

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1965**

**ENROLLED**

*Comm. Sub for*

**SENATE BILL NO. 137**

(By Mr. Hellen and Mr. Jackson  
Original Sponsors)

PASSED March 11, 1965

In Effect July 1, 1965 ~~Passage~~

#137

**ENROLLED**

MINES AND MINING

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 137**

(By MR. HOLDEN and MR. JACKSON original sponsors)

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[Passed March 11, 1965; in effect July 1, 1965.]

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AN ACT to amend and reenact chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section eight, article one thereof, sections eight and nine, article two-a thereof; by adding thereto a new article, designated article two-b; and by amending and reenacting section one-d, article four thereof, all relating to the director of the department of mines and his salary; appointment and qualifications of mine inspectors, their salaries, expenses, and removal; surface mining maps, plans and locations; appointment and qualifications of surface mining supervisor and inspectors, and their compensation and ex-

penses; underground clay mining, qualification and employment of clay mine foreman and assistants, and regulations in connection with underground clay mines; and qualification and appointment of oil and gas inspector and supervising inspector, and expenses and removal thereof.

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

That chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section eight, article one thereof; sections eight and nine, article two-a thereof; by adding thereto a new article, designated article two-b; and by amending and reenacting section one-d, article four thereof, all to read as follows:

**Article 1. Administration; Enforcement.**

**Sec. 8. Eligibility for Appointment as Mine Inspector;**

**2 Qualifications; Salary and Expenses; Removal.—(a) No**  
**3 person shall be eligible for appointment as a mine in-**  
**4 spector after the effective date of this article unless, at**  
**5 the time of his probationary appointment he: (1) Is a**  
**6 citizen of West Virginia, in good health, not less than**  
**7 thirty nor more than fifty-five years of age, and of good**

8 character, reputation and temperate habits; (2) has had at  
9 least ten years' practical experience in coal mines, at least  
10 five years of which, immediately preceding his original  
11 appointment, shall have been in mines in this state: *Pro-*  
12 *vided*, That graduation from the school of mines of West  
13 Virginia university or any other accredited college of  
14 mining engineering shall be considered the equivalent of  
15 two years' practical experience; (3) has had practical ex-  
16 perience with dangerous gases found in coal mines; and  
17 (4) has a good theoretical and practical knowledge of  
18 mines, mining methods, mine ventilation, sound safety  
19 practices and applicable mining laws.

20 (b) In order to qualify for appointment as a mine  
21 inspector an eligible applicant shall submit to a written  
22 and oral examination by the mine inspectors' examining  
23 board and furnish such evidence of good health, character  
24 and other facts establishing eligibility as the board may  
25 require. If the board finds after investigation and exami-  
26 nation that an applicant: (1) Is eligible for appointment  
27 and (2) has passed all written and oral examinations,  
28 with a grade of at least ninety per cent, the board shall

29 add such applicant's name and grade to the register of  
30 qualified eligible candidates and certify its action to the  
31 director of the department of mines. No candidate's name  
32 shall remain in the register for more than three years  
33 without requalifying.

34 (c) Salaries of district inspectors shall not be less  
35 than eighty-one hundred dollars nor more than ninety-  
36 nine hundred dollars per annum; assistant inspectors-at-  
37 large not less than eighty-four hundred dollars nor more  
38 than ten thousand two hundred dollars per annum; in-  
39 spectors-at-large not less than eighty-seven hundred dol-  
40 lars nor more than ten thousand eight hundred dollars per  
41 annum, and reasonable traveling expenses. Within the  
42 limits provided by law, the salary of each inspector shall  
43 be fixed by the director of the department of mines, sub-  
44 ject to the approval of the mine inspectors' examining  
45 board. In fixing salaries of mine inspectors, the director of  
46 the department of mines shall consider ability, perform-  
47 ance of duty and experience. No reimbursement for  
48 traveling expenses shall be made except upon an itemized  
49 account of such expenses submitted by the inspector, who

50 shall verify, upon oath, that such expenses were actually  
51 incurred in the discharge of his official duties.

52 (d) A mine inspector, after having received a perma-  
53 nent appointment shall be removed from office only for  
54 physical or mental impairment, incompetency, neglect of  
55 duty, drunkenness, malfeasance in office, or other good  
56 cause.

57 Proceedings for the removal of a mine inspector may  
58 be initiated by the director of the department of mines  
59 whenever he has reasonable cause to believe and does  
60 believe that adequate cause exists, warranting removal.

61 Such a proceeding shall be initiated by a verified petition,  
62 filed with the board by the director of the department of  
63 mines, setting forth with particularity the facts alleged.

64 Not less than twenty reputable citizens, who are operators  
65 or employees in mines in the state, may petition the di-  
66 rector of the department of mines for the removal of a  
67 mine inspector. If such petition is verified by at least one  
68 of the petitioners, based on actual knowledge of the  
69 affiant, and alleges facts, which, if true, warrant the re-  
70 moval of the inspector, the director of the department

71 of mines shall cause an investigation of the facts to be  
72 made. If, after such investigation, the director finds that  
73 there is substantial evidence which, if true, warrants re-  
74 moval of the inspector, he shall file a petition with the  
75 board requesting removal of the inspector.

76 On receipt of a petition by the director of the depart-  
77 ment of mines seeking removal of a mine inspector the  
78 board shall promptly notify the inspector to appear be-  
79 fore it at a time and place designated in said notice, which  
80 time shall be not less than fifteen days thereafter. There  
81 shall be attached to the copy of the notice served upon  
82 the inspector a copy of the petition filed with the board.

83 At the time and place designated in said notice, the board  
84 shall hear all evidence offered in support of the petition  
85 and on behalf of the inspector. Each witness shall be  
86 sworn and a transcript shall be made of all evidence taken  
87 and proceedings had at any such hearing. No continuance  
88 shall be granted except for good cause shown.

89 The chairman of the board and the director of the de-  
90 partment of mines shall have power to administer oaths  
91 and subpoena witnesses.

92 Any mine inspector who shall wilfully refuse or fail to  
93 appear before the board, or having appeared, shall refuse  
94 to answer under oath any relevant question on the ground  
95 that his testimony or answer might incriminate him, or  
96 shall refuse to waive immunity from prosecution on ac-  
97 count of any relevant matter about which he may be asked  
98 to testify at any such hearing before the board, shall  
99 forfeit his position.

100 If, after hearing, the board finds that the inspector  
101 should be removed, it shall enter an order to that effect.  
102 The decision of the board shall be final and shall not be  
103 subject to judicial review.

**Article 2-A. Surface Mining.**

**Section 8. Maps, Plans and Locations.**—Except as other-  
2 wise provided in the code of West Virginia, one thousand  
3 nine hundred thirty-one, as amended, applications shall  
4 be accompanied by a United States geological survey  
5 topographic map on which the operator has indicated the  
6 location of the operation. A monument as prescribed by  
7 the department of mines shall be placed in an approved  
8 location near the operation. If operations under a single

9 permit are not geographically continuous, the operator  
10 shall locate additional monuments and submit additional  
11 location maps before mining on other areas. On or prior  
12 to the beginning of the ninth month after the date of the  
13 issuance of any surface mining permit, five copies of a  
14 six months' progress map shall be furnished the depart-  
15 ment of mines. This map shall contain information identi-  
16 cal to that required for both the anniversary and comple-  
17 tion maps which are required by this article. Within sixty  
18 days following the anniversary date of the permit, the  
19 operator shall furnish the department of mines five copies  
20 of a map, prepared by a registered professional civil engi-  
21 neer, mining engineer or land surveyor, showing the area  
22 disturbed by operations. Such map shall be furnished no  
23 later than sixty days following the anniversary date of  
24 the permit. Such map shall also show completed reclama-  
25 tion work. Maps shall include a geologic survey sketch  
26 showing the location of the operation and be properly  
27 referenced to a permanent landmark, and all work shall  
28 have an accuracy of not less than one in three hundred.  
29 If no land has been disturbed by operations during the

30 preceding year, the operator shall notify the department  
31 of mines of this fact. A final map shall be submitted with-  
32 in three months after completion of mining operations.  
33 Failure to submit maps or notices at specified times shall  
34 cause the permit to be suspended.

**Sec. 9. Surface Mining Supervisor and Inspectors; Ap-  
2 pointment and Qualifications; Compensation and Expenses.**

3 —Not more than six surface mining inspectors and a state  
4 surface mining supervisor shall be appointed by the di-  
5 rector of the department of mines. All such appointees  
6 shall be citizens of West Virginia in good health, not less  
7 than thirty nor more than fifty-five years of age, of good  
8 character and reputation, and temperate in habits. Each  
9 of them shall have had at least five years' practical experi-  
10 ence in surface mining in West Virginia. The surface min-  
11 ing supervisor shall be paid not less than seven thousand  
12 dollars and not more than eight thousand five hundred  
13 dollars per annum, and the surface mining inspectors shall  
14 be paid not less than six thousand seven hundred dollars  
15 and not more than seven thousand five hundred dollars  
16 per annum. Each shall be allowed reasonable traveling

17 expenses when itemized by the claimant who shall verify  
18 upon oath that such expenses were actually incurred in  
19 the discharge of his official duties for the department of  
20 mines. Within the limits provided in this section, the  
21 salary of the supervisor and of each inspector shall be  
22 fixed by the director of the department of mines, and in  
23 fixing such salaries the director shall consider ability,  
24 performance of duty, responsibility and experience of  
25 each. All such salaries and expenses shall be paid from  
26 the department of mines funds.

**Article 2-B. Underground Clay Mine.**

**Section 1. Definition.**—In this article the term “mine”  
2 shall include the shafts, slopes, drifts or inclines connected  
3 with excavations penetrating clay seams or strata, which  
4 excavations are ventilated by one general air current or  
5 division thereof, and the surface structures or equipment  
6 connected therewith which contribute directly or indi-  
7 rectly to the underground mining of clay.

**Sec. 2. Clay Mine Foreman; When to Be Employed;**

**2 Qualifications; Assistants.**—In every underground clay  
3 mine where five or more persons are employed in a period

4 of twenty-four hours, the operator shall employ a mine  
5 foreman who shall be a competent and practical person  
6 holding a certificate of competence for said position issued  
7 to him by the department of mines after an examination  
8 by such department. In order to receive a certificate of  
9 competence qualifying a foreman in an underground clay  
10 mine, the applicant shall take an examination prescribed  
11 by the director of the department of mines, be a citizen of  
12 this state, of good moral character and temperate habits,  
13 having had at least three years' experience in the under-  
14 ground working of clay mines.

**Sec. 3. Regulations for the Protection of the Health and**

2 **Safety of Employees.**—The director of the department of  
3 mines may from time to time promulgate reasonable  
4 rules and regulations for the protection of the health and  
5 safety of the persons working in or about underground  
6 clay mines, to the extent the same are not more onerous  
7 or restrictive than the laws of this state intended to safe-  
8 guard the life and health of persons working in under-  
9 ground coal mines contained in article two of this chapter.

**Article 4. Oil and Gas Wells.**

**Section 1-d. Same; Eligibility for Appointment; Quali-**

**2 cations; Salary; Expenses; Removal.—(a) No person shall**

**3 be eligible for appointment as an oil and gas inspector or**

**4 supervising inspector unless, at the time of his proba-**

**5 tionary appointment he (1) is a citizen of West Virginia,**

**6 in good health, and of good character, reputation and**

**7 temperate habits; (2) has had at least ten years' practical**

**8 experience in the oil and gas industry, at least five years**

**9 of which, immediately preceding his original appointment**

**10 shall have been in the oil and gas industry in this state:**

**11 *Provided*, That a diploma in geology or in mining or**

**12 petroleum engineering from West Virginia university, or**

**13 any similarly accredited school shall be considered the**

**14 equivalent of two years' practical experience; and (3) has**

**15 good theoretical and practical knowledge of oil and gas**

**16 drilling and production methods, practices and techniques,**

**17 sound safety practices and applicable mining laws.**

**18 (b) In order to qualify for appointment as an oil and**

**19 gas inspector or supervising inspector, an eligible appli-**

**20 cant shall submit to a written and oral examination by**

21 the oil and gas inspectors' examining board and shall  
22 **furnish such evidence of good health, character and other**  
23 facts establishing eligibility as such board may require. If  
24 such board finds after investigation and examination that  
25 an applicant: (1) is eligible for appointment and (2) has  
26 passed all written and oral examinations, the board shall  
27 add such applicant's name and grade to the register of  
28 qualified eligible candidates and certify its action to the  
29 deputy director for oil and gas. No candidate's name shall  
30 remain on the register for more than three years without  
31 requalifying.

32 (c) The salary of the supervising inspector shall be  
33 not less than five thousand six hundred dollars per annum,  
34 nor more than eight thousand dollars per annum, and  
35 reasonable traveling expenses. Salaries of inspectors shall  
36 not be less than five thousand six hundred dollars per  
37 annum, nor more than seven thousand four hundred dol-  
38 lars per annum, and reasonable traveling expenses. With-  
39 in the limits provided by law, the salary of each inspector  
40 and of the supervising inspector shall be fixed by the  
41 deputy director for oil and gas, subject to the approval of

42 the director of the department of mines and oil and gas  
43 inspectors' examining board. In fixing salaries of the oil  
44 and gas inspectors and of the supervising inspector, the  
45 deputy director for oil and gas shall consider ability, per-  
46 formance of duty, and experience. No reimbursement for  
47 traveling expenses shall be made except upon an itemized  
48 account of such expenses submitted by the inspector or  
49 supervising inspector, as the case may be, who shall  
50 verify, upon oath, that such expenses were actually in-  
51 curred in the discharge of his official duties.

52 (d) An inspector or the supervising inspector, after  
53 having received a permanent appointment, shall be re-  
54 moved from office only for physical or mental impairment,  
55 incompetency, neglect of duty, drunkenness, malfeasance  
56 in office, or other good cause.

57 Proceedings for the removal of an oil and gas inspector  
58 or the supervising inspector may be initiated by the  
59 deputy director for oil and gas or the director of the de-  
60 partment of mines whenever either has reasonable  
61 grounds to believe and does believe that adequate cause  
62 exists warranting removal. Such a proceeding shall be

63 initiated by a verified petition, filed with the oil and gas  
64 inspectors' examining board by the deputy director for  
65 oil and gas or the director, setting forth with particularity  
66 the facts alleged. Not less than twenty reputable citizens  
67 engaged in oil and/or gas drilling and production opera-  
68 tions in the state may petition the deputy director for oil  
69 and gas or the director of the department of mines for the  
70 removal of an inspector or the supervising inspector. If  
71 such petition is verified by at least one of the petitioners,  
72 based on actual knowledge of the affiant, and alleges facts  
73 which, if true, warrant the removal of the inspector or  
74 supervising inspector, the deputy director for oil and gas  
75 or the director of the department of mines shall cause an  
76 investigation of the facts to be made. If, after such in-  
77 vestigation, the deputy director for oil and gas or the di-  
78 rector finds that there is substantial evidence which, if  
79 true, warrants removal of the inspector or supervising  
80 inspector, he shall file a petition with the oil and gas in-  
81 spectors' examining board requesting removal of the in-  
82 spector or supervising inspector.

83 On receipt of a petition by the deputy director for oil

84 and gas or by the director of the department of mines  
85 seeking removal of an inspector or the supervising inspec-  
86 tor, the oil and gas inspectors' examining board shall  
87 promptly notify the inspector or supervising inspector, as  
88 the case may be, to appear before it at a time and place  
89 designated in said notice, which time shall be not less than  
90 fifteen days nor more than thirty days thereafter. There  
91 shall be attached to the copy of the notice served upon  
92 the inspector or supervising inspector a copy of the peti-  
93 tion filed with such board.

94 At the time and place designated in said notice, the oil  
95 and gas inspectors' examining board shall hear all evi-  
96 dence offered in support of the petition and on behalf of  
97 the inspector or supervising inspector. Each witness shall  
98 be sworn and a transcript shall be made of all evidence  
99 taken and proceedings had at any such hearing. No con-  
100 tinuance shall be granted except for good cause shown.

101 The chairman of the board, the deputy director for oil  
102 and gas, and the director of the department of mines  
103 shall have power to administer oaths and subpoena wit-  
104 nesses.

105 Any inspector or supervising inspector who shall wil-  
106 fully refuse or fail to appear before such board, or having  
107 appeared, shall refuse to answer under oath any relevant  
108 question on the ground that his testimony or answer  
109 might incriminate him, or shall refuse to accept a grant of  
110 immunity from prosecution on account of any relevant  
111 matter about which he may be asked to testify at such  
112 hearing before such board, shall forfeit his position.

113 If, after hearing, the oil and gas inspectors' examining  
114 board finds that the inspector or supervising inspector  
115 should be removed, it shall enter an order to that effect.  
116 The decision of the board shall be final and shall not be  
117 subject to judicial review.

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

*Ray Parker*  
Chairman Senate Committee

*James W. Loop*  
Chairman House Committee

Originated in the Senate.

Takes effect *July 1, 1965* Passage.

*Howard Meyer*  
Clerk of the Senate

*C. Blankenship*  
Clerk of the House of Delegates

*Howard Gibson*  
President of the Senate

*H. Laban White*  
Speaker House of Delegates

The within *approved* this the *19*  
day of *March*, 1965.

*Huey C. Smith*  
Governor



Presented to Governor's Office

3/12/65

1:40 p.m.