WEST VIRGINIA CODE CHAPTER 22B ARTICLE 3

WV Legislature

§22B-3-1. Environmental quality board; composition and organization; appointment, qualifications, terms, vacancies.

(a) The Environmental Quality Board is continued.

(b) The board is composed of five members, appointed by the Governor with the advice and consent of the Senate.

(1) No more than three members may be of the same political party.

(2) As each member's term ends, a qualified successor shall be appointed by the Governor with the advice and consent of the Senate.

(3) Individuals appointed to the board shall be persons who by reason of previous training and experience are knowledgeable in the husbandry of the state's water resources.

(4) At least one member shall have experience in industrial pollution control.

(c) (1) No member of the board shall receive or, during the two years next preceding the member of the board's appointment, may have received a significant portion of his or her income directly or indirectly from a national pollutant discharge elimination system permit holder or an applicant for a permit issued under article eleven, chapter twenty-two of this code.

(2) For the purposes of this subsection:

(A) The term "significant portion of the member of the board's income" means ten percent of gross personal income for a calendar year, except that it means fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age and is receiving such portion pursuant to retirement, a pension or similar arrangement;

(B) The term "income" includes retirement benefits, consultant fees and stock dividends;

(C) Income is not received "directly or indirectly" from "permit holders" or "applicants for a permit" where it is derived from mutual fund payments or from other diversified investments with respect to which the recipient does not know the identity of the primary sources of income; and

(D) The terms "permit holders" and "applicants for a permit" do not include any university or college operated by this state or political subdivision of this state or any department or agency of this state, other than the Department of Environmental Protection: Provided, That no board member may vote on any matter concerning a permit issued to a department or agency of the state by which the member is or has been employed.

(d) (1) The members of the board shall serve five-year terms, staggered in accordance with prior enactments of this section.

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(2) Any member whose term expires may be reappointed by the Governor.

(3) Members may serve until their successors are appointed and qualified.

(4) If a board member is unable to complete the term, the Governor shall appoint a person with similar qualification to complete the term.

(5) The successor of any board member appointed pursuant to this section must possess the qualification as prescribed in this section.

(6) Each vacancy occurring in the office of a member of the board shall be filled by appointment within sixty days after the vacancy occurs.

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§22B-3-2. Authority of board; additional definitions.

(a) In addition to all other powers and duties of the Environmental Quality Board, as prescribed in this chapter or elsewhere by law, the board may 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 Water Quality Management Fund created pursuant to section ten, article eleven, chapter twenty-two of this code.

(b) All the terms defined in section three, article eleven, chapter twenty-two of this code are applicable to this article and have the meanings ascribed to them therein.

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§22B-3-3. Judicial review.

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 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;

(b) As to cases involving an order revoking or suspending a permit, the petition shall be filed in the circuit court of Kanawha County; and

(c) As to cases involving an order directing that any and all discharges or deposits of solid waste, sewage, industrial wastes, or other wastes, or the effluent therefrom, determined to be causing pollution be stopped or prevented or else that remedial action be taken, the petition shall be filed in the circuit court of the county in which the establishment is located or in which the pollution occurs.

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§22B-3-4.

Repealed.

Acts, 2005 Reg. Sess., Ch. 246.

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§22B-3-5.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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