air quality board".

(b) The board shall be composed of seven members, including the commissioner of the bureau of public health and the commissioner of agriculture, or their designees, both of whom are members ex officio, and five other members, who shall be appointed by the Governor with the advice and consent of the Senate. Each appointed member of the board who is serving in such capacity on the effective date of this article shall continue to serve on the board until his or her term ends or he or she resigns or is otherwise unable to serve. As each such member's term ends, or that member is unable to serve, a qualified successor shall be appointed by the Governor with the advice and consent of the Senate. Two of the members shall be representative of industries engaged in business in this state, and three of the members shall be representative of the public at large.

(c) The appointed members of the board shall be appointed for overlapping terms of five years, except that the original appointments shall be for terms of one, two, three, four and five years, respectively. Any member whose term expires may be reappointed by the Governor. In the event a board member is unable to complete the term, the Governor shall appoint a person with similar qualification to complete the term. The successor of any board member appointed pursuant to this article must possess the qualification as prescribed herein. Each vacancy occurring in the office of a member of the board shall be filled by appointment within sixty days after such vacancy occurs.

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§22B-2-2. Authority to receive money.

In addition to all other powers and duties of the air quality board, as prescribed in this chapter or elsewhere by law, the board has and may exercise the power and authority to receive any money as a result of the resolution of any case on appeal which shall be deposited in the State Treasury to the credit of the office of air pollution education and environment fund provided for in section four, article five, chapter twenty-two of this code.

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§22B-2-3. Judicial review of Air Quality Board orders.

All of the provisions of §22B-1-9 of this code apply to and govern such review with like effect as if the provisions of §22B-1-9 of this code were set forth in extenso in this section, with the following modifications or exceptions:

(a) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a permit, the petition for review shall be filed in the Supreme Court of Appeals within 30 days of the board's order: Provided, That, if all parties consent to it, the proceedings may continue in the Circuit Court of Kanawha County; and

(b) As to all other cases, the petition shall be filed in the circuit court of the county wherein the alleged statutory air pollution complained of originated or in Kanawha County upon agreement between the parties.

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