

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972

21

ENROLLED

SENATE BILL NO. 21

(By Mr. McCoort, Mr. President, ORIGINAL SPONSOR)

PASSED MARCH 9 1972

In Effect 90 DAYS FROM Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 3-29-72

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 21

(Mr. McCourt, Mr. President, *original sponsor*)

[Passed March 9, 1972; in effect ninety days from passage.]

AN ACT to amend and reenact sections one-b, one-d and one-e, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to eligibility requirements for deputy director of oil and gas; increasing salaries of inspectors and increasing traveling expenses; and increasing pay of board members.

Be it enacted by the Legislature of West Virginia:

That sections one-b, one-d and one-e, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. OIL AND GAS WELLS.

§22-4-1b. Deputy director for oil and gas—Eligibility.

1 The deputy director for oil and gas shall be a citizen
2 of West Virginia, shall be a competent person of good
3 reputation and temperate habits and be a registered
4 professional engineer and shall have had at least ten
5 years' practical experience in the oil and gas industry.
6 A degree in geology or in mining or petroleum engineer-
7 ing shall be counted as two years' practical experience.
8 The deputy director for oil and gas shall devote all of
9 his time to his duties, and shall not be directly or indirect-
10 ly interested financially in any oil or gas production or
11 drilling or in any coal mine in this state.

§22-4-1d. Same—Eligibility for appointment; qualifications; salary; expenses; removal.

1 (a) No person shall be eligible for appointment as an
2 oil and gas inspector or supervising inspector unless, at
3 the time of his probationary appointment he (1) is a
4 citizen of West Virginia, in good health, and of good
5 character, reputation and temperate habits; (2) has had
6 at least ten years' practical experience in the oil and
7 gas industry, at least five years of which, immediately
8 preceding his original appointment shall have been in
9 the oil and gas industry in this state: *Provided*, That a
10 diploma in geology or in mining or petroleum engineer-
11 ing shall be considered the equivalent of five years'
12 practical experience; and (3) has good theoretical and
13 practical knowledge of oil and gas drilling and produc-
14 tion methods, practices and techniques, sound safety
15 practices and applicable mining laws.

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

30 (c) The salary of the supervising inspector shall be not
31 less than twelve thousand dollars per annum and ten
32 cents per mile traveling expenses. Salaries of inspectors
33 shall be not less than ten thousand four hundred dollars
34 per annum and traveling expenses for personal car of
35 ten cents per mile. Within the limits provided by law,
36 the salary of each inspector and of the supervising in-
37 spector shall be fixed by the deputy director for oil and
38 gas, subject to the approval of the director of the depart-

39 ment of mines and oil and gas inspectors' examining
40 board. In fixing salaries of the oil and gas inspec-
41 tors and of the supervising inspector, the deputy
42 director for oil and gas shall consider ability, performance
43 of duty, and experience. No reimbursement for traveling
44 expenses shall be made except upon an itemized account
45 of such expenses submitted by the inspector or super-
46 vising inspector, as the case may be, who shall verify,
47 upon oath, that such expenses were actually incurred in
48 the discharge of his official duties.

49 (d) An inspector or the supervising inspector, after
50 having received a permanent appointment, shall be re-
51 moved from office only for physical or mental impair-
52 ment, incompetency, neglect of duty, drunkenness, mal-
53 feasance in office, or other good cause.

54 Proceedings for the removal of an oil and gas inspector
55 or the supervising inspector may be initiated by the
56 deputy director for oil and gas or the director of the
57 department of mines whenever either has reasonable
58 grounds to believe and does believe that adequate cause
59 exists warranting removal. Such a proceeding shall be
60 initiated by a verified petition, filed with the oil and
61 gas inspectors' examining board by the deputy director
62 for oil and gas or the director, setting forth with
63 particularity the facts alleged. Not less than twenty
64 reputable citizens engaged in oil or gas drilling and pro-
65 duction operations in the state may petition the deputy
66 director for oil and gas or the director of the depart-
67 ment of mines for the removal of an inspector or the
68 supervising inspector. If such petition is verified by at
69 least one of the petitioners, based on actual knowledge
70 of the affiant, and alleges facts which, if true, warrant
71 the removal of the inspector or supervising inspector,
72 the deputy director for oil and gas or the director of
73 the department of mines shall cause an investigation
74 of the facts to be made. If, after such investigation,
75 the deputy director for oil and gas or the director finds
76 that there is substantial evidence which, if true, warrants
77 removal of the inspector or supervising inspector, he shall
78 file a petition with the oil and gas inspectors' examining

79 board requesting removal of the inspector or supervising
80 inspector.

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

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

99 The chairman of the board, the deputy director for oil
100 and gas, and the director of the department of mines
101 shall have power to administer oaths and subpoena
102 witnesses.

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

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

§22-4-1e. Oil and gas inspectors' examining board; per diem and mileage allowance; oath; powers and duties; appeals from suspension orders.

1 There is hereby created an oil and gas inspectors' ex-
 2 amining board consisting of five members who, except
 3 for the public representative on such board, shall be ap-
 4 pointed by the governor, by and with the advice and con-
 5 sent of the Senate. Members may be removed only for
 6 the same causes and like manner as elective state officers.
 7 One member of the board, who shall be the representative
 8 of the public, shall be the professor in charge of the
 9 petroleum engineering department of the school of mines
 10 at West Virginia University; two members shall be per-
 11 sons who by reason of previous training and experience
 12 may reasonably be said to represent the viewpoint of
 13 independent oil and gas operators; and two members shall
 14 be persons who by reason of previous training and ex-
 15 perience may reasonably be said to represent the view-
 16 point of major oil and gas producers.

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

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

28 Each member of the board shall receive fifty 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
 34 paid out of the state treasury upon a requisition upon the
 35 state auditor, properly certified by such members of the
 36 board.

37 The public member shall serve as chairman of the
38 board.

39 Members of the board, before performing any duty shall
40 take and subscribe to the oath required by article four,
41 section five of the constitution of West Virginia.

42 The board shall meet at such times and places as shall
43 be designated by the chairman. It shall be the duty of the
44 chairman to call a meeting of the board on the written
45 request of two members, or on the written request of the
46 deputy director for oil and gas or the director of the de-
47 partment of mines. Notice of each meeting shall be given
48 in writing to each member by the secretary at least five
49 days in advance of the meeting. Three voting members
50 shall constitute a quorum for the transaction of business.

51 In addition to other powers and duties expressly set
52 forth elsewhere in this article, the board shall:

53 (1) Establish, and from time to time revise, forms of
54 application for employment as an oil and gas inspector
55 and supervising inspector and forms for written examina-
56 tions to test the qualifications of candidates, with such
57 distinctions, if any, in the forms for oil and gas inspector
58 and supervising inspector as the board may from time to
59 time deem necessary or advisable;

60 (2) Adopt and promulgate reasonable rules and regu-
61 lations relating to the examination, qualification and cer-
62 tification of candidates for appointment, and relating to
63 hearings for removal of inspectors or the supervising in-
64 spector, required to be held by this article. All of such
65 rules and regulations shall be printed and a copy thereof
66 furnished by the secretary of the board to any person
67 upon request;

68 (3) Conduct, after public notice of the time and place
69 thereof, examinations of candidates for appointment. By
70 unanimous agreement of all members of the board, one
71 or more members of the board or an employee of the
72 department of mines may be designated to give to a can-
73 didate the written portion of the examination;

74 (4) Prepare and certify to the deputy director for oil
75 and gas and the director of the department of mines a
76 register of qualified eligible candidates for appointment

77 as oil and gas inspectors or as supervising inspectors, with
78 such differentiation, if any, between the certification of
79 candidates for oil and gas inspectors and for supervising
80 inspector as the board may from time to time deem
81 necessary or advisable. The register shall list all quali-
82 fied eligible candidates in the order of their grades, the
83 candidate with the highest grade appearing at the top of
84 the list. After each meeting of the board held to examine
85 such candidates and at least annually, the board shall
86 prepare and submit to the deputy director for oil and gas
87 and the director of the department of mines a revised and
88 corrected register of qualified eligible candidates for ap-
89 pointment, deleting from such revised register all per-
90 sons (a) who are no longer residents of West Virginia,
91 (b) who have allowed a calendar year to expire without,
92 in writing, indicating their continued availability for such
93 appointment, (c) who have been passed over for appoint-
94 ment for three years, (d) who have become ineligible for
95 appointment since the board originally certified that such
96 persons were qualified and eligible for appointment, or
97 (e) who, in the judgment of at least three members of the
98 board, should be removed from the register for good
99 cause;

100 (5) Cause the secretary of the board to keep and pre-
101 serve the written examination papers, manuscripts, grad-
102 ing sheets and other papers of all applicants for appoint-
103 ment for such period of time as may be established by the
104 board. Specimens of the examinations given, together
105 with the correct solution of each question, shall be pre-
106 served permanently by the secretary of the board;

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

109 (7) Hear and determine proceedings for the removal of
110 inspectors or the supervising inspector in accordance with
111 the provisions of this article;

112 (8) Hear and determine appeals of inspectors or the
113 supervising inspector from suspension orders made by
114 the deputy director for oil and gas pursuant to the pro-
115 visions of section one-a of this article: *Provided*, That in
116 order to appeal from any order of suspension, an ag-

117 grieved inspector or supervising inspector shall file such
118 appeal in writing with the oil and gas inspectors' examin-
119 ing board not later than ten days after receipt of the
120 notice of suspension. On such appeal the board shall
121 affirm the action of the deputy director for oil and gas
122 unless it be satisfied from a clear preponderance of the
123 evidence that the deputy director for oil and gas has acted
124 arbitrarily; and

125 (9) Make an annual report to the governor concerning
126 the administration of oil and gas inspection personnel in
127 the state service; making such recommendations as the
128 board considers to be in the public interest.

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

Russell G. Beall
Chairman Senate Committee

Phyllis J. Rutledge
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Howard Roberson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Thomas McCant
President of the Senate

Lewis T. McHenry
Speaker House of Delegates

The within approved this the 27th
March
day of _____, 1972.

Arthur D. Shouse, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/16/72

Time 2:10 p.m.

MAR 29 9 29 AM '72

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA