WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1965

ENROLLED

SENATE BILL NO. 137

(By Mr. [Signature] and Mr. [Signature])

PASSED
March 11, 1965

In Effect
July 1, 1965
ENROLLED

MINES AND MINING

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 137

(By Mr. Holden and Mr. Jackson original sponsors)

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

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-
expenses; 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; Qualifications; Salary and Expenses; Removal.**—(a) No person shall be eligible for appointment as a mine inspector after the effective date of this article unless, at the time of his probationary appointment he: (1) Is a citizen of West Virginia, in good health, not less than thirty nor more than fifty-five years of age, and of good
character, reputation and temperate habits; (2) has had at least ten years' practical experience in coal mines, at least five years of which, immediately preceding his original appointment, shall have been in mines in this state: Provided, That graduation from the school of mines of West Virginia university or any other accredited college of mining engineering shall be considered the equivalent of two years' practical experience; (3) has had practical experience with dangerous gases found in coal mines; and (4) has a good theoretical and practical knowledge of mines, mining methods, mine ventilation, sound safety practices and applicable mining laws.

(b) In order to qualify for appointment as a mine inspector an eligible applicant shall submit to a written and oral examination by the mine inspectors' examining board and furnish such evidence of good health, character and other facts establishing eligibility as the board may require. If the board finds after investigation and examination that an applicant: (1) Is eligible for appointment and (2) has passed all written and oral examinations, with a grade of at least ninety per cent, the board shall
add such applicant's name and grade to the register of qualified eligible candidates and certify its action to the director of the department of mines. No candidate's name shall remain in the register for more than three years without requalifying.

(c) Salaries of district inspectors shall not be less than eighty-one hundred dollars nor more than ninety-nine hundred dollars per annum; assistant inspectors-at-large not less than eighty-four hundred dollars nor more than ten thousand two hundred dollars per annum; inspectors-at-large not less than eighty-seven hundred dollars nor more than ten thousand eight hundred dollars per annum, and reasonable traveling expenses. Within the limits provided by law, the salary of each inspector shall be fixed by the director of the department of mines, subject to the approval of the mine inspectors' examining board. In fixing salaries of mine inspectors, the director of the department of mines shall consider ability, performance of duty and experience. No reimbursement for traveling expenses shall be made except upon an itemized account of such expenses submitted by the inspector, who
shall verify, upon oath, that such expenses were actually incurred in the discharge of his official duties.

(d) A mine inspector, after having received a permanent appointment shall be removed from office only for physical or mental impairment, incompetency, neglect of duty, drunkenness, malfeasance in office, or other good cause.

Proceedings for the removal of a mine inspector may be initiated by the director of the department of mines whenever he has reasonable cause to believe and does believe that adequate cause exists, warranting removal. Such a proceeding shall be initiated by a verified petition, filed with the board by the director of the department of mines, setting forth with particularity the facts alleged. Not less than twenty reputable citizens, who are operators or employees in mines in the state, may petition the director of the department of mines for the removal of a mine inspector. If such petition is verified by at least one of the petitioners, based on actual knowledge of the affiant, and alleges facts, which, if true, warrant the removal of the inspector, the director of the department
of mines shall cause an investigation of the facts to be made. If, after such investigation, the director finds that there is substantial evidence which, if true, warrants removal of the inspector, he shall file a petition with the board requesting removal of the inspector.

On receipt of a petition by the director of the department of mines seeking removal of a mine inspector the board shall promptly notify the inspector to appear before it at a time and place designated in said notice, which time shall be not less than fifteen days thereafter. There shall be attached to the copy of the notice served upon the inspector a copy of the petition filed with the board.

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

The chairman of the board and the director of the department of mines shall have power to administer oaths and subpoena witnesses.
Any mine inspector who shall wilfully refuse or fail to appear before the board, or having appeared, shall refuse to answer under oath any relevant question on the ground that his testimony or answer might incriminate him, or shall refuse to waive immunity from prosecution on account of any relevant matter about which he may be asked to testify at any such hearing before the board, shall forfeit his position.

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

Article 2-A. Surface Mining.

Section 8. Maps, Plans and Locations.—Except otherwise provided in the code of West Virginia, one thousand nine hundred thirty-one, as amended, applications shall be accompanied by a United States geological survey topographic map on which the operator has indicated the location of the operation. A monument as prescribed by the department of mines shall be placed in an approved location near the operation. If operations under a single
permit are not geographically continuous, the operator shall locate additional monuments and submit additional location maps before mining on other areas. On or prior to the beginning of the ninth month after the date of the issuance of any surface mining permit, five copies of a six months' progress map shall be furnished the department of mines. This map shall contain information identical to that required for both the anniversary and completion maps which are required by this article. Within sixty days following the anniversary date of the permit, the operator shall furnish the department of mines five copies of a map, prepared by a registered professional civil engineer, mining engineer or land surveyor, showing the area disturbed by operations. Such map shall be furnished no later than sixty days following the anniversary date of the permit. Such map shall also show completed reclamation work. Maps shall include a geologic survey sketch showing the location of the operation and be properly referenced to a permanent landmark, and all work shall have an accuracy of not less than one in three hundred.

If no land has been disturbed by operations during the
preceding year, the operator shall notify the department
do mines of this fact. A final map shall be submitted with-
in three months after completion of mining operations.
Failure to submit maps or notices at specified times shall
cause the permit to be suspended.

Sec. 9. Surface Mining Supervisor and Inspectors; Ap-
pointment and Qualifications; Compensation and Expenses.
—Not more than six surface mining inspectors and a state
surface mining supervisor shall be appointed by the di-
rector of the department of mines. All such appointees
shall be citizens of West Virginia in good health, not less
than thirty nor more than fifty-five years of age, of good
character and reputation, and temperate in habits. Each
of them shall have had at least five years' practical experi-
ence in surface mining in West Virginia. The surface min-
ing supervisor shall be paid not less than seven thousand
dollars and not more than eight thousand five hundred
dollars per annum, and the surface mining inspectors shall
be paid not less than six thousand seven hundred dollars
and not more than seven thousand five hundred dollars
per annum. Each shall be allowed reasonable traveling
expenses when itemized by the claimant who shall verify
upon oath that such expenses were actually incurred in
the discharge of his official duties for the department of
mines. Within the limits provided in this section, the
salary of the supervisor and of each inspector shall be
fixed by the director of the department of mines, and in
fixing such salaries the director shall consider ability,
performance of duty, responsibility and experience of
each. All such salaries and expenses shall be paid from
the department of mines funds.

Article 2-B. Underground Clay Mine.

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

Sec. 2. Clay Mine Foreman; When to Be Employed;
Qualifications; Assistants.—In every underground clay
mine where five or more persons are employed in a period
of twenty-four hours, the operator shall employ a mine foreman who shall be a competent and practical person holding a certificate of competence for said position issued to him by the department of mines after an examination by such department. In order to receive a certificate of competence qualifying a foreman in an underground clay mine, the applicant shall take an examination prescribed by the director of the department of mines, be a citizen of this state, of good moral character and temperate habits, having had at least three years' experience in the underground working of clay mines.

Sec. 3. Regulations for the Protection of the Health and Safety of Employees.—The director of the department of mines may from time to time promulgate reasonable rules and regulations for the protection of the health and safety of the persons working in or about underground clay mines, to the extent the same are not more onerous or restrictive than the laws of this state intended to safeguard the life and health of persons working in underground coal mines contained in article two of this chapter.
Article 4. Oil and Gas Wells.

Section 1-d. Same; Eligibility for Appointment; Qualifications; Salary; Expenses; Removal.—(a) No person shall be eligible for appointment as an oil and gas inspector or supervising inspector unless, at the time of his probationary appointment he (1) is a citizen of West Virginia, in good health, and of good character, reputation and temperate habits; (2) has had at least ten years' practical experience in the oil and gas industry, at least five years of which, immediately preceding his original appointment shall have been in the oil and gas industry in this state: Provided, That a diploma in geology or in mining or petroleum engineering from West Virginia university, or any similarly accredited school shall be considered the equivalent of two years' practical experience; and (3) has good theoretical and practical knowledge of oil and gas drilling and production methods, practices and techniques, sound safety practices and applicable mining laws.

(b) In order to qualify for appointment as an oil and gas inspector or supervising inspector, an eligible applicant shall submit to a written and oral examination by
the oil and gas inspectors' examining board and shall furnish such evidence of good health, character and other facts establishing eligibility as such board may require. If such board finds after investigation and examination that an applicant: (1) is eligible for appointment and (2) has passed all written and oral examinations, the board shall add such applicant's name and grade to the register of qualified eligible candidates and certify its action to the deputy director for oil and gas. No candidate's name shall remain on the register for more than three years without requalifying.

(c) The salary of the supervising inspector shall be not less than five thousand six hundred dollars per annum, nor more than eight thousand dollars per annum, and reasonable traveling expenses. Salaries of inspectors shall not be less than five thousand six hundred dollars per annum, nor more than seven thousand four hundred dollars per annum, and reasonable traveling expenses. Within the limits provided by law, the salary of each inspector and of the supervising inspector shall be fixed by the deputy director for oil and gas, subject to the approval of
the director of the department of mines and oil and gas
inspectors' examining board. In fixing salaries of the oil
and gas inspectors and of the supervising inspector, the
deputy director for oil and gas shall consider ability, per-
formance of duty, and experience. No reimbursement for
traveling expenses shall be made except upon an itemized
account of such expenses submitted by the inspector or
supervising inspector, as the case may be, who shall
verify, upon oath, that such expenses were actually in-
curred in the discharge of his official duties.

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

Proceedings for the removal of an oil and gas inspector
or the supervising inspector may be initiated by the
deputy director for oil and gas or the director of the de-
partment of mines whenever either has reasonable
grounds to believe and does believe that adequate cause
exists warranting removal. Such a proceeding shall be
initiated by a verified petition, filed with the oil and gas inspectors' examining board by the deputy director for oil and gas or the director, setting forth with particularity the facts alleged. Not less than twenty reputable citizens engaged in oil and/or gas drilling and production operations in the state may petition the deputy director for oil and gas or the director of the department of mines for the removal of an inspector or the supervising inspector. If such petition is verified by at least one of the petitioners, based on actual knowledge of the affiant, and alleges facts which, if true, warrant the removal of the inspector or supervising inspector, the deputy director for oil and gas or the director of the department of mines shall cause an investigation of the facts to be made. If, after such investigation, the deputy director for oil and gas or the director finds that there is substantial evidence which, if true, warrants removal of the inspector or supervising inspector, he shall file a petition with the oil and gas inspectors' examining board requesting removal of the inspector or supervising inspector.

On receipt of a petition by the deputy director for oil
and gas or by the director of the department of mines seeking removal of an inspector or the supervising inspector, the oil and gas inspectors' examining board shall promptly notify the inspector or supervising inspector, as the case may be, to appear before it at a time and place designated in said notice, which time shall be not less than fifteen days nor more than thirty days thereafter. There shall be attached to the copy of the notice served upon the inspector or supervising inspector a copy of the petition filed with such board.

At the time and place designated in said notice, the oil and gas inspectors' examining board shall hear all evidence offered in support of the petition and on behalf of the inspector or supervising inspector. Each witness shall be sworn and a transcript shall be made of all evidence taken and proceedings had at any such hearing. No continuance shall be granted except for good cause shown.

The chairman of the board, the deputy director for oil and gas, and the director of the department of mines shall have power to administer oaths and subpoena witnesses.
Any inspector or supervising inspector who shall willfully refuse or fail to appear before such board, or having appeared, shall refuse to answer under oath any relevant question on the ground that his testimony or answer might incriminate him, or shall refuse to accept a grant of immunity from prosecution on account of any relevant matter about which he may be asked to testify at such hearing before such board, shall forfeit his position.

If, after hearing, the oil and gas inspectors' examining board finds that the inspector or supervising inspector should be removed, it shall enter an order to that effect. The decision of the board shall be final and shall not be subject to judicial review.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1965

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 19

day of March, 1965.

Governor
Presented to Governor's Drum
3/12/65
1:40 p.m.