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OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1975**



**ENROLLED**

**SENATE BILL NO. 246**

(By Mr. *Rayson*.....)



PASSED *March 8,*..... 1975

In Effect *July 1, 1975*..... Passage

*246*

**ENROLLED**  
**Senate Bill No. 246**  
**(By MR. ROGERSON)**

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[Passed March 8, 1975; in effect July 1, 1975.]

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
- 2 safety instructors. To be eligible for employment as a

3 mine safety instructor, the applicant shall be (1) a citi-  
4 zen of West Virginia, in good health, not less than twenty-  
5 five nor more than sixty-five years of age, and of good  
6 character, reputation and temperate habits, and (2) a  
7 person who has had at least five years' experience in  
8 first aid and mine rescue work and who has had prac-  
9 tical experience with dangerous gases found in coal  
10 mines, and who has a practical knowledge of mines,  
11 mining methods, mine ventilation, sound safety practices,  
12 and applicable mining laws.

13 In order to qualify for appointment as a mine safety  
14 instructor, an eligible applicant shall submit to a writ-  
15 ten and oral examination, given by the mine inspectors'  
16 examining board. The examination shall relate to the  
17 duties to be performed by a safety instructor and may,  
18 subject to the approval of the mine inspectors' examin-  
19 ing board, be prepared by the director of West Virginia  
20 department of mines.

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

30 The salary for a mine safety instructor shall be not  
31 less than eleven thousand two hundred fifty dollars  
32 per year, with graduations of two hundred seventy  
33 dollars annually for a ten-year period and shall be  
34 fixed by the director of the department of mines, who  
35 shall take into consideration ability, performance of  
36 duty, and experience. Such instructor shall devote all of  
37 his time to the duties of his office. No reimbursement  
38 for traveling expenses shall be made except on an item-  
39 ized accounting for such expenses submitted by the  
40 instructor, who shall verify upon oath that such ex-  
41 penses were actually incurred in the discharge of his  
42 official duties.

43 Except as expressly provided in this section to the  
44 contrary, all provisions of this article relating to the  
45 eligibility, qualification, appointment, tenure and re-  
46 moval of mine inspectors shall be applicable to mine  
47 safety instructors.

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

1 The department shall employ five or more electrical  
2 inspectors. To be eligible for employment as an electri-  
3 cal inspector, the applicant shall be: (1) A citizen and  
4 resident of West Virginia, in good health, not less than  
5 twenty-five nor more than fifty-five years of age, and  
6 of good character, reputation and of temperate habits;  
7 and (2) a person who has had seven years' practical  
8 electrical experience in coal mines, or a degree in elec-  
9 trical engineering from an accredited electrical engineer-  
10 ing school and one year's practical experience in under-  
11 ground coal mining.

12 In order to qualify for appointment as a mine elec-  
13 trical inspector, an eligible applicant shall submit to a  
14 written and oral examination given by the mine inspec-  
15 tors' examining board. The examination shall relate to  
16 the duties to be performed by an electrical inspector. If  
17 the board finds after investigation and examination that  
18 the applicant (1) is eligible for appointment and (2) has  
19 passed all oral and written examinations with a grade  
20 of at least ninety percent, the board shall add such  
21 applicant's name and grade to a register of qualified  
22 eligible candidates and certify its action to the director  
23 of the department of mines. The director may then  
24 appoint one of the candidates from the three having the  
25 highest grade.

26 The salary of a mine electrical inspector shall be  
27 not less than sixteen thousand three hundred twenty-  
28 five dollars per year, with graduations of two hun-  
29 dred seventy dollars annually for a ten-year period,  
30 and shall be fixed by the director of the department  
31 of mines, who shall take into consideration ability, per-  
32 formance of duty, and experience. No reimbursement  
33 for traveling expenses shall be made except on an item-

34 ized accounting for such expense submitted by the elec-  
35 trical inspector, who shall verify upon oath that such  
36 expenses were actually incurred in the discharge of his  
37 official duties.

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

44 Except as expressly provided in this section to the  
45 contrary, all provisions of this article relating to the  
46 eligibility, qualifications, appointment, tenure and re-  
47 moval of mine inspectors shall be applicable to mine  
48 electrical inspectors.

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

1 (a) No person shall be eligible for appointment as a  
2 mine inspector unless, at the time of his probationary  
3 appointment, he (1) is a citizen of West Virginia, in good  
4 health, not less than thirty nor more than fifty-five years  
5 of age, and of good character, reputation and temperate  
6 habits; (2) has had at least ten years' practical experience  
7 in coal mines, at least five years of which, immediately  
8 preceding his original appointment, shall have been in  
9 mines in this state: *Provided*, That graduation from any  
10 accredited college of mining engineering shall be consid-  
11 ered the equivalent of two years' practical experience;  
12 (3) has had practical experience with dangerous gases  
13 found in coal mines; and (4) has a good theoretical and  
14 practical knowledge of mines, mining methods, mine  
15 ventilation, sound safety practices and applicable min-  
16 ing laws.

17 (b) In order to qualify for appointment as a mine  
18 inspector, an eligible applicant shall submit to a written  
19 and oral examination by the mine inspectors' examin-  
20 ing board and furnish such evidence of good health,  
21 character and other facts establishing eligibility as the  
22 board may require. If the board finds after investigation  
23 and examination that an applicant: (1) Is eligible for

24 appointment and (2) has passed all written and oral  
25 examinations, with a grade of at least eighty percent,  
26 the board shall add such applicant's name and grade to  
27 the register of qualified eligible candidates and certify  
28 its action to the director of the department of mines.  
29 No candidate's name shall remain in the register for more  
30 than three years without requalifying.

31 (c) Salaries of district inspectors shall not be less  
32 than fifteen thousand three hundred dollars per year,  
33 with graduations of two hundred seventy dollars an-  
34 nually for a ten-year period; assistant inspector-at-large,  
35 not less than sixteen thousand eight hundred seventy-  
36 five dollars per year, with graduations of two hundred  
37 seventy dollars annually for a ten-year period; inspec-  
38 tors-at-large, not less than eighteen thousand dollars  
39 per year, with graduations of two hundred seventy dol-  
40 lars annually for a ten-year period, and they shall re-  
41 ceive mileage at the rate of not less than ten cents for  
42 each mile actually traveled in the discharge of their  
43 official duties in a privately owned vehicle. Within the  
44 limits provided by law, the salary of each inspector shall  
45 be fixed by the director of the department of mines,  
46 subject to the approval of the mine inspectors' exam-  
47 ining board. In fixing salaries of mine inspectors, the  
48 director of the department of mines shall consider ability,  
49 performance of duty and experience. No reimbursement  
50 for traveling expenses shall be made except upon an  
51 itemized account of such expenses submitted by  
52 the inspector, who shall verify upon oath, that such  
53 expenses were actually incurred in the discharge of  
54 his official duties.

55 (d) Any mine inspector who has fulfilled the re-  
56 quirements of this section with respect to employ-  
57 ment and who has served satisfactorily as a mine  
58 inspector for a minimum period of one year and  
59 who has terminated his employment as a mine in-  
60 spector, upon successfully passing a physical exam-  
61 ination, may be reinstated as a mine inspector with-  
62 in two years after terminating his employment with  
63 the approval of the examining board and the direc-  
64 tor of the department of mines.

65 (e) A mine inspector, after having received a perma-  
66 nent appointment, shall be removed from office only  
67 for physical or mental impairment, incompetency, neg-  
68 lect of duty, drunkenness, malfeasance in office, or other  
69 good cause.

70 Proceedings for the removal of a mine inspector may  
71 be initiated by the director of the department of mines  
72 whenever he has reasonable cause to believe and does  
73 believe that adequate cause exists, warranting removal.  
74 Such a proceeding shall be initiated by a verified peti-  
75 tion, filed with the board by the director of the depart-  
76 ment of mines, setting forth with particularity the  
77 facts alleged. Not less than twenty reputable citizens,  
78 who are operators or employees in mines in the state,  
79 may petition the director of the department of mines  
80 for the removal of a mine inspector. If such peti-  
81 tion is verified by at least one of the petitioners,  
82 based on actual knowledge of the affiant and al-  
83 leged facts, which, if true, warrant the removal of  
84 the inspector, the director of the department of mines  
85 shall cause an investigation of the facts to be made.  
86 If, after such investigation, the director finds that there  
87 is substantial evidence, which, if true, warrants re-  
88 moval of the inspector, he shall file a petition with the  
89 board requesting removal of the inspector.

90 On receipt of a petition by the director of the de-  
91 partment of mines seeking removal of a mine in-  
92 spector, the board shall promptly notify the inspec-  
93 tor to appear before it at a time and place desig-  
94 nated in said notice, which time shall be not less  
95 than fifteen days thereafter. There shall be attached  
96 to the copy of the notice served upon the inspector a  
97 copy of the petition filed with the board.

98 At the time and place designated in said notice,  
99 the board shall hear all evidence offered in support  
100 of the petition and on behalf of the inspector. Each  
101 witness shall be sworn, and a transcript shall be  
102 made of all evidence taken and proceedings had at  
103 any such hearing. No continuance shall be granted  
104 except for good cause shown. The chairman of the

105 board and the director of the department of mines  
106 shall have power to administer oaths and subpoena  
107 witnesses.

108 Any mine inspector who shall willfully refuse or fail  
109 to appear before the board, or having appeared, shall  
110 refuse to answer under oath any relevant question on  
111 the ground that his testimony or answer might incrimi-  
112 nate him, or shall refuse to waive immunity from prose-  
113 cution on account of any relevant matter about which  
114 he may be asked to testify at any such hearing before  
115 the board, shall forfeit his position.

116 If, after hearing, the board finds that the inspector  
117 should be removed, it shall enter an order to that effect.  
118 The decision of the board shall be final and shall not be  
119 subject to judicial review.

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

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

**§22-3-5. Inspectors.**

1 The director of the department of mines shall divide the  
2 state into not more than two mining districts and as-  
3 sign one inspector to each district. Such inspector shall  
4 be a citizen of West Virginia, in good health, of good  
5 character and reputation, temperate in habits, having  
6 a minimum of five years of practical experience in such  
7 mining operations and at the time of his appointment  
8 is not more than fifty-five years of age. To qualify for  
9 appointment as such an inspector, an eligible applicant  
10 shall submit to a written and oral examination by the  
11 mine inspectors' examining board and furnish such evi-  
12 dence of good health, character and other facts estab-  
13 lishing eligibility as the board may require. If the  
14 board finds after investigation and examination that  
15 an applicant: (1) Is eligible for appointment and (2)

16 has passed all written and oral examinations, with a  
17 grade of at least ninety percent, the board shall add  
18 such applicant's name and grade to the register of quali-  
19 fied eligible candidates and certify its action to the  
20 director of the department of mines. No candidate's  
21 name shall remain in the register for more than three  
22 years without requalifying.

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

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

James L. Davis  
Chairman Senate Committee

Clarence C. Chustar, Jr.  
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1975.

J. C. Dillon, Jr.  
Clerk of the Senate

W. Blankenship  
Clerk of the House of Delegates

W. B. Bostwick, Jr.  
President of the Senate

Lewis H. McMane  
Speaker House of Delegates

The within approved this the 22<sup>nd</sup>  
day of March, 1975.

Arch A. Moore, Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

ate 3/18/75  
ne 4:55 p.m.