WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

ENROLLED
SENATE BILL NO. 246
(By Mr.

PASSED
March 8, 1975
In Effect July 1, 1975

Passage
AN ACT to amend and reenact sections eight, ten, eleven and twenty-three, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section five, article three of said chapter; relating to mine safety instructors; qualifications; employment; compensation; tenure; oath; bond; employment of electrical inspectors; qualifications; salary and expenses; tenure; oath; bond; eligibility for appointment as mine inspector; qualifications; salary and expenses; removal; mine foreman examiner for mine foremen fire bosses and assistant mine foremen-fire bosses; salary; employment of inspectors for open-pit mines, cement manufacturing plants and underground limestone and sandstone mines; qualifications; eligibility for appointment; tenure; salary and expenses.

Be it enacted by the Legislature of West Virginia:

That sections eight, ten, eleven and twenty-three, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that section five, article three, chapter twenty-two of said code be amended and reenacted, all to read as follows:

ARTICLE 1. ADMINISTRATION; ENFORCEMENT.

§22-1-8. Mine safety instructors; qualifications; employment; compensation; tenure; oath; bond.

1 The department shall employ eleven or more mine safety instructors. To be eligible for employment as a
mine safety instructor, the applicant shall be (1) a citizen of West Virginia, in good health, not less than twenty-five nor more than sixty-five years of age, and of good character, reputation and temperate habits, and (2) a person who has had at least five years' experience in first aid and mine rescue work and who has had practical experience with dangerous gases found in coal mines, and who has a practical knowledge of mines, mining methods, mine ventilation, sound safety practices, and applicable mining laws.

In order to qualify for appointment as a mine safety instructor, an eligible applicant shall submit to a written and oral examination, given by the mine inspectors' examining board. The examination shall relate to the duties to be performed by a safety instructor and may, subject to the approval of the mine inspectors' examining board, be prepared by the director of West Virginia department of mines.

If the board finds after investigation and examination that the applicant (1) is eligible for appointment, and (2) has passed all oral and written examinations with a grade of at least eighty percent, the board shall add such applicant's name and grade to a register of qualified eligible candidates and certify its action to the director of the department of mines. The director may then appoint one of the candidates from the three having the highest grades.

The salary for a mine safety instructor shall be not less than eleven thousand two hundred fifty dollars per year, with graduations of two hundred seventy dollars annually for a ten-year period and shall be fixed by the director of the department of mines, who shall take into consideration ability, performance of duty, and experience. Such instructor shall devote all of his time to the duties of his office. No reimbursement for traveling expenses shall be made except on an itemized accounting for such expenses submitted by the instructor, who shall verify upon oath that such expenses were actually incurred in the discharge of his official duties.
Except as expressly provided in this section to the contrary, all provisions of this article relating to the eligibility, qualification, appointment, tenure and removal of mine inspectors shall be applicable to mine safety instructors.

§22-1-10. Employment of electrical inspectors; qualifications; salary and expenses; tenure; oath; bond.

The department shall employ five or more electrical inspectors. To be eligible for employment as an electrical inspector, the applicant shall be: (1) A citizen and resident of West Virginia, in good health, not less than twenty-five nor more than fifty-five years of age, and of good character, reputation and of temperate habits; and (2) a person who has had seven years' practical electrical experience in coal mines, or a degree in electrical engineering from an accredited electrical engineering school and one year's practical experience in underground coal mining.

In order to qualify for appointment as a mine electrical inspector, an eligible applicant shall submit to a written and oral examination given by the mine inspectors' examining board. The examination shall relate to the duties to be performed by an electrical inspector. If the board finds after investigation and examination that the applicant (1) is eligible for appointment and (2) has passed all oral and written examinations with a grade of at least ninety percent, the board shall add such applicant's name and grade to a register of qualified eligible candidates and certify its action to the director of the department of mines. The director may then appoint one of the candidates from the three having the highest grade.

The salary of a mine electrical inspector shall be not less than sixteen thousand three hundred twenty-five dollars per year, with graduations of two hundred seventy dollars annually for a ten-year period, and shall be fixed by the director of the department of mines, who shall take into consideration ability, performance of duty, and experience. No reimbursement for traveling expenses shall be made except on an item-
ized accounting for such expense submitted by the electrical inspector, who shall verify upon oath that such expenses were actually incurred in the discharge of his official duties.

Mine electrical inspectors, before entering upon the discharge of their duties, shall take and subscribe to the oath and shall execute a bond in the same penal sum, with surety approved by the director of the department of mines, all as is required by this article in the case of mine inspectors.

Except as expressly provided in this section to the contrary, all provisions of this article relating to the eligibility, qualifications, appointment, tenure and removal of mine inspectors shall be applicable to mine electrical inspectors.

§22-1-11. Eligibility for appointment as mine inspector; qualifications; salary and expenses; removal.

(a) No person shall be eligible for appointment as a mine inspector 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 any 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 eighty percent,
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 fifteen thousand three hundred dollars per year,
with graduations of two hundred seventy dollars an-
ually for a ten-year period; assistant inspector-at-large,
not less than sixteen thousand eight hundred seventy-
five dollars per year, with graduations of two hundred
seventy dollars annually for a ten-year period; inspec-
tors-at-large, not less than eighteen thousand dollars
per year, with graduations of two hundred seventy dol-
lars annually for a ten-year period, and they shall re-
ceive mileage at the rate of not less than ten cents for
each mile actually traveled in the discharge of their
official duties in a privately owned vehicle. 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' exam-
ing 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) Any mine inspector who has fulfilled the re-
quirements of this section with respect to employ-
ment and who has served satisfactorily as a mine
inspector for a minimum period of one year and
who has terminated his employment as a mine in-
spector, upon successfully passing a physical exam-
ination, may be reinstated as a mine inspector with-
in two years after terminating his employment with
the approval of the examining board and the direc-
tor of the department of mines.
(e) 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 alleged 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 willfully 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.

§22-1-23. Mine foreman examiner for mine foremen-fire bosses and assistant mine foremen-fire bosses; salary.

The director of the department of mines shall appoint a mine foreman examiner to examine and certify mine foremen-fire bosses, assistant mine foremen-fire bosses and mine examiners or fire bosses. Such mine foremen examiners shall be paid a minimum salary of thirteen thousand five hundred dollars per year.

§22-3-5. Inspectors.

The director of the department of mines shall divide the state into not more than two mining districts and assign one inspector to each district. Such inspector shall be a citizen of West Virginia, in good health, of good character and reputation, temperate in habits, having a minimum of five years of practical experience in such mining operations and at the time of his appointment is not more than fifty-five years of age. To qualify for appointment as such an 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 percent, the board shall add
such applicant's name and grade to the register of qualifi-
fied 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
two years without requalifying.

Such inspector shall have the same tenure accorded
a mine inspector, as provided in subsection (d), section
eight, article one of this chapter and shall be paid not
less than eleven thousand one hundred dollars per year
with graduations of two hundred seventy dollars an-
nually for a ten-year period. Such inspector shall also
receive reimbursement for traveling expenses at the
rate of not less than fifteen cents for each mile
actually traveled in the discharge of their official duties
in a privately owned vehicle. Such inspector shall also
be reimbursed for any expense incurred in maintaining
an office in his or her home, which office is used in the
discharge of official duties: Provided, That such reim-
bursement shall not exceed two hundred forty dollars
per annum.
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, 1975.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 22nd day of March, 1975.

Governor