WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1979

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ENROLLED
SCHRENE BILL NO. 496

(By Mr. Hain)

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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 this article, the department of natural resources is hereby vested with jurisdiction over all aspects of surface mining and with jurisdiction and control over land, water and soil aspects pertaining to surface-mining operations, and the restoration and reclamation of lands surface mined and areas affected thereby.
The Legislature finds that, although surface mining provides much needed employment and has produced good safety records, unregulated surface mining causes soil erosion, pyritic shales and materials, landslides, noxious materials, stream pollution and accumulation of stagnant water, increases the likelihood of floods and slides, destroys the value of some lands for agricultural purposes and some lands for recreational purposes, destroys aesthetic values, counteracts efforts for the conservation of soil, water and other natural resources, and destroys or impairs the health, safety, welfare and property rights of the citizens of West Virginia, where proper reclamation is not practiced.

The Legislature also finds that there are wide variations regarding location and terrain conditions surrounding and arising out of the surface mining of minerals, primarily in topographical and geological conditions, and by reason thereof, it is necessary to provide the most effective, beneficial and equitable solution to the problems involved.

The Legislature further finds that authority should be vested in the director of the department of natural resources to administer and enforce the provisions of this article.

The director of the department of natural resources and the director of the department of mines shall cooperate with respect to departmental programs and records so as to effect an orderly and harmonious administration of the provisions of this article. The director of natural resources may avail himself of any services which may be provided by other state agencies in this state and other states or by agencies of the federal government, and may reasonably compensate them for such services. He may also receive any federal funds, state funds or any other funds for the reclamation of land affected by surface mining. The department of mines and all departments, schools and colleges of West Virginia University shall cooperate fully with the division of reclamation of the department of natural re-
The directors of the departments of mines and natural resources shall adopt programs, regulations, and procedures designed to assist the small coal operator with obtaining permit and meeting the environmental protection performance standards for surface and underground coal mining operations within the state under the provisions of section 507(c) of the Federal Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, and regulations promulgated pursuant thereto; and, in the discretion of the director of the department of natural resources, to assist such small operators in meeting such other standards of such act within the limits of available funds therefor: Provided, That the director of the department of natural resources shall promulgate rules and regulations identifying the scope and extent of assistance and services to be provided in addition to those under said section 507(c). For the purposes of this section a small coal operator is one who is anticipated to mine less than two hundred thousand tons per year, but the department in determining tonnage shall consider wholly owned subsidiaries to be the same operation as the parent corporation. In the absence of other state or federal funds available for the administration of such programs and procedures, the director of the department of natural resources may utilize the surface reclamation fund for such purpose.

No public officer or employee in the department of natural resources, the department of mines, or the office of attorney general, having any responsibility or duty either directly or of a supervisory nature with respect to the administration or enforcement of this article shall (1) engage in surface mining as a sole proprietor or as a partner or (2) be an officer, director, stockholder, owner or part owner of any corporation or other business entity engaged in surface mining or (3) be employed as an attorney, agent or in any other capacity by any person, partnership, firm, association, trust or corporation engaged in surface mining. Any violation of this paragraph by any such public officer or employee shall constitute
grounds for his removal from office or dismissal from his 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 charge of the department. He shall have the power and duty to:

2 (1) Supervise and direct the execution and enforcement of the provisions of this chapter.

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

4 (3) Employ such assistants, clerks, stenographers and other employees as may be necessary to fully and effectively carry out the provisions of this law and fix their compensation, except as otherwise provided in this article.

5 (4) Employ mine inspectors, and assign them to divisions or districts in accordance with the provisions of section seven of this article as may be necessary to fully and effectively carry out the provisions of this law, including the hiring and training of inspectors for the specialized requirements of surface mining, shaft and slope sinking, and surface installations and to supervise and direct such mine inspectors in the performance of their duties.

6 (5) Suspend, for good cause, any mine inspector without compensation for a period not exceeding thirty days in any calendar year.

7 (6) Prepare report forms to be used by mine inspectors in making their findings, orders and notices, upon inspections made in accordance with this chapter.

8 (7) Hear and determine applications made by mine operators for the annulment or revision of orders made by mine inspectors, and to make inspections of mines, in accordance with the provisions of this article.
(8) Cause a properly indexed permanent and public record to be kept of all inspections made by himself or by mine inspectors.

(9) Make annually a full and complete written report of the administration of his department to the governor and the Legislature of the state for the year ending the thirtieth day of June. Such report shall include the number of visits and inspections of mines in the state by mine inspectors, the quantity of coal, coke and other minerals (including oil and gas) produced in the state, the number of men employed, number of mines in operation, statistics with regard to health and safety of persons working in the mines including the causes of injuries and deaths, improvements made, prosecutions, the total funds of the department from all sources identifying each source of such funds, the expenditures of the department, the surplus or deficit of the department at the beginning and end of the year, the amount of fines collected, the amount of fines imposed, the value of fines pending, the number and type of violations found, the amount of fines imposed, levied and turned over for collection, the total amount of fines levied but not paid during the prior year, the titles and salaries of all inspectors and other officials of the department, the number of inspections made by each inspector, the number and type of violations found by each inspector: Provided, That no inspector shall be identified by name in this report. Such reports shall be filed with the governor and the Legislature on or before the thirty-first day of December of the same year for which it was made, and shall upon proper authority be printed and distributed to interested persons.

(10) Call or subpoena witnesses, for the purpose of conducting hearings into mine fires, mine explosions or any mine accident; to administer oaths and to require production of any books, papers, records, or other documents relevant or material to the hearing. Any witness so called or subpoenaed shall receive forty dollars per diem and shall receive mileage at the rate of fifteen cents for each mile actually traveled, which shall be
paid out of the state treasury upon a requisition upon the state auditor, properly certified by such witness.

(11) Institute civil actions for relief, including permanent or temporary injunctions, restraining orders, or any other appropriate action in the appropriate federal or state court whenever any operator or his agent violates or fails or refuses to comply with any lawful order, notice or decision issued by the director or his representative.

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

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

(14) In conjunction with the director of the department of natural resources, adopt programs, regulations, and procedures designed to assist the small coal operator with obtaining permits and meeting the environmental protection performance standards for strip and underground coal mining operations within the state. For the purposes of this subdivision, a small coal operator is one who is anticipated to mine less than two hundred thousand tons per year, but the department in determining tonnage shall consider wholly owned subsidiaries to be the same operation as the parent corporation.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence E. Chadwick
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor