

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time _____

No: 1716

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

HOUSE BILL No. 1716

(By Mr. Dameron, 10th Dist., + Mr. Kopp)



Passed April 11, 1981

In Effect Ninety Days From Passage



ENROLLED

H. B. 1716

(By MR. DAMRON, 10th Dist. and MR. KOPP)

[Passed April 11, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact section eleven, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section eleven-a, relating to employing the oil and gas conservation commissioner as acting administrator of the office of oil and gas; authorizing additional salary for the commissioner; allowing the director of the department of mines to employ an administrative assistant to the commissioner to assist with duties of acting administrator; allocating salary of administrative assistant from special oil and gas conservation tax; and filing of maps and plans as a prerequisite for extending coal mining operations to within two hundred feet of a well, or to a mine through a well.

Be it enacted by the Legislature of West Virginia:

That section eleven, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section eleven-a, to read, as follows:

ARTICLE 4. OIL AND GAS WELLS.

§22-4-11. When coal operator to file maps and plans as prerequisite to extension of coal operations; petition for leave to conduct underground operations within two hundred feet of well or to mine through a well; proceeding thereon.

1 (a) Before a coal operator conducts underground mining

2 operations within five hundred feet of any well, including
3 the driving of an entry or passageway, or the removal of
4 coal or other material, the coal operator shall file with
5 the department of mines and forward to the well operator by
6 certified mail, return receipt requested, its mining maps and
7 plans (which it is required to prepare, file and update to and
8 with the regulatory authority) for the area within five hundred
9 feet of the well, together with a notice, on a form furnished
10 by the department of mines, informing them that the mining
11 maps and plans are being filed or mailed pursuant to the re-
12 quirements of this section.

13 Once these mining maps and plans are filed with the de-
14 partment of mines, the coal operator may proceed with its
15 underground mining operations in the manner and as projected
16 on such plans or maps, but shall not remove, without the
17 consent of the department of mines, any coal or other material
18 or cut any passageway nearer than two hundred feet of any
19 completed well or well that is being drilled. The coal operator
20 shall, at least every six months while mining within the five
21 hundred foot area, update its mining maps and plans and file
22 the same with the department of mines and the well operator.

23 (b) Application may be made at any time to the department
24 of mines by a coal operator for leave to conduct underground
25 mining operations within two hundred feet of any well or to
26 mine through any well, by petition, duly verified, showing
27 the location of the well, the workings adjacent to the well
28 and the mining operations contemplated within two hundred
29 feet of the well or through such well, and praying the approval
30 of the same by the department of mines and naming the well
31 operator as a respondent. The coal operator shall file such
32 petition with the department of mines and mail a true copy to
33 the well operator by certified mail, return receipt requested.

34 The petition shall notify the well operator that it may answer
35 the petition within five days after receipt, and that in default
36 of an answer the department of mines may approve the pro-
37 posed operations as requested if it be shown by the petitioner
38 or otherwise to the satisfaction of the department of mines
39 that such operations are in accordance with the law and with
40 the provisions of this article. If the well operator files an

41 answer which requests a hearing, one shall be held within ten
42 days of such answer, and the department of mines shall fix a
43 time and date and give both the coal operator and well opera-
44 tor five days' written notice of same by certified mail, return
45 receipt requested. At the hearing, the well operator and coal
46 operator, as well as the department of mines, shall be permitted
47 to offer any competent and relevant evidence. Upon conclusion
48 of the hearing, the department of mines shall grant the re-
49 quest of the coal operator or refuse to grant the same, or make
50 such other decision with respect to such proposed under-
51 ground operation as in its judgment is just and reasonable
52 under all circumstances and in accordance with law and the
53 provisions of this article: *Provided*, That a grant by the de-
54 partment of mines of a request to mine through a well shall
55 require an acceptable test to be conducted by the coal operator
56 establishing that such mining through can be done safely.

57 If a hearing is not requested by the well operator or if
58 the well operator gives, in writing, its consent to the coal
59 operator to mine within closer than two hundred feet of the
60 specified well, the department of mines shall grant the re-
61 quest of the coal operator within five days after the petition's
62 original five day answer period if the department of mines
63 determines that such operations are just, reasonable and in
64 accordance with law and the provisions of this article.

65 The department of mines shall docket and keep a record of
66 all such proceedings substantially as required in the last
67 paragraph of section three of this article, and from any such
68 final decision or order of the department of mines, either the
69 well operator or coal operator, or both, may, within ten days,
70 appeal to the circuit court of the county in which the well
71 subject to said petition is located. The procedure in the circuit
72 court shall be substantially as provided in section four, chapter
73 twenty-two of this code, with the department of mines being
74 named as a respondent. From any final order or decree of the
75 circuit court, an appeal may be taken to the supreme court of
76 appeals as heretofore provided.

77 A copy of the document or documents evidencing the action
78 of the department of mines with respect to such petition
79 shall promptly be filed with the administrator.

80 (c) Before a coal operator conducts surface or strip min-
81 ing operations as defined in article six, chapter twenty of this
82 code, within two hundred feet of any well, including the re-
83 moval of coal and other material, the operator shall file with
84 the department of mines and furnish to the well operator by
85 certified mail, return receipt requested, its mining maps and
86 plans (which it is required to prepare, file and update to and
87 with the regulatory authority) for the area within two hundred
88 feet of the well, together with a notice, on a form furnished
89 by the department of mines, informing them that the mining
90 maps and plans are being filed or mailed pursuant to the re-
91 quirements of this section, and representing that the planned
92 operations will not unreasonably interfere with access to or
93 operation of the well and will not damage the well. In addition,
94 the coal operator shall furnish the well operator with evidence
95 that it has in force public liability insurance, with at least the
96 minimum insurance coverage required by article six, chapter
97 twenty of this code, and the rules and regulations promulgated
98 thereto and thereunder.

99 Once these mining maps and plans are filed with the depart-
100 ment of mines, the coal operator may proceed with its surface
101 or strip mining operations in the manner and as projected on
102 such plans or maps, so long as such surface mining operations
103 do not unreasonably interfere with access to, or operation of,
104 the well or do not damage the well.

105 (d) The filing of petitions and notices with the department
106 of mines as herein provided may be complied with by mailing
107 such petition or notice to the department of mines by certified
108 mail, return receipt requested.

**§22-4-11a. Employment of oil and gas conservation commissioner
as acting administrator; additional salary for ad-
ministrator; employment of administrative assistant;
source of salary of administrative assistant.**

1 The director of the department of mines, with permission
2 of the oil and gas conservation commission, may employ
3 the oil and gas conservation commissioner as acting adminis-
4 trator of the office of oil and gas, providing the commissioner
5 otherwise meets the qualifications for administrator of the

6 office of oil and gas, and pay him an additional amount not
7 to exceed the minimum salary provided for the administrator
8 of the office of oil and gas; and additionally, the director
9 may employ an administrative assistant to the oil and gas
10 conservation commissioner, to be approved by the oil and
11 gas conservation commissioner for purposes of acting as the
12 assistant to the oil and gas conservation commissioner in
13 carrying out his duties as acting administrator of the office
14 of oil and gas, the salary of the administrative assistant to
15 be paid from monies collected by the oil and gas conservation
16 commission for the special oil and gas conservation tax
17 imposed pursuant to section thirteen, article four-a of this
18 chapter. In no event shall the term of appointment of the
19 oil and gas conservation commissioner as acting administrator
20 or the administrative assistant to the oil and gas conservation
21 commissioner extend beyond June 30, 1982.

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

R.P. Bayler
Chairman Senate Committee

Tony E. Whitlow
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Todd C. Willis
Clerk of the Senate

VA Blankenship
Clerk of the House of Delegates

Mark R. Brown
President of the Senate

Walter H. Sec, Jr.
Speaker House of Delegates

The within *is approved* this the *25*
day of *April*, 1981.

John R. Brown
Governor

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