

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978

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## ENROLLED

*Committee Substitute for*

SENATE BILL NO. 448

(By Mr. *Brotherton, Mr. President, &c*  
*and Mr. Gainer, original sponsors*)

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PASSED *March 11* 1978

In Effect *from* Passage



# ENROLLED

## COMMITTEE SUBSTITUTE

### FOR

## Senate Bill No. 448

(MR. BROTHERTON, MR. PRESIDENT, and MR. GAINER,  
*original sponsors*)

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[Passed March 11, 1978; in effect from passage.]

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AN ACT to amend article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-three-a, relating to authorizing the reclamation commission and the director of the department of natural resources to implement the provisions of section 515 of the federal Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87); expanding the rule-making authority of the director and reclamation commission of the department of natural resources with regard thereto; and providing for expiration of authority.

*Be it enacted by the Legislature of West Virginia:*

That article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-three-a, to read as follows:

**ARTICLE 6. SURFACE MINING AND RECLAMATION.**

**§20-6-23a. Implementing federal surface mining and control standards under Public Law 95-87 and expanding rule-making authority of the director and reclamation commission; expiration of authority.**

1 The Legislature finds that the Surface Mining Control  
2 and Reclamation Act of 1977 (Public Law 95-87), here-  
3 inafter cited as P. L. 95-87, and specifically subsection  
4 502 (c) therein may prohibit the state from issuing  
5 surface-mining permits for coal after the third day of

6 February, one thousand nine hundred seventy-eight,  
7 unless such permits contain conditions requiring com-  
8 pliance with the provisions of said federal law. Be-  
9 cause the inability of the state to issue permits after  
10 that date would prevent the operation of surface mines  
11 which are needed to supply coal to meet energy needs  
12 for the preservation of the public health, safety and  
13 welfare and, since authority to regulate the surface  
14 mining of coal in the state has already been vested in  
15 the department of natural resources and the reclama-  
16 tion commission, the Legislature does hereby intend to  
17 expand the authority of the department and the com-  
18 mission to issue permits in compliance with the federal  
19 law.

20 In addition to the other powers, duties, and authority  
21 of the reclamation commission provided elsewhere in this  
22 chapter and article two, chapter twenty-two of this code,  
23 the commission may promulgate rules and regulations  
24 necessary to require the surface mining of coal in this  
25 state to be in compliance and conformity with section  
26 515, Title V of P. L. 95-87.

27 In addition to the other powers, duties, and authority  
28 of the director of the department of natural resources  
29 provided elsewhere in this chapter, the director may  
30 promulgate rules and regulations adequate to enforce  
31 the rules and regulations promulgated by the reclama-  
32 tion commission in accordance with the preceding para-  
33 graph.

34 The expanded rule-making authority above mentioned  
35 may include the promulgation and enforcement of rules  
36 and regulations as prescribed by section 515, Title V of  
37 P. L. 95-87 and such authority shall specifically include  
38 the authority to regulate and enforce rules and regula-  
39 tions regulating the surface effect of deep mining in this  
40 state in conformity with section 515, Title V of P. L.  
41 95-87 and article two, chapter twenty-two of this code.

42 The director shall cause a copy of P. L. 95-87 to be  
43 filed in the office of the secretary of state for public in-  
44 spection.

45 The expanded rule-making authority as expressed here-  
46 in shall be of an interim and temporary effect in that such

47 expanded authority for both the director of natural  
48 resources and the reclamation commission and all such  
49 rules and regulations promulgated pursuant to the autho-  
50 rity granted by this section shall expire and have no force  
51 and effect after the thirtieth day of August, one thousand  
52 nine hundred seventy-nine.

53 All rules and regulations promulgated pursuant to the  
54 authority granted under this section shall be subject to  
55 the provisions of chapter twenty-nine-a of the code:  
56 *Provided*, That this requirement shall in no way limit the  
57 application of said chapter twenty-nine-a to any other  
58 rules and regulations promulgated by the reclamation  
59 commission or the director of the department of natural  
60 resources.

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

James L. Davis  
Chairman Senate Committee

Chauncey C. Chesterton Jr.  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

J. William Jr.  
Clerk of the Senate

Blankenship  
Clerk of the House of Delegates

W. T. Buth Jr.  
President of the Senate

Donald L. Kopp  
Speaker House of Delegates

The within is approved this the 30  
day of March, 1978.

John J. R. Ryan  
Governor

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OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date Mar. 30, 1978

Time 8:45 A.M.

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OFFICE  
SECY. OF STATE