

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949



## ENROLLED

*Com. Sub. For*  
HOUSE BILL No. 224

(By Mr. Com. on Finance)



PASSED March 12 1949

In Effect July 1, 1949 Passage



224

**ENROLLED**  
COMMITTEE SUBSTITUTE FOR  
**House Bill No. 224**

(Originating in the Committee on Finance.)

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[Passed March 12, 1949; in effect July 1, 1949.]

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AN ACT to amend and reenact sections two, three, seven, eight and nine, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to add to said article five new sections, to be designated sections eight-a, twelve-a, twelve-b, twelve-c, and fourteen, and to amend and reenact section two, article six of said chapter, and to add to article six a new section, to be designated section nine, relating to employment, duties, term of office, qualifications, salary and expenses of the chief of the department of mines and the designation of mining districts and divisions, and the appointment, examination, tenure, of inspectors, inspectors-at-large, administrative assistant-salary and expenses, qualifications, duties, and removal

ants, first aid instructors, mine rescue instructors and examiners; relating also to the appointment, qualifications, tenure, salary and expenses of the miner's examining board, and relating to the repeal of conflicting laws and separability of provisions.

*Be it enacted by the Legislature of West Virginia:*

That sections two, three, seven, eight and nine, of article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that five new sections be added thereto to be designated as sections eight-a, twelve-a, twelve-b, twelve-c, and fourteen, that section two, article six of said chapter, as amended, be amended and reenacted, and that a new section be added to article six, to be designated section nine, all to read as follows:

**Article 1. Department of Mines.**

Section 2. *Chief of Department of Mines; Duties; Term of Office.*—The department of mines shall be in charge of an official to be known as the chief of the department of mines, who shall be appointed by the governor, by and with the advice and consent of the senate. He

6 shall have full charge of the department and shall su-  
7 pervise and direct the inspection of mines as provided  
8 by law. The chief of the department of mines in office  
9 on the date this act takes effect shall, unless sooner  
10 removed, continue to serve until March first, one thou-  
11 sand nine hundred forty-nine, and his successor has  
12 been appointed and qualified. On or before the first  
13 day of March, one thousand nine hundred forty-nine,  
14 and on and before the first day of March of each fourth  
15 year thereafter, the governor shall appoint a chief of  
16 the department of mines to serve for a term of four  
17 years, commencing on said first day of March.

Sec. 3. *Qualifications; Salary; Expenses; Chief of De-*  
2 *partment of Mines.*—The chief of the department of  
3 mines shall be a male citizen of West Virginia and  
4 shall be a competent person with at least ten years  
5 experience in the workings, ventilation and drainage  
6 of coal mines, five years of which has been spent in  
7 this state, and have a practical and scientific knowledge  
8 of all noxious and dangerous gases found in such mines.  
9 A diploma from any accredited engineering school shall

10 qualify as three years experience. He shall devote all  
11 of his time to the duties of his office and shall not be  
12 directly or indirectly interested in a financial way in  
13 any coal mines in this state. The salary of the chief of  
14 the department of mines shall be in an amount not to  
15 exceed six thousand dollars per annum, at the discre-  
16 tion of the governor, and traveling expenses, which  
17 shall be paid monthly out of the funds of the state  
18 treasury upon a requisition upon the auditor, properly  
19 certified by the chief of the department of mines.

Sec. 7. *Mining Districts and Divisions; Mine Inspectors;*  
2 *Inspectors-at-Large; Tenure; Duties.*—The chief of the  
3 department of mines shall divide the state into not less  
4 than twenty-five mining districts and not less than three  
5 mining divisions. The present term of all mine inspec-  
6 tors, inspectors-at-large, and other officers and employees  
7 of the department engaged in inspecting mines shall  
8 expire as of July first, one thousand nine hundred forty-  
9 nine, but they shall continue in office until their suc-  
10 cessor is appointed and qualifies unless, within the dis-  
11 cretion of the chief of the department of mines, such

12 person is retained and appointed inspector-at-large as  
13 hereinafter provided. On or before the first day of  
14 July, one thousand nine hundred forty-nine, the chief  
15 of the department of mines shall appoint mine inspec-  
16 tors necessary to fully safeguard the interest of the mines  
17 or of the public, subject to qualifications and provisions  
18 of section eight of this article, whose appointment shall  
19 commence as of the first day of July, one thousand  
20 nine hundred forty-nine, for a term of four years. The  
21 duties of the inspectors shall be assigned by the chief  
22 of the department of mines as to service in coal mines,  
23 coal stripping operations, oil and gas operations, quarry  
24 and electrical inspections. On or before July first, one  
25 thousand nine hundred forty-nine, the chief of the de-  
26 partment of mines shall appoint inspectors-at-large for  
27 each mining division of the state, subject to the pro-  
28 visions of section eight of this article and subject also  
29 to removal of inspectors-at-large in same manner as  
30 provided for inspectors.

Sec. 8. *Inspectors and Inspectors-At-Large; Qualifica-*  
2 *tions; Oath; Bond; Removal; Salary and Expenses.—*

3 Every person appointed to the office of inspector shall  
4 be a citizen of West Virginia, of good moral character  
5 and temperate habits, and shall have a practical knowl-  
6 edge of mining and the proper ventilation and drainage  
7 of mines, a knowledge of the gases met with in coal mines  
8 and shall be a miner of at least ten years experience in  
9 coal mines, four years of which shall have been in West  
10 Virginia mines. A diploma from any accredited school of  
11 mining engineering shall be the equivalent of five years  
12 experience. To be eligible for appointment as an inspec-  
13 tor, his minimum age must be twenty-five years and his  
14 maximum age shall be fifty years.

15 The applicant for inspectorship shall undergo a phy-  
16 sical and written examination satisfactory to the chief  
17 of the department of mines. To be put on the eligible  
18 list, he must pass every subject of the written examin-  
19 ation with a grade of not less than eighty-five per cent.  
20 Examinations shall be held at such times and such  
21 places as designated by the chief of the department of  
22 mines. If a man has not been appointed within two

23 years after passing the examination, he must be re-  
24 examined before he is eligible for appointment.

25 An inspector shall not, while in office, be interested as  
26 owner, operator, stockholder, superintendent, or engineer  
27 of any coal mine, or hold similar position, and such inspec-  
28 tor shall not hold public office either elective or appointive.  
29 Before entering upon discharge of his duties he shall take  
30 oath of office prescribed by the constitution and shall exe-  
31 cute bond in the penalty of two thousand dollars with the  
32 security to be approved by the governor, conditioned upon  
33 the faithful discharge of his duties. A certificate of this  
34 oath and this bond shall be filed in the office of the secre-  
35 tary of state.

36 An appointee of the chief of the department of mines  
37 shall be removed from office for incompetency, neglect  
38 of duty, drunkenness, malfeasance or for other good  
39 cause. The salary of inspectors shall be not less than  
40 three thousand six hundred dollars nor more than five  
41 thousand four hundred dollars per annum, and actual  
42 traveling expenses, providing that before the payment  
43 of such expenses shall be made to the inspector, he shall



44 file an account of such expenses verified by his affi-  
45 davit showing that they were accrued in discharge of  
46 official duties.

47 Each division designated by the chief of the depart-  
48 ment of mines shall be headed by an inspector-at-large,  
49 who shall have the same authority as any district in-  
50 spector and such additional authority as may be dele-  
51 gated by the chief of the department of mines. The  
52 inspector-at-large shall have been a district inspector for  
53 a period of not less than five years.

54 The inspector-at-large shall maintain an office within  
55 his division, at a place designated by the chief of the  
56 department of mines where all records, maps, surplus  
57 equipment, repairs for equipment, and such things as  
58 he may need in the execution of his duties may be main-  
59 tained. Such office shall be a filing place for the rec-  
60 ords and maps of the district inspectors in each division.  
61 The salaries of the inspectors-at-large shall range from  
62 four thousand five hundred dollars per annum to a max-  
63 imum of five thousand seven hundred dollars per annum,  
64 based upon ability and experience, and actual traveling

65 expenses, *Provided*, That before payment of such ex-  
66 penses shall be made to the inspector-at-large, he shall  
67 file an account of such expenses verified by his affi-  
68 davit showing that they were accrued in discharge of  
69 his official duties.

Sec. 8-a. *Mine Examinations; Payment of Expenses*  
2 *thereof; Appointment of Examiners; Qualifications; Re-*  
3 *muneration and Expenses.*—The chief of the department  
4 of mines is hereby authorized to conduct all physical,  
5 oral and written examinations for applicants for the  
6 positions of mine inspectors, inspectors of oil and gas  
7 operations, quarry operations, first aid instructors and  
8 mine rescue instructors. The dates and places of ex-  
9 amination shall be fixed by the chief of the depart-  
10 ment of mines and the rules therefor shall be formu-  
11 lated by the chief of the department of mines.

12 The remuneration of the examiners of the department  
13 of mines, with the status of inspector, shall be the same  
14 as that of a district mine inspector and they shall be  
15 designated or appointed in the same manner as applied  
16 to inspectors. All traveling expenses for examiners

17 shall be paid out of the department of mines funds  
18 upon proper requisition to the state auditor and certifi-  
19 cation by the chief of the department of mines.

Sec. 9. *Mine Inspectors; Inspections Reports.*—Each of  
2 the mine inspectors shall report in writing, weekly, to  
3 the chief of the department of mines, the number and  
4 condition of all mines inspected by him during each  
5 week, and shall deliver to the operator or operators of  
6 each mine inspected a certificate of inspection, and shall  
7 post a duplicate certificate at a prominent place of  
8 the operating company where it may conveniently be  
9 read by any of the mine employees. The duplicate shall  
10 remain posted until a subsequent certificate is issued  
11 by the mine inspector. A mine inspector appointed for  
12 a particular district shall visit each mine in his dis-  
13 trict at least once in every three months unless pre-  
14 vented by unavoidable circumstances or oftener if called  
15 upon in writing by ten men engaged in any one mine,  
16 or the owner, operator or superintendent of such mine,  
17 and make a personal examination of each working  
18 place, and also entrances to abandoned parts of the mine

19 and outside of the mine where any danger may exist  
20 to the workmen in their respective districts, and shall  
21 particularly examine into the condition of the mine as  
22 to ventilation, drainage and general safety, and shall  
23 make a report of such examination, and he shall see  
24 that all provisions of the mining statutes, requirements  
25 of the department of mines and written instructions of  
26 the mine inspectors, are strictly carried out.

Sec. 12-a. *Administrative Assistants; Appointment; Ex-*  
2 *aminations; Qualifications; Salary and Expenses; Ten-*  
3 *ure; Removal.*—The chief of the department of mines  
4 shall appoint not more than five administrative assist-  
5 ants, of whom one shall be in charge of the oil and  
6 gas division and one in charge of mine rescue and safety.  
7 The appointment and qualifications of such adminis-  
8 trative assistants shall be the same as inspector-at-large,  
9 as provided in sections seven and eight of this article.  
10 The salaries of administrative assistants shall range  
11 from a minimum of four thousand five hundred dollars  
12 per annum to a maximum of five thousand seven hun-  
13 dred dollars per annum, to be fixed in the discretion

14 of the chief of the department of mines. The salaries  
15 shall be paid out of mines department funds by the state  
16 treasurer upon requisition upon the state auditor, duly  
17 certified by the chief of the department of mines. Trav-  
18 eling expenses shall be paid in the same manner. Such  
19 assistants may be removed from office in the same man-  
20 ner provided in section eight of this article concern-  
21 ing inspectors.

Sec. 12-b. *First Aid Instructor; Appointment; Tenure;*  
2 *Examinations; Qualifications; Salary and Expenses; Re-*  
3 *moval.*—The chief of the department of mines is hereby  
4 empowered, within his discretion, to appoint a first aid  
5 instructor, to be appointed in the same manner as pro-  
6 vided for mine inspectors in section seven of this article,  
7 subject to same qualifications and examinations as pro-  
8 vided for in section eight and section eight-a concern-  
9 ing mine inspectors, for each mining division of the state,  
10 who shall have the same status as to salary and author-  
11 ity as do inspectors defined in section eight. First aid  
12 instructors shall be paid not less than three thousand  
13 six hundred dollars nor more than five thousand four

14 hundred dollars per annum. An appointee under this  
15 section may be removed from office in the same man-  
16 ner as provided in section eight of this article concern-  
17 ing inspectors. Traveling expenses for first aid in-  
18 structors shall be paid out of the funds of the depart-  
19 ment of mines upon requisition upon the state auditor,  
20 certified by the chief of the department of mines.

Sec. 12-c. *Mine Rescue Instructors; Appointments; Ex-*  
2 *amination; Qualifications; Salary and Expenses; Re-*  
3 *moval.*—The chief of the department of mines is hereby  
4 empowered, within his discretion, to appoint and direct  
5 the activities of not less than three mine rescue instruc-  
6 tors to be appointed in the same manner provided for  
7 mine inspectors in section seven, who shall have the  
8 status of inspector, such instructors to be also subject  
9 before appointment to the provisions of section eight  
10 and section eight-a. The salary of mine rescue instruc-  
11 tors shall be four thousand two hundred dollars per an-  
12 num with a maximum of five thousand four hundred  
13 dollars, based upon ability and number of years of serv-  
14 ice. They shall be paid actual traveling expenses: *Pro-*

15 *vide*, That before the payment of such expenses, they  
16 shall file an account of such expenses verified by affi-  
17 davit showing that they were accrued in discharge of  
18 official duty. An appointee under this section may be  
19 removed from office in the same manner as provided  
20 in section eight of this article concerning inspectors.

Sec. 14. *Repeal of Conflicting Acts; Separability.*—All  
2 acts or parts of acts in conflict with article one are hereby  
3 repealed.

4 The provisions of this article shall be construed to be  
5 severable and if any is held unconstitutional and other-  
6 wise invalid, such invalidity or unconstitutionality shall  
7 not affect the operation of the remaining provisions.

**Article 6. Coal Miner's Examining Boards.**

Section 2. *Miner's Examining Boards.*—The chief of the  
2 department of mines, with the approval of the gov-  
3 ernor, shall appoint a board of three members to be  
4 known as the miner's examining board, which shall be  
5 composed of two practical and experienced miners, one  
6 of whom shall be a negro, and one coal mine operator's  
7 representative; not more than two members of the board

8 shall belong to the same political party; they shall serve  
9 for a term of four years, unless sooner removed from  
10 office by the chief of the department of mines for in-  
11 competency, neglect of duty, drunkenness, malfeasance  
12 or other good cause.

13 The chief of the department of mines shall designate  
14 one member of the board as chairman, and shall fur-  
15 nish said board with a seal of the department of mines.  
16 All records, reports, books and papers of the board shall  
17 be kept in the department of mines.

18 The salary of the chairman of the board shall be four  
19 thousand five hundred dollars per annum and the sal-  
20 aries of the other members of the board shall be four  
21 thousand two hundred dollars per annum, and they shall  
22 receive their actual traveling expenses, to be paid out  
23 of the state treasury; such salary shall be fixed by the  
24 chief of the department of mines, and shall be uni-  
25 form; said chief of the department of mines shall pro-  
26 vide for the maintenance of said miner's examining  
27 board in the same manner as is provided all other  
28 branches of the department of mines.



Sec. 9. *Repeal of Conflicting Acts; Separability.*—All

2 acts or parts of acts in conflict with article six are hereby  
3 repealed.

4 The provisions of this article shall be construed to be  
5 severable and if any is held unconstitutional and other-  
6 wise invalid, such invalidity or unconstitutionality shall  
7 not affect the operation of the remaining provisions.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Joseph L. McMan  
Chairman Senate Committee

R. L. Monahan  
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1949 passage.

Howard Myers  
Clerk of the Senate

J. R. Ruff  
Clerk of the House of Delegates

Frank Lloyd Hunter  
President of the Senate

W. E. Hammon  
Speaker House of Delegates

The within disapproved this the 18<sup>th</sup>  
day of March, 1949.

Okuy L. Pattison  
Governor.



Filed in the Office of the Secretary of State  
of West Virginia **MAR 18 1949**

**D. PITT O'BRIEN,**  
SECRETARY OF STATE

*Received 9:55 3/18/49*