

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-4-81

Time 4:15 p.m.

no: 87

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981



ENROLLED

SENATE BILL NO. 87

(By Mr. Gainer)



PASSED February 24 1981

In Effect ninety days from Passage



ENROLLED
Senate Bill No. 87

(By MR. GAINER)

[Passed February 24, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article six-b, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to an annual report by the interstate mining commission to the governor, the Legislature and the governor's advisory body; setting forth the financial affairs of the interstate mining commission; allocating among the party states to the interstate mining compact the amounts of legislative appropriations expected of each party state; and setting forth the powers and duties of the commission.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6B. INTERSTATE MINING COMPACT.

§20-6B-1. Enactment of compact.

1 The "Interstate Mining Compact" is hereby enacted into
2 law and entered into with all other jurisdictions legally
3 joining therein in the form substantially as follows:

4 **INTERSTATE MINING COMPACT**

5 **Article I. Findings and Purposes.**

6 (a) The party states find that:

7 (1) Mining and the contributions thereof to the economy
8 and well-being of every state are of basic significance.

9 (2) The effects of mining on the availability of land, water
10 and other resources for other uses present special problems
11 which properly can be approached only with due
12 consideration for the rights and interests of those engaged in

13 mining, those using or proposing to use these resources for
14 other purposes and the public.

15 (3) Measures for the reduction of the adverse effects of
16 mining on land, water and other resources may be costly and
17 the devising of means to deal with them are of both public
18 and private concern.

19 (4) Such variables as soil structure and composition,
20 physiography, climatic conditions and the needs of the public
21 make impracticable the application to all mining areas of a
22 single standard for the conservation, adaption or restoration
23 of mined land, or the development of mineral and other
24 natural resources, but justifiable requirements of law and
25 practice relating to the effects of mining on land, water and
26 other resources may be reduced in equity or effectiveness
27 unless they pertain similarly from state to state for all mining
28 operations similarly situated.

29 (5) The states are in a position and have the responsibility
30 to assure that mining shall be conducted in accordance with
31 sound conservation principles, and with due regard for local
32 conditions.

33 (b) The purposes of this compact are to:

34 (1) Advance the protection and restoration of land, water
35 and other resources affected by mining.

36 (2) Assist in the reduction or elimination or counteracting
37 of pollution or deterioration of land, water and air attributable
38 to mining.

39 (3) Encourage, with due recognition of relevant regional,
40 physical and other differences, programs in each of the party
41 states which will achieve comparable results in protecting,
42 conserving and improving the usefulness of natural
43 resources, to the end that the most desirable conduct of
44 mining and related operations may be universally facilitated.

45 (4) Assist the party states in their efforts to facilitate the
46 use of land and other resources affected by mining, so that
47 such use may be consistent with sound land use, public
48 health and public safety, and to this end to study and
49 recommend, wherever desirable, techniques for the
50 improvement, restoration or protection of such land and
51 other resources.

52 (5) Assist in achieving and maintaining an efficient and
53 productive mining industry and in increasing economic and
54 other benefits attributable to mining.

55 **Article II. Definitions.**

56 As used in this compact, the term:

57 (a) "Mining" means the breaking of the surface soil in
58 order to facilitate or accomplish the extraction or removal of
59 minerals, ores or other solid matter, any activity or process
60 constituting all or part of a process for the extraction or
61 removal of minerals, ores and other solid matter from its
62 original location, and the preparation, washing, cleaning or
63 other treatment of minerals, ores or other solid matter so as to
64 make them suitable for commercial, industrial or
65 construction use; but shall not include those aspects of deep
66 mining not having significant effect on the surface, and shall
67 not include excavation or grading when conducted solely in
68 aid of on-site farming or construction.

69 (b) "State" means a state of the United States, the District
70 of Columbia, the commonwealth of Puerto Rico or a territory
71 or possession of the United States.

72 **Article III. State Programs.**

73 Each party state agrees that within a reasonable time it will
74 formulate and establish an effective program for the
75 conservation and use of mined land, by the establishment of
76 standards, enactment of laws or the continuing of the same in
77 force, to accomplish:

78 (a) The protection of the public and the protection of
79 adjoining and other landowners from damage to their lands
80 and the structures and other property thereon resulting from
81 the conduct of mining operations or the abandonment or
82 neglect of land and property formerly used in the conduct of
83 such operations.

84 (b) The conduct of mining and the handling of refuse and
85 other mining wastes in ways that will reduce adverse effects
86 on the economic, residential, recreational or aesthetic value
87 and utility of land and water.

88 (c) The institution and maintenance of suitable programs
89 for adaption, restoration and rehabilitation of mined lands.

90 (d) The prevention, abatement and control of water, air
91 and soil pollution resulting from mining, present, past and
92 future.

93 **Article IV. Powers.**

94 In addition to any other powers conferred upon the
95 interstate mining commission, established by Article V of this
96 compact, such commission shall have power to:

97 (a) Study mining operations, processes and techniques for
98 the purpose of gaining knowledge concerning the effects of
99 such operations, processes and techniques on land, soil,
100 water, air, plant and animal life, recreation and patterns of
101 community or regional development or change.

102 (b) Study the conservation, adaptation, improvement and
103 restoration of land and related resources affected by mining.

104 (c) Make recommendations concerning any aspect or
105 aspects of law or practice and governmental administration
106 dealing with matters within the purview of this compact.

107 (d) Gather and disseminate information relating to any of
108 the matters within the purview of this compact.

109 (e) Cooperate with the federal government and any public
110 or private entities having interests in any subject coming
111 within the purview of this compact.

112 (f) Consult, upon the request of a party state and within
113 resources available therefor, with the officials of such state in
114 respect to any problem within the purview of this compact.

115 (g) Study and make recommendations with respect to any
116 practice, process, technique or course of action that may
117 improve the efficiency of mining or the economic yield from
118 mining operations.

119 (h) Study and make recommendations relating to the
120 safeguarding of access to resources which are or may become
121 the subject of mining operations to the end that the needs of
122 the economy for the products of mining may not be adversely
123 affected by unplanned or inappropriate use of land and other
124 resources containing minerals or otherwise connected with
125 actual or potential mining sites.

126 **Article V. The Commission.**

127 (a) There is hereby created an agency of the party states to
128 be known as the "Interstate Mining Commission," hereinafter
129 called "the commission." The commission shall be composed
130 of one commissioner from each party state who shall be the
131 governor thereof. Pursuant to the laws of his party state, each
132 governor shall have the assistance of an advisory body
133 (including membership from mining industries, conservation
134 interests and such other public and private interests as may
135 be appropriate) in considering problems relating to mining
136 and in discharging his responsibilities as the commissioner of
137 his state on the commission. In any instance where a
138 governor is unable to attend a meeting of the commission or

139 perform any other function in connection with the business
140 of the commission, he shall designate an alternate from
141 among the members of the advisory body required by this
142 paragraph, who shall represent him and act in his place and
143 stead. The designation of an alternate shall be communicated
144 by the governor to the commission in such manner as its
145 bylaws may provide.

146 (b) The commissioners shall be entitled to one vote each
147 on the commission. No action of the commission making a
148 recommendation pursuant to Articles IV (c), IV (g) and IV (h)
149 or requesting, accepting or disposing of funds, services or
150 other property pursuant to this paragraph, Article V (g), V (h)
151 or VII shall be valid unless taken at a meeting at which a
152 majority of the total number of votes on the commission is
153 cast in favor thereof. All other action shall be by a majority of
154 those present and voting: *Provided*, That action of the
155 commission shall be only at a meeting at which a majority of
156 the commissioners, or their alternates, is present. The
157 commission may establish and maintain such facilities as
158 may be necessary for the transacting of its business. The
159 commission may acquire, hold and convey real and personal
160 property and any interest therein.

161 (c) The commission shall have a seal.

162 (d) The commission shall elect annually, from among its
163 members, a chairman, a vice chairman, and a treasurer. The
164 commission shall appoint an executive director and fix his
165 duties and compensation. Such executive director shall serve
166 at the pleasure of the commission. The executive director, the
167 treasurer and such other personnel as the commission shall
168 designate shall be bonded. The amount or amounts of such
169 bond or bonds shall be determined by the commission.

170 (e) Irrespective of the civil service, personnel or other
171 merit system laws of any of the party states, the executive
172 director with the approval of the commission, shall appoint,
173 remove or discharge such personnel as may be necessary for
174 the performance of the commission's functions, and shall fix
175 the duties and compensation of such personnel.

176 (f) The commission may establish and maintain,
177 independently or in conjunction with a party state, a suitable
178 retirement system for its employees. Employees of the
179 commission shall be eligible for social security coverage in
180 respect of old age and survivor's insurance: *Provided*, That

181 the commission take such steps as may be necessary
182 pursuant to the laws of the United States to participate in
183 such program of insurance as a governmental agency or unit.
184 The commission may establish and maintain or participate in
185 such additional programs of employee benefits as it may
186 deem appropriate.

187 (g) The commission may borrow, accept or contract for
188 the services of personnel from any state, the United States or
189 any other governmental agency, or from any person, firm,
190 association or corporation.

191 (h) The commission may accept for any of its purposes
192 and functions under this compact any and all donations and
193 grants of money, equipment, supplies, materials and services,
194 conditional or otherwise, from any state, the United States or
195 any other governmental agency, or from any person, firm,
196 association or corporation, and may receive, utilize and
197 dispose of the same. Any donation or grant accepted by the
198 commission pursuant to this paragraph or services borrowed
199 pursuant to paragraph (g) of this article shall be reported in
200 the annual report of the commission. Such report shall
201 include the nature, amount and conditions, if any, of the
202 donation, grant or services borrowed and the identity of the
203 donor or lender.

204 (i) The commission shall adopt bylaws for the conduct of
205 its business and shall have the power to amend and rescind
206 these bylaws. The commission shall publish its bylaws in
207 convenient form and shall file a copy thereof and a copy of
208 any amendment thereto with the appropriate agency or
209 officer in each of the party states.

210 (j) The commission annually shall make to the governor,
211 Legislature and advisory body required by Article V (a) of
212 each party state a report covering the activities of the
213 commission for the preceding year, and embodying such
214 recommendations as may have been made by the
215 commission. The commission may make such additional
216 reports as it may deem desirable.

217 **Article VI. Advisory, Technical and**
218 **Regional Committees.**

219 The commission shall establish such advisory, technical
220 and regional committees as it may deem necessary,
221 membership on which shall include private persons and
222 public officials, and shall cooperate with and use the services

223 of any such committees and the organizations which the
224 members represent in furthering any of its activities. Such
225 committees may be formed to consider problems of special
226 interest to any party states, problems dealing with particular
227 commodities or types of mining operations, problems
228 relating to reclamation, development or use of mined land or
229 any other matters of concern to the commission.

230 **Article VII. Finance.**

231 (a) The commission shall submit to the governor or
232 designated officer or officers of each party state a budget of
233 its estimated expenditures for such periods as may be
234 required by the laws of that party state for presentation to the
235 legislature thereof.

236 (b) Each of the commission's budgets of estimated
237 expenditures shall contain specific recommendations of the
238 amount or amounts to be appropriated by each of the party
239 states. The total amount of appropriations requested under
240 any such budget shall be apportioned among the party states
241 as follows: One half in equal shares, and the remainder in
242 proportion to the value of minerals, ores and other solid
243 matter mined. In determining such values, the commission
244 shall employ such available public source or sources of
245 information as, in its judgment, present the most equitable
246 and accurate comparisons among the party states. Each of the
247 commission's budgets of estimated expenditures and
248 requests for appropriations shall indicate the source or
249 sources used in obtaining information concerning value of
250 minerals, ores and other solid matter mined.

251 (c) The commission shall not pledge the credit of any
252 party state. The commission may meet any of its obligations
253 in whole or in part with funds available to it under Article V
254 (h) of this compact: *Provided*, That the commission takes
255 specific action setting aside such funds prior to incurring any
256 obligation to be met in whole or in part in such manner.
257 Except where the commission makes use of funds available
258 to it under Article V (h) hereof, the commission shall not incur
259 any obligation prior to the allotment of funds by the party
260 states adequate to meet the same.

261 (d) The commission shall keep accurate accounts of all
262 receipts and disbursements. The receipts and disbursements
263 of the commission shall be subject to the audit and
264 accounting procedures established under its bylaws. All

265 receipts and disbursements of funds handled by the
266 commission shall be audited yearly by a qualified public
267 accountant and the report of the audit shall be included in
268 and become part of the annual report of the commission.

269 (e) The accounts of the commission shall be open at any
270 reasonable time for inspection by duly constituted officers of
271 the party states and by any persons authorized by the
272 commission.

273 (f) Nothing contained herein shall be construed to prevent
274 commission compliance with laws relating to audit or
275 inspection of accounts by or on behalf of any government
276 contributing to the support of the commission.

277 **Article VIII. Entry Into Force and Withdrawal.**

278 (a) This compact shall enter into force when enacted into
279 law by any four or more states. Thereafter, this compact shall
280 become effective as to any other state upon its enactment
281 thereof.

282 (b) Any party state may withdraw from this compact by
283 enacting a statute repealing the same, but no such withdrawal
284 shall take effect until one year after the governor of the
285 withdrawing state has given notice in writing of the
286 withdrawal to the governors of all other party states. No
287 withdrawal shall affect any liability already incurred by or
288 chargeable to a party state prior to the time of such
289 withdrawal.

290 **Article IX. Effect on Other Laws.**

291 Nothing in this compact shall be construed to limit, repeal
292 or supersede any other law of any party state.

293 **Article X. Construction and Severability.**

294 This compact shall be liberally construed so as to effectuate
295 the purposes thereof. The provisions of this compact shall be
296 severable and if any phrase, clause, sentence or provision of
297 this compact is declared to be contrary to the constitution of
298 any state or of the United States or the applicability thereof to
299 any government, agency, person or circumstance is held
300 invalid, the validity of the remainder of this compact and the
301 applicability thereof to any government, agency, person or
302 circumstance shall not be affected thereby. If this compact
303 shall be held contrary to the constitution of any state
304 participating herein, the compact shall remain in full force
305 and effect as to the remaining party states and in full force
306 and effect as to the state affected as to all severable matters.

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

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within *is approved* this the *4* day of *March*, 1981.

[Signature]
Governor



RECEIVED

MAR 2 10 01 AM '81

OFFICE OF THE GOVERNOR

RECEIVED

81 MAR 6 P4:32

OFFICE
SECY. OF STATE