WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

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ENROLLED
Committee Substitute for
HOUSE BILL No. 1564

(By Mr. Seibert)

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PASSED May 15, 1976

In Effect July 1, 1976

Filed in the office
JAMES R. MCCARTNEY
SECRETARY OF STATE
THIS DATE 7/26/76
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 1564

(By Mr. Seibert)

(Originating in the House Committee on Finance)

[Passed May 15, 1976; in effect July 1, 1976.]

AN ACT to amend and reenact sections one-c, one-d and one-e, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salary and mileage allowance for the supervising inspector, oil and gas inspectors and oil and gas examining board.

Be it enacted by the Legislature of West Virginia:

That sections one-c, one-d and one-e, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. OIL AND GAS WELLS.

§22-4-1c. Oil and gas inspectors—Supervising inspectors; tenure; oath and bond.

1 Notwithstanding any other provisions of law, oil and gas inspectors shall be selected, serve and be removed as in this article provided.

4 The deputy director for oil and gas shall divide the state
so as to equalize, as far as practical, the work of each oil
and gas inspector. He may designate a supervising inspector
and other inspectors as may be necessary, and may designate
their places of abode, at points convenient to the accomplish-
ment of their work.

The deputy director for oil and gas shall make each ap-
pointment from among the three qualified eligible candi-
dates on the register having the highest grades. The direc-
tor of the department of mines or the deputy director for
oil and gas, may for good cause, at least thirty days prior
to making an appointment, strike any name from the regis-
ter. Upon striking any name from the register, the director
or deputy director, as the case may be, shall immediately
notify in writing each member of the oil and gas inspectors’
examining board of his action, together with a detailed state-
ment of the reasons therefor. Thereafter, the oil and gas
inspectors’ examining board, after hearing, if it finds that the
action of striking such name was arbitrary or unreason-
able, may order the name of any candidate so stricken from
the register to be reinstated thereon. Such reinstatement
shall be effective from the date of removal from the register.

Any candidate passed over for appointment for three
years shall be automatically stricken from the register.

After having served for a probationary period of one
year to the satisfaction of the deputy director for oil and
gas and the director, an oil and gas inspector or supervising
inspector shall have permanent tenure until he becomes
seventy years of age, subject only to dismissal for cause
in accordance with the provisions of section one-d of this
article. No oil and gas inspector or supervising inspector
while in office shall be directly or indirectly interested as
owner, lessor, operator, stockholder, superintendent or en-
gineer of any oil or gas drilling or producing venture or
of any coal mine in this state. Before entering upon the
discharge of his duties as an oil and gas inspector or super-
vising inspector, he shall take the oath of office prescribed
by the constitution, and shall execute a bond in the penalty
of two thousand dollars, with security to be approved by
the director of the department of mines, conditioned upon
the faithful discharge of his duties, a certificate of which oath and bond shall be filed in the office of the secretary of state.

The supervising inspector and oil and gas inspectors shall perform such duties as are imposed upon them by this chapter, and related duties assigned by the deputy director for oil and gas upon approval of the director.

§22-4-1d. Same—Eligibility for appointment; qualifications; salary; expenses; removal.

(a) No person shall be eligible for appointment as an oil and gas inspector or supervising inspector unless, at the time of his probationary appointment he (1) is a citizen of West Virginia, in good health, and of good character, reputation and temperate habits; (2) has had at least ten years' practical experience in the oil and gas industry, at least five years of which, immediately preceding his original appointment shall have been in the oil and gas industry in this state: Provided, That a diploma in geology or in mining or petroleum engineering shall be considered the equivalent of five years' practical experience; and (3) has good theoretical and practical knowledge of oil and gas drilling and production methods, practices and techniques, sound safety practices and applicable mining laws.

(b) In order to qualify for appointment as an oil and gas inspector or supervising inspector, an eligible applicant shall submit to a written and oral examination by the oil and gas inspectors' examining board and shall furnish such evidence of good health, character and other facts establishing eligibility as such board may require. If such board finds after investigation and examination that an applicant (1) is eligible for appointment and (2) has passed all written and oral examinations, the board shall add such applicant's name and grade to the register of qualified eligible candidates and certify its action to the deputy director for oil and gas. No candidate's name shall remain on the register for more than three years without requalifying.

(c) The salary of the supervising inspector shall be not
less than fifteen thousand two hundred twenty-two dollars per annum and not more than fifteen cents per mile traveling expenses. Salaries of inspectors shall be not less than thirteen thousand three hundred twenty-five dollars per annum and traveling expenses for personal car not more than fifteen cents per mile. Within the limits provided by law, the salary of each inspector and of the supervising inspector shall be fixed by the deputy director for oil and gas, subject to the approval of the director of the department of mines and oil and gas inspectors' examining board. In fixing salaries of the oil and gas inspectors and of the supervising inspector, the deputy director for oil and gas 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 or supervising inspector, as the case may be, who shall verify, upon oath, that such expenses were actually incurred in the discharge of his official duties.

(d) An inspector or the supervising 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 an oil and gas inspector or the supervising inspector may be initiated by the deputy director for oil and gas or the director of the department of mines whenever either has reasonable grounds to believe and does believe that adequate cause exists warranting removal. Such a proceeding shall be initiated by a verified petition, filed with the oil and gas inspectors' examining board by the deputy director for oil and gas or the director, setting forth with particularity the facts alleged. Not less than twenty reputable citizens engaged in oil and gas drilling and production operations in the state may petition the deputy director for oil and gas or the director of the department of mines for the removal of an inspector or the supervising inspector. If such petition is verified by at least one of the petitioners, based on actual knowledge of the affiant, and alleges facts which, if true, warrant the removal of the inspector or supervising inspector, the deputy director
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for oil and gas or the director of the department of mines shall cause an investigation of the facts to be made. If, after such investigation, the deputy director for oil and gas or the director finds that there is substantial evidence which, if true, warrants removal of the inspector or supervising inspector, he shall file a petition with the oil and gas inspectors’ examining board requesting removal of the inspector or supervising inspector.

On receipt of a petition by the deputy director for oil and gas or by the director of the department of mines seeking removal of an inspector or the supervising inspector, the oil and gas inspectors’ examining board shall promptly notify the inspector or supervising inspector, as the case may be, to appear before it at a time and place designated in said notice, which time shall be not less than fifteen days nor more than thirty days thereafter. There shall be attached to the copy of the notice served upon the inspector or supervising inspector a copy of the petition filed with such board.

At the time and place designated in said notice, the oil and gas inspectors’ examining board shall hear all evidence offered in support of the petition and on behalf of the inspector or supervising 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, the deputy director for oil and gas, and the director of the department of mines shall have power to administer oaths and subpoena witnesses.

An inspector or supervising inspector who shall willfully refuse or fail to appear before such 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 accept a grant of immunity from prosecution on account of any relevant matter about which he may be asked to testify at such hearing before such board, shall forfeit his position.

If, after hearing, the oil and gas inspectors’ examining
board finds that the inspector or supervising 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.

§22-4-le. Oil and gas inspectors' examining board created; composition; appointment, term and compensation of members; chairman; oaths of members; meetings; powers and duties generally.

There is hereby created an oil and gas inspectors' examining board consisting of five members who, except for the public representative on such board, shall be appointed by the governor, by and with the advice and consent of the Senate. Members may be removed only for the same causes and like manner as elective state officers. One member of the board who shall be the representative of the public, shall be a professor in the petroleum engineering department of the school of mines at West Virginia University appointed by the dean of said school; two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of independent oil and gas operators; and two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of major oil and gas producers.

The deputy director for oil and gas shall be an ex officio member of the board and shall serve as secretary of the board without additional compensation, but he shall have no right to vote with respect to any matter before the board.

The members of the board, except the public representative, shall be appointed for overlapping terms of eight years, except that the original appointments shall be for terms of two, four, six and eight years, respectively. Any member whose term expires may be reappointed by the governor.

Each member of the board shall receive seventy-five dollars per diem while actually engaged in the performance of the work of the board; and shall receive mileage at the
rate of not more than fifteen cents for each mile actually
taveled going from the home of the member to the place
of the meeting of the board and returning therefrom, which
shall be paid out of the state treasury upon a requisition
upon the state auditor, properly certified by such members
of the board.

The public member shall serve as chairman of the board.

Members of the board, before performing any duty shall
take and subscribe to the oath required by section five, article
four of the constitution of West Virginia.

The board shall meet at such times and places as shall
be designated by the chairman. It shall be the duty of the
chairman to call a meeting of the board on the written
request of two members, or on the written request of the
deputy director for oil and gas or the director of the depart-
ment of mines. Notice of each meeting shall be given in
writing to each member by the secretary at least five days in
advance of the meeting. Three voting members shall con-
stitute a quorum for the transaction of business.

In addition to other powers and duties expressly set forth
elsewhere in this article, the board shall:

(1) Establish, and from time to time revise, forms of
application for employment as an oil and gas inspector and
supervising inspector and forms for written examinations to
test the qualifications of candidates, with such distinctions,
if any, in the forms for oil and gas inspector and supervising
inspector as the board may from time to time deem necessary
or advisable;

(2) Adopt and promulgate reasonable rules and regulations
relating to the examination, qualification and certification of
candidates for appointment, and relating to hearings for re-
moval of inspectors or the supervising inspector, required
to be held by this article. All of such rules and regulations
shall be printed and a copy thereof furnished by the secretary
of the board to any person upon request;

(3) Conduct, after public notice of the time and place
thereof, examinations of candidates for appointment. By
unanimous agreement of all members of the board, one or more members of the board or an employee of the department of mines may be designated to give to a candidate the written portion of the examination;

(4) Prepare and certify to the deputy director for oil and gas and the director of the department of mines a register of qualified eligible candidates for appointment as oil and gas inspectors or as supervising inspectors, with such differentiation, if any, between the certification of candidates for oil and gas inspectors and for supervising inspector as the board may from time to time deem necessary or advisable. The register shall list all qualified eligible candidates in the order of their grades, the candidate with the highest grade appearing at the top of the list. After each meeting of the board held to examine such candidates and at least annually, the board shall prepare and submit to the deputy director for oil and gas and the director of the department of mines a revised and corrected register of qualified eligible candidates for appointment, deleting from such revised register all persons (a) who are no longer residents of West Virginia, (b) who have allowed a calendar year to expire without, in writing, indicating their continued availability for such appointment, (c) who have been passed over for appointment for three years, (d) who have become ineligible for appointment since the board originally certified that such persons were qualified and eligible for appointment, or (e) who, in the judgment of at least three members of the board, should be removed from the register for good cause;

(5) Cause the secretary of the board to keep and preserve the written examination papers, manuscripts, grading sheets and other papers of all applicants for appointment for such period of time as may be established by the board. Specimens of the examinations given, together with the correct solution of each question, shall be preserved permanently by the secretary of the board;

(6) Issue a letter or written notice of qualification to each successful eligible candidate;

(7) Hear and determine proceedings for the removal of
inspectors or the supervising inspector in accordance with the provisions of this article;

(8) Hear and determine appeals of inspectors or the supervising inspector from suspension orders made by the deputy director for oil and gas pursuant to the provisions of section one-a of this article: Provided, That in order to appeal from any order of suspension, an aggrieved inspector or supervising inspector shall file such appeal in writing with the oil and gas inspectors' examining board not later than ten days after receipt of the notice of suspension. On such appeal the board shall affirm the action of the deputy director for oil and gas unless it be satisfied from a clear preponderance of the evidence that the deputy director for oil and gas has acted arbitrarily;

(9) Make an annual report to the governor concerning the administration of oil and gas inspection personnel in the state service; making such recommendations as the board considers to be in the public interest; and

(10) Render such advice and assistance to the deputy director for oil and gas as he shall from time to time determine necessary or desirable in the performance of his duties.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect July 1, 1976.

J. W. Blankenship
Clerk of the Senate

Clerk of the House of Delegates

W. T. Breeden, Jr.
President of the Senate

Speaker House of Delegates

The within bill approved this the 24th day of ______, 1976.

Governor
RESENTED TO THE
GOVERNOR

Date 5/20/76
Time 1:55 p.m.