

RECEIVED

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-27-79

79 MAR 27 P11:47

Time 9:40 A.M.

OFFICE
SECY. OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1979



ENROLLED

SENATE BILL NO. 496

(By Mr. Gainer)



PASSED March 10, 1979

In Effect from Passage



No. 496

100-10000

79 MAR 27 P11: 47

DEPT OF STATE

ENROLLED
Senate Bill No. 496
(By MR. GAINER)

[Passed March 10, 1979; in effect from passage.]

AN ACT to amend and reenact section one, article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section four, article one, chapter twenty-two of said code, all relating to directing the directors of the department of mines and department of natural resources to adopt programs, regulations and procedures to provide assistance to small coal operators; and permitting the use of certain funds therefor.

Be it enacted by the Legislature of West Virginia:

That section one, article six, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section four, article one, chapter twenty-two of said code be amended and reenacted to read as follows:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 6. SURFACE MINING AND RECLAMATION.

§20-6-1. Jurisdiction vested in department of natural resources; legislative purpose; apportionment of responsibility; assistance to small operators.

- 1 Except as otherwise provided in section twenty-one of
- 2 this article, the department of natural resources is hereby
- 3 vested with jurisdiction over all aspects of surface mining
- 4 and with jurisdiction and control over land, water and
- 5 soil aspects pertaining to surface-mining operations, and
- 6 the restoration and reclamation of lands surface mined
- 7 and areas affected thereby.

8 The Legislature finds that, although surface mining
9 provides much needed employment and has produced
10 good safety records, unregulated surface mining causes
11 soil erosion, pyritic shales and materials, landslides,
12 noxious materials, stream pollution and accumulation of
13 stagnant water, increases the likelihood of floods and
14 slides, destroys the value of some lands for agricultural
15 purposes and some lands for recreational purposes, de-
16 stroys aesthetic values, counteracts efforts for the con-
17 servation of soil, water and other natural resources, and
18 destroys or impairs the health, safety, welfare and prop-
19 erty rights of the citizens of West Virginia, where proper
20 reclamation is not practiced.

21 The Legislature also finds that there are wide varia-
22 tions regarding location and terrain conditions surround-
23 ing and arising out of the surface mining of minerals,
24 primarily in topographical and geological conditions, and
25 by reason thereof, it is necessary to provide the most
26 effective, beneficial and equitable solution to the prob-
27 lems involved.

28 The Legislature further finds that authority should be
29 vested in the director of the department of natural re-
30 sources to administer and enforce the provisions of this
31 article.

32 The director of the department of natural resources
33 and the director of the department of mines shall co-
34 operate with respect to departmental programs and
35 records so as to effect an orderly and harmonious ad-
36 ministration of the provisions of this article. The director
37 of natural resources may avail himself of any services
38 which may be provided by other state agencies in this
39 state and other states or by agencies of the federal
40 government, and may reasonably compensate them for
41 such services. He may also receive any federal funds,
42 state funds or any other funds for the reclamation of
43 land affected by surface mining. The department of
44 mines and all departments, schools and colleges of West
45 Virginia University shall cooperate fully with the divi-
46 sion of reclamation of the department of natural re-

47 sources in administering and enforcing the provisions
48 of this article.

49 The directors of the departments of mines and natural
50 resources shall adopt programs, regulations, and proce-
51 dures designed to assist the small coal operator with
52 obtaining permit and meeting the environmental protec-
53 tion performance standards for surface and underground
54 coal mining operations within the state under the pro-
55 visions of section 507(c) of the Federal Surface Mining
56 Control and Reclamation Act of 1977, Public Law 95-87,
57 and regulations promulgated pursuant thereto; and, in
58 the discretion of the director of the department of natural
59 resources, to assist such small operators in meeting such
60 other standards of such act within the limits of available
61 funds therefor: *Provided*, That the director of the depart-
62 ment of natural resources shall promulgate rules and
63 regulations identifying the scope and extent of assistance
64 and services to be provided in addition to those under
65 said section 507(c). For the purposes of this section a
66 small coal operator is one who is anticipated to mine less
67 than two hundred thousand tons per year, but the depart-
68 ment in determining tonnage shall consider wholly owned
69 subsidiaries to be the same operation as the parent cor-
70 poration. In the absence of other state or federal funds
71 available for the administration of such programs and
72 procedures, the director of the department of natural
73 resources may utilize the surface reclamation fund for
74 such purpose.

75 No public officer or employee in the department of
76 natural resources, the department of mines, or the office
77 of attorney general, having any responsibility or duty
78 either directly or of a supervisory nature with respect
79 to the administration or enforcement of this article shall
80 (1) engage in surface mining as a sole proprietor or as a
81 partner or (2) be an officer, director, stockholder, owner
82 or part owner of any corporation or other business entity
83 engaged in surface mining or (3) be employed as an
84 attorney, agent or in any other capacity by any person,
85 partnership, firm, association, trust or corporation en-
86 gaged in surface mining. Any violation of this paragraph
87 by any such public officer or employee shall constitute

88 grounds for his removal from office or dismissal from his
89 employment, as the case may be.

CHAPTER 22. MINES AND MINERALS.

ARTICLE 1. ADMINISTRATION; ENFORCEMENT.

§22-1-4. Director of the department of mines—Powers and duties.

1 The director of the department of mines shall have full
2 charge of the department. He shall have the power and
3 duty to:

4 (1) Supervise and direct the execution and enforce-
5 ment of the provisions of this chapter.

6 (2) Appoint a deputy director of the department of
7 mines, fix his compensation and prescribe his powers and
8 duties.

9 (3) Employ such assistants, clerks, stenographers and
10 other employees as may be necessary to fully and effec-
11 tively carry out the provisions of this law and fix their
12 compensation, except as otherwise provided in this article.

13 (4) Employ mine inspectors, and assign them to divi-
14 sions or districts in accordance with the provisions of
15 section seven of this article as may be necessary to fully
16 and effectively carry out the provisions of this law, in-
17 cluding the hiring and training of inspectors for the spe-
18 cialized requirements of surface mining, shaft and slope
19 sinking, and surface installations and to supervise and
20 direct such mine inspectors in the performance of their
21 duties.

22 (5) Suspend, for good cause, any mine inspector with-
23 out compensation for a period not exceeding thirty days
24 in any calendar year.

25 (6) Prepare report forms to be used by mine in-
26 spectors in making their findings, orders and notices,
27 upon inspections made in accordance with this chapter.

28 (7) Hear and determine applications made by mine
29 operators for the annulment or revision of orders made
30 by mine inspectors, and to make inspections of mines, in
31 accordance with the provisions of this article.

32 (8) Cause a properly indexed permanent and public
33 record to be kept of all inspections made by himself or
34 by mine inspectors.

35 (9) Make annually a full and complete written report
36 of the administration of his department to the governor
37 and the Legislature of the state for the year ending the
38 thirtieth day of June. Such report shall include the num-
39 ber of visits and inspections of mines in the state by mine
40 inspectors, the quantity of coal, coke and other minerals
41 (including oil and gas) produced in the state, the number
42 of men employed, number of mines in operation, sta-
43 tistics with regard to health and safety of persons work-
44 ing in the mines including the causes of injuries and
45 deaths, improvements made, prosecutions, the total funds
46 of the department from all sources identifying each
47 source of such funds, the expenditures of the department,
48 the surplus or deficit of the department at the beginning
49 and end of the year, the amount of fines collected, the
50 amount of fines imposed, the value of fines pending, the
51 number and type of violations found, the amount of fines
52 imposed, levied and turned over for collection, the total
53 amount of fines levied but not paid during the prior
54 year, the titles and salaries of all inspectors and other
55 officials of the department, the number of inspections
56 made by each inspector, the number and type of viola-
57 tions found by each inspector: *Provided*, That no inspec-
58 tor shall be identified by name in this report. Such
59 reports shall be filed with the governor and the Legisla-
60 ture on or before the thirty-first day of December of
61 the same year for which it was made, and shall upon
62 proper authority be printed and distributed to interested
63 persons.

64 (10) Call or subpoena witnesses, for the purpose of
65 conducting hearings into mine fires, mine explosions or
66 any mine accident; to administer oaths and to require
67 production of any books, papers, records, or other docu-
68 ments relevant or material to the hearing. Any witness
69 so called or subpoenaed shall receive forty dollars per
70 diem and shall receive mileage at the rate of fifteen
71 cents for each mile actually traveled, which shall be

72 paid out of the state treasury upon a requisition upon the
73 state auditor, properly certified by such witness.

74 (11) Institute civil actions for relief, including
75 permanent or temporary injunctions, restraining orders,
76 or any other appropriate action in the appropriate federal
77 or state court whenever any operator or his agent violates
78 or fails or refuses to comply with any lawful order,
79 notice or decision issued by the director or his repre-
80 sentative.

81 (12) Perform all other duties which are expressly
82 imposed upon him by the provisions of this chapter.

83 (13) Make all records of the department open for
84 inspection of interested persons and the public.

85 (14) In conjunction with the director of the depart-
86 ment of natural resources, adopt programs, regulations,
87 and procedures designed to assist the small coal oper-
88 ator with obtaining permits and meeting the environ-
89 mental protection performance standards for strip and
90 underground coal mining operations within the state.
91 For the purposes of this subdivision, a small coal operator
92 is one who is anticipated to mine less than two hundred
93 thousand tons per year, but the department in determin-
94 ing tonnage shall consider wholly owned subsidiaries to
95 be the same operation as the parent corporation.

18 MAR 27 P 11: 47

[Enr. S. B. No. 496

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

James L. Davis
Chairman Senate Committee

Clarence C. Chuston Jr.
Chairman House Committee

Originated in the Senate.

To take effect from passage.

J. D. Williams
Clerk of the Senate

W. B. Blankenship
Clerk of the House of Delegates

H. J. Brubaker Jr.
President of the Senate

Hyder A. Secor Jr.
Speaker House of Delegates

The within *is approved* this the *27*
day of *March*, 1979.

John D. Raley
Governor



RECEIVED

MAR 19 3 45 PM '79

OFFICE OF THE GOVERNOR