

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959



ENROLLED

HOUSE BILL No. 60

(By Mr. Speaker Mr Parley)



PASSED March 9 1959

In Effect 90 days from Passage



Filed in Office of the Secretary of State
of West Virginia MAR 17 1959

JOE F. BURDETT
SECRETARY OF STATE

60

ENROLLED
House Bill No. 60
(By MR. SPEAKER, MR. PAULEY)

[Passed March 9, 1959; in effect ninety days from passage.]

AN ACT to amend and reenact sections seven and nine, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred fifty-eight, relating to the employment, appointment, tenure and number of mine inspectors, and the duties of the mine inspectors' examining board.

Be it enacted by the Legislature of West Virginia:

That sections seven and nine, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred fifty-eight, be amended and reenacted to read as follows:

Section 7. *Mine Inspectors; Districts and Divisions;*

2 *Employment; Tenure; Oath; Bond.*—Notwithstanding any
3 other provisions of law, mine inspectors shall be selected,
4 serve and be removed as in this article provided.

5 The director of the department of mines shall divide
6 the state into not more than forty-five mining districts,
7 and not more than five mining divisions, so as to equalize,
8 as far as practical, the work of each inspector. He shall
9 assign inspectors to districts, designate and assign an
10 inspector at large for each such division and shall desig-
11 nate their places of abode, at points convenient to the
12 mines of their district or division.

13 Mine inspectors serving as such on the first day of
14 July, one thousand nine hundred fifty-eight may con-
15 tinue to serve for a probationary period not exceeding
16 one year and if eligible as prescribed by section eight of
17 this article, may qualify for appointment during such pro-
18 bationary period in accordance with the provisions of said
19 section eight: *Provided, however,* That in the event the
20 mine inspectors' examining board is unable to provide an
21 adequate register of certified eligible candidates for
22 appointment prior to the first day of July, one thousand
23 nine hundred fifty-nine, said mine inspectors serving

24 on a probationary basis as aforesaid may at the discretion
25 of the director continue to serve at the will and pleasure
26 of the director until such time as an eligible candidate
27 has been furnished, said additional period of service not
28 to extend beyond midnight on the thirty-first day of
29 December, one thousand nine hundred fifty-nine.

30 Except as in the next preceding paragraph provided, all
31 mine inspectors appointed after the mine inspectors'
32 examining board has certified to the director of the depart-
33 ment of mines an adequate register of qualified eligible
34 candidates in accordance with section eight of this article,
35 so long as such register contains the names of at least
36 three qualified eligible candidates, shall be appointed
37 from the names on such register. Each original appoint-
38 ment shall be made by the director of the department of
39 mines for a probationary period of not more than one
40 year.

41 The director of the department of mines shall make
42 each appointment from among the three qualified eligible
43 candidates on the register having the highest grades or
44 from mine inspectors serving on the first day of July, one

45 thousand nine hundred fifty-eight and since that date on
46 a probationary basis as hereinbefore provided and who
47 qualify according to section eight of this article: *Pro-*
48 *vided, however,* That the director of the department of
49 mines may, for good cause, at least thirty days prior
50 to making an appointment, strike any name from the
51 register. Upon striking any name from the register the
52 director of the department of mines shall immediately
53 notify in writing each member of the mines inspectors'
54 examining board of his action, together with a detailed
55 statement of the reasons therefor. Thereafter, the mine
56 inspectors' examining board, after hearing, if it finds
57 that the action of the director of the department of mines
58 was arbitrary or unreasonable, may order the name of
59 any candidate so stricken from the register to be rein-
60 stated thereon. Such reinstatement shall be effective from
61 the date of removal from the register.

62 Any candidate passed over for appointment for three
63 years shall be automatically stricken from the register.

64 After having served for a probationary period of one
65 year to the satisfaction of the director of the department

66 of mines, a mine inspector shall have permanent tenure
67 until he becomes sixty-five years of age, subject only to
68 dismissal for cause in accordance with the provisions of
69 section eight of this article. No mine inspector while in
70 office shall be directly or indirectly interested as owner,
71 lessor, operator, stockholder, superintendent or engineer
72 of any coal mine. Before entering upon the discharge of
73 his duties as a mine inspector, he shall take the oath of
74 office prescribed by the constitution, and shall execute a
75 bond in the penalty of two thousand dollars, with security
76 to be approved by the director of the department of
77 mines, conditioned upon the faithful discharge of his
78 duties, a certificate of which oath and bond shall be filed
79 in the office of the secretary of state.

Sec. 9. *Mine Inspectors' Examining Board.*—There
2 shall be a mine inspectors' examining board consisting of
3 five members who, except for the public representative on
4 such board, shall be appointed by the governor, by and
5 with the advice and consent of the senate. Members so
6 appointed may be removed only for the same causes and
7 in like manner as elective state officers. One of the mem-

8 bers of the board shall be a representative of the public
9 who shall be the director of the school of mines at West
10 Virginia university. Two members of the board shall be
11 persons who by reason of previous training and experi-
12 ence may reasonably be said to represent the viewpoint
13 of coal mine operators and two members shall be persons
14 who by reason of previous training and experience may
15 reasonably be said to represent the viewpoint of coal mine
16 workers.

17 The director of the department of mines shall be an
18 ex officio member of the board, and shall serve as secre-
19 tary of the board without additional compensation, but he
20 shall have no right to vote with respect to any matter
21 before the board.

22 The members of the board, except the public representa-
23 tive, shall be appointed for overlapping terms of eight
24 years, except that the original appointments shall be for
25 terms of two, four, six and eight years, respectively. Any
26 member whose term expires may be reappointed by the
27 governor.

28 Each member of the board shall receive forty dollars

29 per diem while actually engaged in the performance of
30 the work of the board; and shall receive mileage at the
31 rate of ten cents for each mile actually traveled going
32 from the home of the member to the place of the meeting
33 of the board and returning therefrom, which shall be paid
34 out of the state treasury upon a requisition upon the state
35 auditor, properly certified by such members of the board.

36 The public member shall serve as chairman of the
37 board. Members of the board, before performing any duty
38 shall take and subscribe to the oath required by article
39 four, section five of the constitution of West Virginia.

40 The mine inspectors' examining board shall meet at
41 such times and places as shall be designated by the chair-
42 man. It shall be the duty of the chairman to call a meet-
43 ing of the board on the written request of three members
44 or the director of the department of mines. Notice of each
45 meeting shall be given in writing to each member by the
46 secretary at least five days in advance of the meeting.
47 Three members shall constitute a quorum for the trans-
48 action of business.

49 In addition to other duties expressly set forth else-
50 where in this article, the board shall:

51 (1) Establish, and from time to time revise, forms of
52 application for employment as mine inspector and forms
53 for written examinations to test the qualification of candi-
54 dates for that position;

55 (2) Adopt and promulgate reasonable rules and regu-
56 lations relating to the examination, qualification and cer-
57 tification of candidates for appointment as mine in-
58 spectors, and hearings for removal of inspectors, required
59 to be held by this article. All of such rules and regula-
60 tions shall be printed and a copy thereof furnished by the
61 secretary of the board to any person upon request;

62 (3) Conduct, after public notice of the time and place
63 thereof, examinations of candidates for appointment as
64 mine inspector. By unanimous agreement of all members
65 of the board, one or more members of the board or an
66 employee of the department of mines may be designated
67 to give to a candidate the written portion of the examina-
68 tion;

69 (4) Prepare and certify to the director of the depart-

70 ment of mines a register of qualified eligible candidates
71 for appointment as mine inspectors. The register shall
72 list all qualified eligible candidates in the order of their
73 grades, the candidate with the highest grade appearing at
74 the top of the list. After each meeting of the board held
75 to examine such candidates, and at least annually, the
76 board shall prepare and submit to the director of the de-
77 partment of mines a revised and corrected register of
78 qualified eligible candidates for appointment as mine in-
79 spector, deleting from such revised register all persons
80 (a) who are no longer residents of West Virginia, (b) who
81 have allowed a calendar year to expire without, in
82 writing, indicating their continued availability for such
83 appointment, (c) who have been passed over for appoint-
84 ment for three years, (d) who have become ineligible for
85 appointment since the board originally certified that such
86 person was qualified and eligible for appointment as mine
87 inspector, or (e) who, in the judgment of at least four
88 members of the board, should be removed from the
89 register for good cause;

90 (5) Cause the secretary of the board to keep and

91 preserve the written examination papers, manuscripts,
92 grading sheets, and other papers of all applicants for
93 appointment as mine inspector for such period of time
94 as may be established by the board. Specimens of the
95 examinations given, together with the correct solution
96 of each question, shall be preserved permanently by
97 the secretary of the board;

98 (6) Issue a letter or written notice of qualification to
99 each successful eligible candidate;

100 (7) Hear and determine proceedings for the removal
101 of mine inspectors in accordance with the provisions of
102 this article;

103 (8) Hear and determine appeals of mine inspectors
104 from suspension orders made by the director pursuant
105 to the provisions of section four (5) of this article:
106 *Provided, however,* That an aggrieved inspector in order
107 to appeal from any order of suspension, shall file such
108 appeal in writing with the mine inspectors' examining
109 board not later than ten days after receipt of notice of
110 suspension. On such appeal the board shall affirm the
111 action of the director unless it be satisfied from a clear

112 preponderance of the evidence that the director has acted
113 arbitrarily;

114 (9) Make an annual report to the governor and the
115 director of the department of mines concerning the ad-
116 ministration of mine inspection personnel in the state
117 service, making such recommendations as the board con-
118 siders to be in the public interest.

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

W. Jasper
Chairman Senate Committee

J. F. Keem
Chairman House Committee

Originated in the House of Delegates

Takes effect *90 days from* passage.

Thomas M. Key
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Ralph Bean
President of the Senate

W. R. Parley
Speaker, House of Delegates

The within *approved* this the *17th*

day of *March*, 1959.

J. D. Underwood
Governor

