WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1959

ENROLLED

HOUSE BILL No. 60

(By Mr. Speaker Mr. Pusley)

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

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

Mine inspectors serving as such on the first day of July, one thousand nine hundred fifty-eight may continue to serve for a probationary period not exceeding one year and if eligible as prescribed by section eight of this article, may qualify for appointment during such probationary period in accordance with the provisions of said section eight: Provided, however, That in the event the mine inspectors' examining board is unable to provide an adequate register of certified eligible candidates for appointment prior to the first day of July, one thousand nine hundred fifty-nine, said mine inspectors serving
on a probationary basis as aforesaid may at the discretion
of the director continue to serve at the will and pleasure
of the director until such time as an eligible candidate
has been furnished, said additional period of service not
to extend beyond midnight on the thirty-first day of
December, one thousand nine hundred fifty-nine.

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

The director of the department of mines shall make
each appointment from among the three qualified eligible
candidates on the register having the highest grades or
from mine inspectors serving on the first day of July, one
thousand nine hundred fifty-eight and since that date on
a probationary basis as hereinbefore provided and who
qualify according to section eight of this article: Pro-
vided, however, That the director of the department of
mines may, for good cause, at least thirty days prior
to making an appointment, strike any name from the
register. Upon striking any name from the register the
director of the department of mines shall immediately
notify in writing each member of the mines inspectors'
examining board of his action, together with a detailed
statement of the reasons therefor. Thereafter, the mine
inspectors' examining board, after hearing, if it finds
that the action of the director of the department of mines
was arbitrary or unreasonable, may order the name of
any candidate so stricken from the register to be rein-
stated thereon. Such reinstatement shall be effective from
the date of removal from the register.

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

After having served for a probationary period of one
year to the satisfaction of the director of the department
of mines, a mine inspector shall have permanent tenure
until he becomes sixty-five years of age, subject only to
dismissal for cause in accordance with the provisions of
section eight of this article. No mine inspector while in
office shall be directly or indirectly interested as owner,
lessor, operator, stockholder, superintendent or engineer
of any coal mine. Before entering upon the discharge of
his duties as a mine inspector, he shall take the oath of
office prescribed by the constitution, and shall execute a
bond in the penalty of two thousand dollars, with security
to be approved by the director of the department of
mines, conditioned upon the faithful discharge of his
duties, a certificate of which oath and bond shall be filed
in the office of the secretary of state.

Sec. 9. Mine Inspectors' Examining Board.—There
shall be a mine inspectors' examining board consisting of
five members who, except for the public representative on
such board, shall be appointed by the governor, by and
with the advice and consent of the senate. Members so
appointed may be removed only for the same causes and
in like manner as elective state officers. One of the mem-
bers of the board shall be a representative of the public who shall be the director of the school of mines at West Virginia university. Two members of the board shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine operators and two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of coal mine workers.

The director of the department of mines shall be an ex officio member of the board, and shall serve as secretary of the board without additional compensation, but he shall have no right to vote with respect to any matter before the board.

The members of the board, except the public representative, shall be appointed for overlapping terms of eight years, except that the original appointments shall be for terms of two, four, six and eight years, respectively. Any member whose term expires may be reappointed by the governor.

Each member of the board shall receive forty dollars
per diem while actually engaged in the performance of
the work of the board; and shall receive mileage at the
rate of ten cents for each mile actually traveled going
from the home of the member to the place of the meeting
of the board and returning therefrom, which shall be paid
out of the state treasury upon a requisition upon the state
auditor, properly certified by such members of the board.
The public member shall serve as chairman of the
board. Members of the board, before performing any duty
shall take and subscribe to the oath required by article
four, section five of the constitution of West Virginia.
The mine inspectors' examining board shall meet at
such times and places as shall be designated by the chair-
man. It shall be the duty of the chairman to call a meet-
ing of the board on the written request of three members
or the director of the department of mines. Notice of each
meeting shall be given in writing to each member by the
secretary at least five days in advance of the meeting.
Three members shall constitute a quorum for the trans-
action of business.
In addition to other duties expressly set forth elsewhere in this article, the board shall:

(1) Establish, and from time to time revise, forms of application for employment as mine inspector and forms for written examinations to test the qualification of candidates for that position;

(2) Adopt and promulgate reasonable rules and regulations relating to the examination, qualification and certification of candidates for appointment as mine inspectors, and hearings for removal of inspectors, required to be held by this article. All of such rules and regulations shall be printed and a copy thereof furnished by the secretary of the board to any person upon request;

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

(4) Prepare and certify to the director of the depart-
ment of mines a register of qualified eligible candidates for appointment as mine inspectors. The register shall list all qualified eligible candidates in the order of their grades, the candidate with the highest grade appearing at the top of the list. After each meeting of the board held to examine such candidates, and at least annually, the board shall prepare and submit to the director of the department of mines a revised and corrected register of qualified eligible candidates for appointment as mine inspector, deleting from such revised register all persons (a) who are no longer residents of West Virginia, (b) who have allowed a calendar year to expire without, in writing, indicating their continued availability for such appointment, (c) who have been passed over for appointment for three years, (d) who have become ineligible for appointment since the board originally certified that such person was qualified and eligible for appointment as mine inspector, or (e) who, in the judgment of at least four members of the board, should be removed from the register for good cause;

(5) Cause the secretary of the board to keep and
preserve the written examination papers, manuscripts, grading sheets, and other papers of all applicants for appointment as mine inspector for such period of time as may be established by the board. Specimens of the examinations given, together with the correct solution of each question, shall be preserved permanently by the secretary of the board; (6) Issue a letter or written notice of qualification to each successful eligible candidate; (7) Hear and determine proceedings for the removal of mine inspectors in accordance with the provisions of this article; (8) Hear and determine appeals of mine inspectors from suspension orders made by the director pursuant to the provisions of section four (5) of this article: Provided, however, That an aggrieved inspector in order to appeal from any order of suspension, shall file such appeal in writing with the mine inspectors’ examining board not later than ten days after receipt of notice of suspension. On such appeal the board shall affirm the action of the director unless it be satisfied from a clear
preponderance of the evidence that the director has acted arbitrarily;

(9) Make an annual report to the governor and the director of the department of mines concerning the administration of mine inspection personnel in the state service, making such recommendations as the board considers to be in the public interest.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect [delay from] [passage]

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker, House of Delegates

The within approved this the 17th day of [Month], 1959.

[Signature]
Governor