

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974



ENROLLED

HOUSE BILL No. 692

(By Mr. Kopp and Mr. Pottw)



PASSED February 12 1974

In Effect July 1, 1974 Passage



692

F. D. ...
ENCL. ...
SECRETARY OF STATE
THIS DATE 2-21-74

ENROLLED

H. B. 692

(By MR. KOPP and MR. POTTER)

[Passed February 12, 1974; in effect July 1, 1974.]

AN ACT to amend and reenact section one, article six-b, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to financial affairs of the interstate mining commission; allocating among the party states to the interstate mining compact the amounts of legislative appropriations expected of each party state.

Be it enacted by the Legislature of West Virginia:

That section one, article six-b, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted 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:

4 **INTERSTATE MINING COMPACT**

5 **Article 1. Findings and Purposes.**

6 (a) The party states find that:

7 (1) Mining and the contributions thereof to the economy
8 and well-being of every state are of basic significance.

9 (2) The effects of mining on the availability of land,
10 water and other resources for other uses present special

11 problems which properly can be approached only with due
12 consideration for the rights and interests of those engaged
13 in mining, those using or proposing to use these resources
14 for other purposes and the public.

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

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

29 (5) The states are in a position and have the respon-
30 sibility to assure that mining shall be conducted in accordance
31 with sound conservation principles, and with due regard
32 for local conditions.

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

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

36 (2) Assist in the reduction or elimination or counteracting
37 of pollution or deterioration of land, water and air attributable
38 to mining.

39 (3) Encourage, with due recognition of relevant regional,
40 physical and other differences, programs in each of the party
41 states which will achieve comparable results in protecting,
42 conserving and improving the usefulness of natural resources,
43 to the end that the most desirable conduct of mining and related
44 operations may be universally facilitated.

45 (4) Assist the party states in their efforts to facilitate the
46 use of land and other resources affected by mining, so that
47 such use may be consistent with sound land use, public

48 health and public safety, and to this end to study and recom-
49 mend, wherever desirable, techniques for the improvement,
50 restoration or protection of such land and other resources.

51 (5) Assist in achieving and maintaining an efficient and
52 productive mining industry and in increasing economic and
53 other benefits attributable to mining.

54 Article II. Definitions.

55 As used in this compact, the term:

56 (a) "Mining" means the breaking of the surface soil in
57 order to facilitate or accomplish the extraction or removal
58 of minerals, ores or other solid matter, any activity or pro-
59 cess constituting all or part of a process for the extraction
60 or removal of minerals, ores and other solid matter from
61 its original location, and the preparation, washing, cleaning
62 or other treatment of minerals, ores or other solid matter
63 so as to make them suitable for commercial, industrial or
64 construction use; but shall not include those aspects of
65 deep mining not having significant effect on the surface,
66 and shall not include excavation or grading when conducted
67 solely in aid of on-site farming or construction.

68 (b) "State" means a state of the United States, the
69 District of Columbia, the commonwealth of Puerto Rico or a
70 territory or possession of the United States.

71 Article III. State Programs.

72 Each party state agrees that within a reasonable time
73 it will formulate and establish an effective program for the
74 conservation and use of mined land, by the establishment of
75 standards, enactment of laws or the continuing of the same
76 in force, to accomplish:

77 (a) The protection of the public and the protection of
78 adjoining and other landowners from damage to their lands
79 and the structures and other property thereon resulting from
80 the conduct of mining operations or the abandonment or
81 neglect of land and property formerly used in the conduct of
82 such operations.

83 (b) The conduct of mining and the handling of refuse
84 and other mining wastes in ways that will reduce adverse

85 effects on the economic, residential, recreational or aesthetic
86 value and utility of land and water.

87 (c) The institution and maintenance of suitable programs
88 for adaption, restoration and rehabilitation of mined lands.

89 (d) The prevention, abatement and control of water, air
90 and soil pollution resulting from mining, present, past and
91 future.

92 Article IV. Powers.

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

96 (a) Study mining operations, processes and techniques
97 for the purpose of gaining knowledge concerning the effects
98 of such operations, processes and techniques on land, soil,
99 water, air, plant and animal life, recreation and patterns of
100 community or regional development or change.

101 (b) Study the conservation, adaptation, improvement and
102 restoration of land and related resources affected by mining.

103 (c) Make recommendations concerning any aspect or as-
104 pects of law or practice and governmental administration
105 dealing with matters within the purview of this compact.

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

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

111 (f) Consult, upon the request of a party state and within
112 resources available therefor, with the officials of such state
113 in respect to any problem within the purview of this com-
114 pact.

115 (g) Study and make recommendations with respect to any
116 practice, process, technique or course of action that may
117 improve the efficiency of mining or the economic yield from
118 mining operations.

119 (h) Study and make recommendations relating to the

120 safeguarding of access to resources which are or may become
121 the subject of mining operations to the end that the needs
122 of the economy for the products of mining may not be
123 adversely affected by unplanned or inappropriate use of land
124 and other resources containing minerals or otherwise con-
125 nected with actual or potential mining sites.

126 Article V. The Commission.

127 (a) There is hereby created an agency of the party states
128 to be known as the "Interstate Mining Commission," here-
129 inafter called "the commission." The commission shall be
130 composed of one commissioner from each party state who
131 shall be the governor thereof. Pursuant to the laws of his
132 party state, each governor shall have the assistance of an
133 advisory body (including membership from mining industries,
134 conservation interests and such other public and private
135 interests as may be appropriate) in considering problems re-
136 lating to mining and in discharging his responsibilities as
137 the commissioner of his state on the commission. In any
138 instance where a governor is unable to attend a meeting of
139 the commission or perform any other function in connection
140 with the business of the commission, he shall designate an
141 alternate from among the members of the advisory body
142 required by this paragraph, who shall represent him and act
143 in his place and stead. The designation of an alternate
144 shall be communicated by the governor to the commission in
145 such manner as its bylaws may provide.

146 (b) The commissioners shall be entitled to one vote each
147 on the commission. No action of the commission making a
148 recommendation pursuant to Articles IV (c), IV (g) and IV
149 (h) or requesting, accepting or disposing of funds, services
150 or other property pursuant to this paragraph, Articles V
151 (g), V (h) or VII shall be valid unless taken at a meeting
152 at which a majority of the total number of votes on the
153 commission is cast in favor thereof. All other action shall
154 be by a majority of those present and voting: *Provided,*
155 That action of the commission shall be only at a meeting at
156 which a majority of the commissioners, or their alternates,
157 is present. The commission may establish and maintain such
158 facilities as may be necessary for the transacting of its

159 business. The commission may acquire, hold and convey real
160 and personal property and any interest therein.

161 (c) The commission shall have a seal.

162 (d) The commission shall elect annually, from among its
163 members, a chairman, a vice chairman, and a treasurer. The
164 commission shall appoint an executive director and fix his
165 duties and compensation. Such executive director shall serve
166 at the pleasure of the commission. The executive director, the
167 treasurer and such other personnel as the commission shall
168 designate shall be bonded. The amount or amounts of such
169 bond or bonds shall be determined by the commission.

170 (e) Irrespective of the civil service, personnel or other
171 merit system laws of any of the party states, the executive
172 director with the approval of the commission, shall appoint,
173 remove or discharge such personnel as may be necessary for
174 the performance of the commission's functions, and shall
175 fix the duties and compensation of such personnel.

176 (f) The commission may establish and maintain, inde-
177 pendently or in conjunction with a party state, a suitable
178 retirement system for its employees. Employees of the com-
179 mission shall be eligible for social security coverage in respect
180 of old age and survivor's insurance: *Provided*, That the
181 commission take such steps as may be necessary pursuant
182 to the laws of the United States to participate in such
183 program of insurance as a governmental agency or unit.
184 The commission may establish and maintain or participate in
185 such additional programs of employee benefits as it may
186 deem appropriate.

187 (g) The commission may borrow, accept or contract for
188 the services of personnel from any state, the United States
189 or any other governmental agency, or from any person, firm,
190 association or corporation.

191 (h) The commission may accept for any of its purposes
192 and functions under this compact any and all donations and
193 grants of money, equipment, supplies, materials and services,
194 conditional or otherwise, from any state, the United States
195 or any other governmental agency, or from any person,
196 firm, association or corporation, and may receive, utilize

197 and dispose of the same. Any donation or grant accepted
198 by the commission pursuant to this paragraph or services
199 borrowed pursuant to paragraph (g) of this article shall
200 be reported in the annual report of the commission. Such
201 report shall include the nature, amount and conditions, if
202 any, of the donation, grant or services borrowed and the
203 identity of the donor or lender.

204 (i) The commission shall adopt bylaws for the conduct
205 of its business and shall have the power to amend and
206 rescind these bylaws. The commission shall publish its by-
207 laws in convenient form and shall file a copy thereof and
208 a copy of any amendment thereto with the appropriate agency
209 or officer in each of the party states.

210 (j) The commission annually shall make to the governor,
211 Legislature and advisory body required by Article V (a) of
212 each party state or report covering the activities of the com-
213 mission for the preceding year, and embodying such recom-
214 mendations as may have been made by the commission.
215 The commission may make such additional reports as it may
216 deem desirable.

217 Article VI. Advisory, Technical and Regional Committees.
218 The commission shall establish such advisory, technical
219 and regional committees as it may deem necessary, membership
220 on which shall include private persons and public officials,
221 and shall cooperate with and use the services at any such
222 committees and the organizations which the members represent
223 in furthering any of its activities. Such committees may be
224 formed to consider problems of special interest to any party
225 states, problems dealing with particular commodities or types
226 of mining operations, problems relating to reclamation, deve-
227 lopment or use of mined land or any other matters of concern
228 to the commission.

229 Article VII. Finance.

230 (a) The commission shall submit to the governor or de-
231 signated officer or officers of each party state a budget of
232 its estimated expenditures for such periods as may be re-
233 quired by the laws of that party state for presentation to
234 the Legislature thereof.

235 (b) Each of the commission's budgets of estimated ex-
236 penditures shall contain specific recommendations of the
237 amount or amounts to be appropriated by each of the party
238 states. The total amount of appropriations requested under
239 any such budget shall be apportioned among the party states
240 as follows: One half in equal shares, and the remainder in
241 proportion to the value of minerals, ores and other solid
242 matter mined. In determining such values, the commission
243 shall employ such available public source or sources of
244 information as, in its judgment, present the most equitable
245 and accurate comparisons among the party states. Each of
246 the commission's budgets of estimated expenditures and re-
247 quests for appropriations shall indicate the source or sources
248 used in obtaining information concerning value of minerals,
249 ores and other solid matter mined.

250 (c) The commission shall not pledge the credit of any
251 party state. The commission may meet any of its obligations
252 in whole or in part with funds available to it under Article
253 V (h) of this compact: *Provided*, That the commission takes
254 specific action setting aside such funds prior to incurring any
255 obligation to be met in whole or in part in such manner.
256 Except where the commission makes use of funds available to
257 it under Article V (h) hereof, the commission shall not
258 incur any obligation prior to the allotment of funds by the
259 party states adequate to meet the same.

260 (d) The commission shall keep accurate accounts of all
261 receipts and disbursements. The receipts and disbursements
262 of the commission shall be subject to the audit and accounting
263 procedures established under its bylaws. All receipts and
264 disbursements of funds handled by the commission shall be
265 audited yearly by a qualified public accountant and the
266 report of the audit shall be included in and become part of
267 the annual report of the commission.

268 (e) The accounts of the commission shall be open at any
269 reasonable time for inspection by duly constituted officers
270 of the party states and by any persons authorized by the
271 commission.

272 (f) Nothing contained herein shall be construed to pre-
273 vent commission compliance with laws relating to audit or

274 inspection of accounts by or on behalf of any government
275 contributing to the support of the commission.

276 Article VIII. Entry Into Force and Withdrawal.

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

281 (b) Any party state may withdraw from this compact by
282 enacting a statute repealing the same, but no such with-
283 drawal shall take effect until one year after the governor
284 of the withdrawing state has given notice in writing of the
285 withdrawal to the governors of all other party states. No
286 withdrawal shall affect any liability already incurred by or
287 chargeable to a party state prior to the time of such with-
288 drawal.

289 Article IX. Effect on Other Laws.

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

292 Article X. Construction and Severability.

293 This compact shall be liberally construed so as to effectuate
294 the purposes thereof. The provisions of this compact shall
295 be severable and if any phrase, clause, sentence or provision
296 of this compact is declared to be contrary to the constitution of
297 any state or of the United States ^{or} the applicability thereof to
298 any government, agency, person or circumstance is held in-
299 valid, the validity of the remainder of this compact and the
300 applicability thereof to any government, agency, person or
301 circumstance shall not be affected thereby. If this compact
302 shall be held contrary to the constitution of any state partici-
303 pating herein, the compact shall remain in full force and effect
304 as to the remaining party states and in full force and effect
305 as to the state affected as to all severable matters.

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

H. Merril Darby
Chairman Senate Committee

Clarence C. Chutkan
Chairman House Committee

Originated in the House.

Takes effect July 1, 1974.

Howard Robinson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

H. D. Brantley, Jr.
President of the Senate

Lewis K. Thorne
Speaker House of Delegates

The within *approved* this the *20th*
day of *February*, 1974.

Aub A. Thorne, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 2/15/74

Time 1:40 p.m.