

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974

ENROLLED

Committee Substitute for

SENATE BILL NO. 83

(By Mr. Guiner & Mr. Gilligan)

PASSED March 9 1974

In Effect ninety days from Passage



FILED IN THE OFFICE
EDGAR F. WEISKELL III
SECRETARY OF STATE
THIS DATE 3-19-74

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 83

(By MR. GAINER and MR. GILLIGAN, *original sponsors*)

[Passed March 9, 1974; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and three, article six-c, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section seven-a, all relating to authorizing the department of natural resources to reclaim abandoned coal refuse disposal piles; defining the terms "abandoned coal refuse disposal pile" and "reclamation of abandoned coal refuse disposal pile"; declaring reclamation of same to be for a public purpose; specifying the powers of the department which may be exercised in accomplishing reclamation.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article six-c, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section seven-a, all to read as follows:

ARTICLE 6C. COAL REFUSE DISPOSAL CONTROL ACT.

§20-6C-2. Definitions.

1 As used in this article:

2 (a) "Abandoned coal refuse disposal pile" means any
3 coal refuse disposal pile which is located on the surface
4 of either public or private property, or both, which
5 has not been operated in whole or in part since the first

6 day of January, one thousand nine hundred sixty-nine, and
7 the operator or owner of which cannot be determined, or
8 if the operator is known, he cannot be compelled to re-
9 claim the coal refuse disposal pile;

10 (b) "Coal refuse" means any waste coal, rock, shale,
11 slurry, culm, gob, boney, slate, clay and related materials,
12 associated with or near a coal seam, which are either
13 brought above ground or otherwise removed from a coal
14 mine in the process of mining coal, or which are separated
15 from coal during the cleaning or preparation operations;

16 (c) "Coal refuse disposal pile" means any deposit of
17 coal refuse on or buried in the earth and intended as per-
18 manent disposal or long-term storage of such material;

19 (d) "Director" means the director of the department
20 of natural resources;

21 (e) "Operate" means to enter upon a coal refuse dis-
22 posal pile, or part thereof, for the purpose of disposing,
23 depositing or dumping coal refuse thereon, or to employ
24 a coal refuse disposal pile for retarding the flow of or
25 the impoundment of water;

26 (f) "Operator" means any person operating any coal
27 refuse disposal pile, or part thereof; and

28 (g) "Reclamation of abandoned coal refuse disposal
29 piles" means any activity which operates to eliminate the
30 undesirable environmental effects or dangers to public
31 welfare and safety attributable to abandoned coal refuse
32 piles; including but not limited to activities designed to
33 extinguish any fire present in such piles, the prevention
34 of such fires, the abating of water and air pollution at-
35 tributable to such piles, the prevention of water accumu-
36 lation behind such piles or in such piles, the prevention
37 of erosion resulting from such piles, the covering of such
38 piles, the removal of such piles to an underground loca-
39 tion or for use in backfilling or landfilling, with soil or
40 with suitable soil conditioners, the revegetation of such
41 piles or any similar activity.

**§20-6C-3. Legislative findings; purpose and intent of article;
declaration of public purpose.**

1 The Legislature finds and hereby declares that the dis-
2 position of materials displaced in the mining of coal

3 creates coal refuse disposal piles which have in the past
4 and may in the future:

5 (a) Endanger the lives and properties of persons re-
6 siding in the hollows and valleys of the affected water-
7 sheds;

8 (b) Threaten streams, roads, schools and other public
9 properties and facilities;

10 (c) Result in the creation of an emergency situation
11 in which there can be no delay in taking remedial action
12 if resulting perils to persons and properties are to be al-
13 leviated; and

14 (d) Destroy or decrease the value of land upon which
15 a coal refuse disposal pile is located and the surrounding
16 environs for residential, agricultural, industrial, business
17 or recreational uses; counteract efforts of the state and
18 local governments within the state to conserve water,
19 soil and other valuable natural resources; and destroy or
20 impair the health, safety, welfare and property rights of
21 citizens of this state where proper reclamation of such
22 coal refuse disposal piles is not practiced.

23 It is the purpose and intent of the Legislature in enact-
24 ing this article to provide for the location, inspection and
25 evaluation of all coal refuse disposal piles and any asso-
26 ciated water impoundments in this state; for the deter-
27 mination of their degree of stability, safety, adequacy and
28 hazard to life and property; for remedial action necessary
29 and expedient to prevent, correct or abate danger to life
30 caused by any coal refuse disposal pile and any associated
31 water impoundment; and for the reclamation of aban-
32 doned coal refuse disposal piles; and all of the foregoing
33 are hereby declared by the Legislature to be for a public
34 purpose.

**§20-6C-7a. Reclamation of abandoned coal refuse disposal
piles; duties of the director; powers of the direc-
tor; rules and regulations.**

1 (a) In addition to all other authority, powers, duties
2 and responsibilities granted or assigned to the department
3 of natural resources or its director or various divisions
4 under the provisions of this or any other article of this
5 chapter, the department of natural resources, acting by

6 and through its director, division of reclamation, or its
7 chief of the division of reclamation, shall have the duty
8 and responsibility to undertake the reclamation of aban-
9 doned coal refuse disposal piles located within this state.

10 The director is hereby authorized to expend any funds
11 which the Legislature may appropriate for the reclama-
12 tion of abandoned coal refuse disposal piles, but the direc-
13 tor shall first use such funds for matching purposes to ob-
14 tain any federal funds which may be available for such
15 purpose.

16 (b) The department of natural resources, acting by
17 and through its director, or its division of reclamation and
18 chief of the division of reclamation, upon approval of the
19 director, is hereby authorized to exercise the following
20 powers in implementing its duty and responsibility to re-
21 claim abandoned coal refuse disposal piles located within
22 this state:

23 1. To make any investigation or inspection necessary to
24 implement or enforce the provisions of this article and to
25 enter upon the public or private property of any coal re-
26 fuse disposal pile owner as may be necessary to make such
27 investigations or inspections. Such inspections or entries
28 shall not be made until five days have elapsed after giving
29 written notice to the pile owner or other persons in charge
30 of such pile;

31 2. To promulgate in accordance with the provisions of
32 chapter twenty-nine-a of this code a plan for the reclama-
33 tion of abandoned coal refuse piles located within this
34 state within fifteen months of the effective date of this
35 act. Such plan shall establish priorities for action to be
36 taken to reclaim said abandoned coal refuse piles. In
37 promulgating such plan the director shall consider with
38 regard to each area to be reclaimed the number of per-
39 sons affected by hazards resulting from abandoned coal
40 refuse piles in such area, the adverse environmental ef-
41 fects of such piles, the health and safety of persons re-
42 siding or working in close proximity to such piles, the
43 potential of such piles for recreational and industrial
44 development, the potential of such piles for the sale or re-
45 cycling of its constituent materials, the potential of elimi-
46 nating surface subsidence damage by removing such piles

47 to a nearby abandoned mine or other underground loca-
48 tion or for backfilling nearby surface mines, and the cost
49 effectiveness of each potential project;

50 3. To promulgate and adopt, modify, repeal and en-
51 force reasonable rules and regulations in order to imple-
52 ment the provisions of this section, which it shall do in
53 accordance with the provisions of chapter twenty-nine-a
54 of this code as if the provisions of said chapter were set
55 forth in extenso herein;

56 4. To acquire by donation, agreement, lease or pur-
57 chase such real and personal property, rights, lands ease-
58 ments and rights-of-way as are necessary to implement
59 the provisions of this article;

60 5. To enter upon abandoned coal refuse piles with the
61 permission of the owner thereof, if known, and to under-
62 take pursuant to any agreement arrived at by negotia-
63 tions with said owner the reclamation of abandoned coal
64 refuse piles. Upon the completion of said reclamation,
65 the department may accept any payments to the state
66 made pursuant to agreements with the land owner. Funds
67 received by the state for rendering such services shall be
68 paid into the general revenues;

69 6. To cooperate and coordinate with agencies of the
70 federal government, this state and counties and munici-
71 palities of this state to reclaim abandoned coal waste dis-
72 posal piles;

73 7. To contract with, sell to, buy from and otherwise
74 deal with private and public bodies providing such goods,
75 services, machinery and equipment necessary to imple-
76 ment the provisions of this article, and in doing so com-
77 ply with the provisions of article three, chapter five-a of
78 this code;

79 8. To sell reclaimed land acquired or owned by the
80 state subject to the provision or condition that the prop-
81 erty will be reclaimed by the purchaser, or, if already re-
82 claimed by the state, subject to the condition that the
83 property will not be used for the purpose of coal waste
84 disposal at any time thereafter;

85 9. To consult with the commissioner of highways, the
86 director of the department of mines, the director of the

87 air pollution control commission, the director of the state
88 department of health, other state departments and agen-
89 cies, county and local governments, universities and col-
90 leges in the state and private businesses and industries
91 to develop ways to use abandoned coal refuse disposal
92 piles for highway construction, landfills, business, in-
93 dustrial, recreational and residential site development and
94 for other such useful purposes, and to take all actions,
95 which are legally available to him, to make abandoned
96 coal refuse disposal piles useful for such purposes; and
97 10. To exercise such other powers as it may have under
98 any other article or provision of this chapter in the im-
99 plementation of the provisions of this article. In no case
100 shall the powers set forth in this subsection be deemed
101 to authorize the department of natural resources, its di-
102 rector or any of its divisions, to condemn real estate solely
103 for the purpose of reclamation.

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

H. Laurel Hardy
Chairman Senate Committee

Clarence C. Christian
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Howard W. Carson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Th. T. Brotherton, Jr.
President of the Senate

Levin J. McPherson
Speaker House of Delegates

The within approved this the 18th
March
day of _____, 1974.

Arch A. Phares, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/14/74

Time 2:15 p.m.