

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972



ENROLLED

HOUSE BILL No. 717

(By Mr. Kopp and Mr. Buck)



PASSED March 10 1972

In Effect 90 days from Passage

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

Mar 29 11 35 PM '72

FILED IN THE OFFICE
JOHN A. FOLKSFIELD, IV
SECRETARY OF STATE
THIS DATE 3-29-72

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ENROLLED

House Bill No. 717

(By MR. KOPP and MR. BUCK)

[Passed March 10, 1972; in effect ninety days from passage.]

AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six-b, relating to the entry of the state of West Virginia into an interstate mining compact; findings and purposes in relation to said compact; definitions pertaining thereto; establishment and maintenance of state programs; creation and powers of the interstate mining commission; expenses of said commission; entry into and withdrawal from said compact; effect on other laws; construction and severability; creation, composition, compensation and terms of members of mining council; filing of bylaws and amendments thereto; and setting an effective date.

Be it enacted by the Legislature of West Virginia:

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article six-b, to read as follows:

ARTICLE 6B. INTERSTATE MINING COMPACT.

§20-6B-1. Enactment of compact.

- 1 The "Interstate Mining Compact" is hereby enacted into
- 2 law and entered into with all other jurisdictions legally
- 3 joining therein in the form substantially as follows:

INTERSTATE MINING COMPACT

Article I. Findings and Purposes

1 (a) The party states find that:

2 (1) Mining and the contributions thereof to the eco-
3 nomy and well-being of every state are of basic sig-
4 nificance.

5 (2) The effects of mining on the availability of land,
6 water and other resources for other uses present special
7 problems which properly can be approached only with
8 due consideration for the rights and interests of those
9 engaged in mining, those using or proposing to use these
10 resources for other purposes and the public.

11 (3) Measures for the reduction of the adverse effects
12 of mining on land, water and other resources may be
13 costly and the devising of means to deal with them are of
14 both public and private concern.

15 (4) Such variables as soil structure and composition,
16 physiography, climatic conditions and the needs of the
17 public make impracticable the application to all mining
18 areas of a single standard for the conservation, adaption
19 or restoration of mined land, or the development of
20 mineral and other natural resources, but justifiable re-
21 quirements of law and practice relating to the effects of
22 mining on land, water and other resources may be re-
23 duced in equity or effectiveness unless they pertain sim-
24 ilarly from state to state for all mining operations sim-
25 ilarly situated.

26 (5) The states are in a position and have the respon-
27 sibility to assure that mining shall be conducted in ac-
28 cordance with sound conservation principles, and with
29 due regard for local conditions.

30 (b) The purposes of this compact are to:

31 (1) Advance the protection and restoration of land,
32 water and other resources affected by mining.

33 (2) Assist in the reduction or elimination or conter-
34 acting of pollution or deterioration of land, water and air
35 attributable to mining.

36 (3) Encourage, with due recognition of relevant re-
37 gional, physical and other differences, programs in each

38 of the party states which will achieve comparable results
39 in protecting, conserving and improving the usefulness of
40 natural resources, to the end that the most desirable con-
41 duct of mining and related operations may be universally
42 facilitated.

43 (4) Assist the party states in their efforts to facilitate
44 the use of land and other resources affected by mining,
45 so that such use may be consistent with sound land use,
46 public health and public safety, and to this end to study
47 and recommend, wherever desirable, techniques for the
48 improvement, restoration or protection of such land and
49 other resources.

50 (5) Assist in achieving and maintaining an efficient
51 and productive mining industry and in increasing eco-
52 nomic and other benefits attributable to mining.

Article II. Definitions.

1 As used in this compact, the term:

2 (a) "Mining" means the breaking of the surface soil
3 in order to facilitate or accomplish the extraction or re-
4 moval of minerals, ores or other solid matter, any activity
5 or process constituting all or part of a process for the
6 extraction or removal of minerals, ores and other solid
7 matter from its original location, and the preparation,
8 washing, cleaning or other treatment of minerals, ores or
9 other solid matter so as to make them suitable for com-
10 mercial, industrial or construction use; but shall not in-
11 clude those aspects of deep mining not having significant
12 effect on the surface, and shall not include excavation or
13 grading when conducted solely in aid of on site farming
14 or construction.

15 (b) "State" means a state of the United States, the
16 District of Columbia, the commonwealth of Puerto Rico
17 or a territory or possession of the United States.

Article III. State Programs.

1 Each party state agrees that within a reasonable time it
2 will formulate and establish an effective program for
3 the conservation and use of mined land, by the establish-
4 ment of standards, enactment of laws or the continuing
5 of the same in force, to accomplish:

6 (a) The protection of the public and the protection of
7 adjoining and other landowners from damage to their
8 lands and the structures and other property thereon re-
9 sulting from the conduct of mining operations or the
10 abandonment or neglect of land and property formerly
11 used in the conduct of such operations.

12 (b) The conduct of mining and the handling of refuse
13 and other mining wastes in ways that will reduce ad-
14 verse effects on the economic, residential, recreational or
15 aesthetic value and utility of land and water.

16 (c) The institution and maintenance of suitable pro-
17 grams for adaption, restoration and rehabilitation of
18 mined lands.

19 (d) The prevention, abatement and control of water,
20 air and soil pollution resulting from mining, present,
21 past and future.

Article IV. Powers.

1 In addition to any other powers conferred upon the
2 interstate mining commission, established by Article V
3 of this compact, such commission shall have power to:

4 (a) Study mining operations, processes and techniques
5 for the purpose of gaining knowledge concerning the
6 effects of such operations, processes and techniques on
7 land, soil, water, air, plant and animal life, recreation and
8 patterns of community or regional development or
9 change.

10 (b) Study the conservation, adaptation, improvement
11 and restoration of land and related resources affected by
12 mining.

13 (c) Make recommendations concerning any aspect or
14 aspects of law or practice and governmental administra-
15 tion dealing with matters within the purview of this com-
16 pact.

17 (d) Gather and disseminate information relating to
18 any of the matters within the purview of this compact.

19 (e) Cooperate with the federal government and any
20 public or private entities having interests in any subject
21 coming within the purview of this compact.

22 (f) Consult, upon the request of a party state and
23 within resources available therefor, with the officials of

24 such state in respect to any problem within the purview
25 of this compact.

26 (g) Study and make recommendations with respect to
27 any practice, process, technique or course of action that
28 may improve the efficiency of mining or the economic
29 yield from mining operations.

30 (h) Study and make recommendations relating to the
31 safeguarding of access to resources which are or may be-
32 come the subject of mining operations to the end that the
33 needs of the economy for the products of mining may
34 not be adversely affected by unplanned or inappropriate
35 use of land and other resources containing minerals or
36 otherwise connected with actual or potential mining sites.

Article V. The Commission.

1 (a) There is hereby created an agency of the party
2 states to be known as the "Interstate Mining Commission,"
3 hereinafter called "the commission." The commission
4 shall be composed of one commissioner from each party
5 state who shall be the governor thereof. Pursuant to the
6 laws of his party state, each governor shall have the as-
7 sistance of an advisory body (including membership from
8 mining industries, conservation interests and such other
9 public and private interests as may be appropriate) in
10 considering problems relating to mining and in discharg-
11 ing his responsibilities as the commissioner of his state
12 on the commission. In any instance where a governor is
13 unable to attend a meeting of the commission or perform
14 any other function in connection with the business of the
15 commission, he shall designate an alternate from among
16 the members of the advisory body required by this para-
17 graph, who shall represent him and act in his place and
18 stead. The designation of an alternate shall be communi-
19 cated by the governor to the commission in such manner
20 as its bylaws may provide.

21 (b) The commissioners shall be entitled to one vote
22 each on the commission. No action of the commission mak-
23 ing a recommendation pursuant to Articles IV (c), IV (g)
24 and IV (h) or requesting, accepting or disposing of funds,
25 services or other property pursuant to this paragraph,

26 Articles V (g), V (h), or VII shall be valid unless taken
27 at a meeting at which a majority of the total number
28 of votes on the commission is cast in favor thereof. All
29 other action shall be by a majority of those present and
30 voting: *Provided*, That action of the commission shall be
31 only at a meeting at which a majority of the commis-
32 sioners, or their alternates, is present. The commission
33 may establish and maintain such facilities as may be nec-
34 essary for the transacting of its business. The commission
35 may acquire, hold and convey real and personal property
36 and any interest therein.

37 (c) The commission shall have a seal.

38 (d) The commission shall elect annually, from among
39 its members, a chairman, a vice chairman, and a trea-
40 surer. The commission shall appoint an executive direc-
41 tor and fix his duties and compensation. Such executive
42 director shall serve at the pleasure of the commission.
43 The executive director, the treasurer and such other per-
44 sonnel as the commission shall designate shall be bonded.
45 The amount or amounts of such bond or bonds shall be
46 determined by the commission.

47 (e) Irrespective of the civil service, personnel or other
48 merit system laws of any of the party states, the execu-
49 tive director with the approval of the commission, shall
50 appoint, remove or discharge such personnel as may be
51 necessary for the performance of the commission's func-
52 tions, and shall fix the duties and compensation of such
53 personnel.

54 (f) The commission may establish and maintain, in-
55 dependently or in conjunction with a party state, a suit-
56 able retirement system for its employees. Employees of
57 the commission shall be eligible for social security cover-
58 age in respect of old age and survivor's insurance pro-
59 vided that the commission takes such steps as may be
60 necessary pursuant to the laws of the United States to
61 participate in such program of insurance as a governmen-
62 tal agency or unit. The commission may establish and
63 maintain or participate in such additional programs of
64 employee benefits as it may deem appropriate.

65 (g) The commission may borrow, accept or contract
66 for the services of personnel from any state, the United
67 States or any other governmental agency, or from any
68 person, firm, association or corporation.

69 (h) The commission may accept for any of its pur-
70 poses and functions under this compact any and all dona-
71 tions and grants of money, equipment, supplies, materials
72 and services, conditional or otherwise, from any state,
73 the United States or any other governmental agency, or
74 from any person, firm, association or corporation, and may
75 receive, utilize and dispose of the same. Any donation or
76 grant accepted by the commission pursuant to this para-
77 graph or services borrowed pursuant to paragraph (g)
78 of this article shall be reported in the annual report of
79 the commission. Such report shall include the nature,
80 amount and conditions, if any, of the donation, grant or
81 services borrowed and the identity of the donor or
82 lender.

83 (i) The commission shall adopt bylaws for the con-
84 duct of its business and shall have the power to amend
85 and rescind these bylaws. The commission shall publish
86 its bylaws in convenient form and shall file a copy thereof
87 and a copy of any amendment thereto with the appro-
88 priate agency or officer in each of the party states.

89 (j) The commission annually shall make to the gov-
90 ernor, Legislature and advisory body required by Article
91 V (a) of each party state a report covering the activities
92 of the commission for the preceding year, and embodying
93 such recommendations as may have been made by the
94 commission. The commission may make such additional
95 reports as it may deem desirable.

Article VI. Advisory, Technical and Regional Committees.

1 The commission shall establish such advisory, technical
2 and regional committees as it may deem necessary, mem-
3 bership on which shall include private persons and public
4 officials, and shall cooperate with and use the services
5 of any such committees and the organizations which the
6 members represent in furthering any of its activities.
7 Such committees may be formed to consider problems of
8 special interest to any party states, problems dealing with

9 particular commodities or types of mining operations,
10 problems related to reclamation, development or use of
11 mined land or any other matters of concern to the com-
12 mission.

Article VII. Finance.

1 (a) The commission shall submit to the governor or
2 designated officer or officers of each party state a budget
3 of its estimated expenditures for such period as may be
4 required by the laws of that party state for presentation
5 to the Legislature thereof.

6 (b) Each of the commission's budgets of estimated
7 expenditures shall contain specific recommendations of
8 the amount or amounts to be appropriated by each of the
9 party states. The total amount of appropriations request-
10 ed under any such budget shall be apportioned among
11 the party states in equal shares.

12 (c) The commission shall not pledge the credit of any
13 party state. The commission may meet any of its obli-
14 gations in whole or in part with funds available to it
15 under Article V (h) of this compact: *Provided*, That the
16 commission takes specific action setting aside such funds
17 prior to incurring any obligation to be met in whole or
18 in part in such manner. Except where the commission
19 makes use of funds available to it under Article V (h)
20 hereof, the commission shall not incur any obligation
21 prior to the allotment of funds by the party states
22 adequate to meet the same.

23 (d) The commission shall keep accurate accounts of
24 all receipts and disbursements. The receipts and disburse-
25 ments of the commission shall be subject to the audit
26 and accounting procedures established under its bylaws.
27 All receipts and disbursements of funds handled by the
28 commission shall be audited yearly by a qualified public
29 accountant and the report of the audit shall be included
30 in and become part of the annual report of the commis-
31 sion.

32 (e) The accounts of the commission shall be open at
33 any reasonable time for inspection by duly constituted
34 officers of the party states and by any persons authorized
35 by the commission.

36 (f) Nothing contained herein shall be construed to
37 prevent commission compliance with laws relating to
38 audit or inspection of accounts by or on behalf of any
39 government contributing to the support of the commis-
40 sion.

Article VIII. Entry Into Force and Withdrawal.

1 (a) This compact shall enter into force when enacted
2 into law by any four or more states. Thereafter, this
3 compact shall become effective as to any other state upon
4 its enactment thereof.

5 (b) Any party state may withdraw from this com-
6 pact by enacting a statute repealing the same, but no
7 such withdrawal shall take effect until one year after
8 the governor of the withdrawing state has given notice
9 in writing of the withdrawal to the governors of all
10 other party states. No withdrawal shall affect any
11 liability already incurred by or chargeable to a party
12 state prior to the time of such withdrawal.

Article IX. Effect On Other Laws.

1 Nothing in this compact shall be construed to limit,
2 repeal or supersede any other law of any party state.

Article X. Construction and Severability.

1 This compact shall be liberally construed so as to ef-
2 fectuate the purposes thereof. The provisions of this com-
3 pact shall be severable and if any phrase, clause, sen-
4 tence or provision of this compact is declared to be con-
5 trary to the constitution of any state or of the United
6 States or the applicability thereof to any government,
7 agency, person or circumstance is held invalid, the validity
8 of the remainder of this compact and the applicability
9 thereof to any government, agency, person or circum-
10 stance shall not be affected thereby. If this compact shall
11 be held contrary to the constitution of any state partici-
12 pating herein, the compact shall remain in full force and
13 effect as to the remaining party states and in full force
14 and effect as to the state affected as to all severable mat-
15 ters.

§20-6B-2. Mining council.

1 (a) The "Mining Council," hereinafter called "the
2 council," is hereby established in the office of the gov-
3 ernor. The council shall be the advisory body referred
4 to in Article V (a) of the interstate mining compact.
5 No member of the council shall receive any compensation
6 on account of his service thereon, but any such member
7 shall be entitled to reimbursement for expenses actually
8 incurred by him in connection with his service as the
9 governor's alternate on the interstate mining commis-
10 sion or in attending meetings of the council.

11 (b) The council shall be composed of seven members.
12 The governor shall appoint two members who shall be
13 representative of mining industries and three members
14 with a demonstrated and continuing interest in conser-
15 vation matters. Of the five members so appointed by the
16 governor, no more than three shall be of the same political
17 party. The director of the department of natural re-
18 sources and the dean of the West Virginia University
19 school of mines shall be the sixth and seventh members.
20 The council shall elect its own chairman from among
21 its members.

22 (c) Except for the director of the department of
23 natural resources and the dean of the West Virginia Uni-
24 versity school of mines, who shall serve ex officio, each
25 member shall serve for a term of five years. Of the five
26 members of the council first appointed, one shall be ap-
27 pointed for a term ending on the thirtieth day of June,
28 one thousand nine hundred seventy-three, and one each
29 for terms ending one, two, three and four years there-
30 after.

§20-6B-3. Bylaws of interstate mining commission.

1 In accordance with Article V (i) of the interstate min-
2 ing compact, the commission shall file copies of its bylaws
3 and any amendments thereto in the office of the secre-
4 tary of state of West Virginia.

§20-6B-4. Effective date.

1 This article shall be effective on the first day of July,
2 one thousand nine hundred seventy-two.

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

Cassius G. Brall

Chairman Senate Committee

Phyllis J. Rutledge

Chairman House Committee

Originated in the House.

In effect ninety days from passage.

Howard W. Carson

Clerk of the Senate

Carl Blankenship

Clerk of the House of Delegates

E. H. McCourt

President of the Senate

Louis N. McManus

Speaker House of Delegates

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

Orlando B. Ince, Jr.

Governor



PROPERTY OF THE
STATE OF TEXAS

DATE 3/20/72
TIME 10:17 a.m.