WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

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ENROLLED
SENATE BILL NO. 183

(By Mr. [Signature])

PASSED March 12, 1983
In Effect ninety days from Passage
AN ACT to amend and reenact sections one-a, one-d, two and nine, 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 twenty-two, all relating to oil and gas wells; creation of and powers and duties of the office of oil and gas and administration thereof; increasing the fee for natural gas policy act certifications; providing permit application fees and exception; providing for appointment of oil and gas inspectors and supervising inspector; providing for the qualifications, minimum salaries, expenses reimbursable and removal of appointed inspectors and supervising inspector; raising the bond for a permit to drill, fracture or stimulate an oil or gas well and the blanket bond to drill, fracture or stimulate a number of such wells; increasing the required cash deposit to be deposited with the administrator to permit release of the bond; raising the bond requirement for plugging or abandoning a well or plugging or abandoning a number of wells; providing for reorganization of the office of oil and gas for proper and effective administration and to enforce this article and requiring the submission of reports of compliance with such reorganization requirements and time therefor.
Be it enacted by the Legislature of West Virginia:

That sections one-a, one-d, two and nine, 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 four be further amended by adding thereto a new section, designated section twenty-two, all to read as follows:

Article 4. Oil and Gas Wells.

§22-4-1a. Office of oil and gas — Purposes; rules; administration; appointments; powers and duties; public records.

(a) There is hereby created, under the jurisdiction of the director of the department of mines, an office of oil and gas which shall have as its purpose the supervision of the execution and enforcement of matters related to oil and gas set out in this article and in articles five and seven of this chapter.

(b) The office of oil and gas is authorized to enact rules necessary to effectuate the above stated purposes.

(c) There shall be an employee of the office of oil and gas whose title shall be “administrator of the office of oil and gas” who shall be appointed by the director of the department of mines to serve at the will and pleasure of the director and whose salary shall be set by the director. The administrator shall have full charge of the oil and gas matters set out in this article and in articles five and seven of this chapter, subject always to the direct supervision and control of the director of the department of mines. As such the administrator shall have the power and duty to:

(1) Supervise and direct the activities of the office of oil and gas and see that the purposes set forth in subsections (a) and (b) of this section are carried out;

(2) Employ a supervising oil and gas inspector and oil and gas inspectors upon approval by the director;

(3) Supervise and direct such oil and gas inspectors and supervising inspector in the performance of their duties;

(4) Suspend for good cause any oil and gas inspector or supervising inspector without compensation for a period not exceeding thirty days in any calendar year;

(5) Prepare report forms to be used by oil and gas inspectors or the supervising inspector in making their findings, orders and notices, upon inspections made in accordance with this chapter;
(6) Employ a hearing officer and such clerks, stenographers and other employees, as may be necessary to carry out his duties and the purposes of the office of oil and gas, and fix their compensation;

(7) Hear and determine applications made by owners, well operators, and coal operators for the annulment or revision of orders made by oil and gas inspectors or the supervising inspector, and to make inspections, in accordance with the provisions of this article and articles five and seven of this chapter;

(8) Cause a properly indexed permanent and public record to be kept of all inspections made by himself or by oil and gas inspectors or the supervising inspector;

(9) Make annually a full and complete written report to the director of the department of mines in such form and detail as the director may from time to time request, so that the director can complete the preparation of the director's annual report to the governor of the state;

(10) Conduct such research and studies as the director shall deem necessary to aid in protecting the health and safety of persons employed within or at potential or existing oil or gas production fields within this state, to improve drilling and production methods and to provide for the more efficient protection and preservation of oil and gas-bearing rock strata and property used in connection therewith;

(11) Perform any and all acts necessary to carry out and implement the state requirements established by 92 Statutes at Large 3352, et seq., the "Natural Gas Policy Act of 1978," which are to be performed by a designated state jurisdictional agency regarding determinations that wells within the state qualify for a maximum lawful price under certain categories of natural gas as set forth by the provisions of the said "Natural Gas Policy Act of 1978";

(12) Collect a filing and processing fee of forty dollars for each well, for which a determination of qualification to receive a maximum lawful price under the provisions of the "Natural Gas Policy Act of 1978" is sought from the administrator; all revenues from such fees to be placed in the general revenue fund of the state;

(13) Collect a permit fee of two hundred fifty dollars for each permit application filed after the effective date of this
Provided, That no permit application fee shall be required when an application is submitted solely for plugging or replugging of a well. All application fees required hereunder shall be in addition to any other fees required by the provisions of this article;

(14) Perform all other duties which are expressly imposed upon him by the provisions of this chapter, as well as duties assigned to him by the director of the department of mines.

(d) All records of the department shall be open to the public.

§22-4-1d. Oil and gas inspectors; eligibility for appointment; qualifications; salary; expenses; removal.

(a) No person is eligible for appointment as an oil and gas inspector or supervising inspector unless, at the time of his probationary appointment he (1) is a citizen of West Virginia, in good health, and of good character, reputation and temperate habits; (2) has had at least ten years' practical experience in the oil and gas industry, at least five years of which, immediately preceding his original appointment shall have been in the oil and gas industry in this state: Provided, That a diploma in geology or in mining or petroleum engineering shall be considered the equivalent of five years' practical experience; and (3) has good theoretical and practical knowledge of oil and gas drilling and production methods, practices and techniques, sound safety practices and applicable mining laws.

(b) In order to qualify for appointment as an oil and gas inspector or supervising inspector, an eligible applicant shall submit to a written and oral examination by the oil and gas inspectors' examining board and shall furnish such evidence of good health, character and other facts establishing eligibility as such board may require. If such board finds after investigation and examination that an applicant (1) is eligible for appointment and (2) has passed all written and oral examinations, the board shall add such applicant's name and grade to the register of qualified eligible candidates and certify its action to the administrator. No candidate's name may remain on the register for more than three years without requalifying.

(c) The salary of the supervising inspector shall be not less than twenty-five thousand dollars per annum. Salaries
of inspectors shall be not less than twenty thousand dollars per annum. The supervising inspector and inspectors shall receive mileage expense reimbursement at the rate established by rule of the commissioner of the department of finance and administration for in-state travel of public employees. With the limits provided by law, the salary of each inspector and of the supervising inspector shall be fixed by the administrator, subject to the approval of the director of the department of mines and oil and gas inspectors' examining board. In fixing salaries of the oil and gas inspectors and of the supervising inspector, the administrator shall consider ability, performance of duty and experience. No reimbursement for traveling expenses may be made except upon an itemized account of such expenses submitted by the inspector or supervising inspector, as the case may be, who shall verify, upon oath, that such expenses were actually incurred in the discharge of his official duties.

(d) An inspector or the supervising inspector, after having received a permanent appointment, shall be removed from office only for physical or mental impairment, incompetency, neglect of duty, drunkenness, malfeasance in office, or other good cause. Proceedings for the removal of an oil and gas inspector or the supervising inspector may be initiated by the administrator or the director of the department of mines whenever either has reasonable grounds to believe and does believe that adequate cause exists warranting removal. Such a proceeding shall be initiated by a verified petition, filed with the oil and gas inspectors' examining board by the administrator or the director, setting forth with particularity the facts alleged. Not less than twenty reputable citizens engaged in oil and gas drilling and production operations in the state may petition the administrator or the director of the department of mines for the removal of an inspector or the supervising inspector. If such petition is verified by at least one of the petitioners, based on actual knowledge of the affiant, and alleges facts which, if true, warrant the removal of the inspector or supervising inspector, the administrator or the director of the department of mines shall cause an investigation of the facts to be made. If, after such investigation, the
administrator or the director finds that there is substantial
evidence which, if true, warrants removal of the inspector
or supervising inspector, he shall file a petition with the oil
and gas inspectors' examining board requesting removal of
the inspector or supervising inspector.

On receipt of a petition by the administrator or by the
director of the department of mines seeking removal of an
inspector or the supervising inspector, the oil and gas
inspectors' examining board shall promptly notify the
inspector or supervising inspector, as the case may be, to
appear before it at a time and place designated in said
notice, which time shall be not less than fifteen days nor
more than thirty days thereafter. There shall be attached to
the copy of the notice served upon the inspector or
supervising inspector a copy of the petition filed with such
board.

At the time and place designated in said notice, the oil and
gas inspectors' examining board shall hear all evidence
offered in support of the petition and on behalf of the
inspector or supervising inspector. Each witness shall be
sworn and a transcript shall be made of all evidence taken
and proceedings had at any such hearing. No continuance
may be granted except for good cause shown.

The chairman of the board, the administrator and the
director of the department of mines may administer oaths
and subpoena witnesses.

An inspector or supervising inspector who willfully
refuses or fails to appear before such board, or having
appeared, refuses to answer under oath any relevant
question on the ground that his testimony or answer might
incriminate him, or refuses to accept a grant of immunity
from prosecution on account of any relevant matter about
which he may be asked to testify at such hearing before such
board, forfeits his position.

If, after hearing, the oil and gas inspectors' examining
board finds that the inspector or supervising inspector
should be removed, it shall enter an order to that effect. The
decision of the board shall be final and shall not be subject
to judicial review.

ARTICLE 4. OIL AND GAS WELLS.

§22-4-2. Plats prerequisite to drilling or fracturing wells;
preparation and contents; notice and information
Before drilling for oil or gas, or before fracturing or stimulating a well on any tract of land, the well operator shall have a plat prepared by a licensed land surveyor or registered engineer showing the district and county in which the tract of land is located, the name and acreage of the same, the names of the owners of adjacent tracts, the proposed or actual location of the well determined by survey, the courses and distances of such location from two permanent points or landmarks on said tract and the number to be given the well and the date of drilling completion of a well when it is proposed that such well be fractured and shall forward by registered or certified mail a copy of the plat to the department of mines. In the event the tract of land on which the said well proposed to be drilled or fractured is located is known to be underlaid with one or more coal seams, copies of the plat shall be forwarded by registered or certified mail to each and every coal operator operating said coal seams beneath said tract of land, who has mapped the same and filed his maps with the department in accordance with article two of this chapter, and the coal seam owner of record and lessee of record, if any, if said owner or lessee has recorded the declaration provided in section twenty of this article, and if said owner or lessee is not yet operating said coal seams beneath said tract of land. With each of such plats there shall be enclosed a notice (form for which shall be furnished on request by the department of mines) addressed to the department of mines and to each such coal operator, owner and lessee, if any, at their respective addresses, informing them that such plat and notice are being mailed to them respectively by registered or certified mail, pursuant to the requirements of this article. If no objections are made, or are found by the department, to such proposed location or proposed fracturing within fifteen days from receipt of such plat and notice by the department of mines, the same shall be filed and become a permanent record of such location or fracturing subject to inspection at any time by any interested person, and the department may forthwith issue to the well operator a permit reciting the filing of such plat,
that no objections have been made by the coal operators, owners and lessees, if any, or found thereto by the department, and authorizing the well operator to drill at such location, or to fracture the well. Unless the department has objections to such proposed location or proposed fracturing or stimulating, such permit may be issued prior to the expiration of such fifteen-day period upon the obtaining by the well operator of the consent in writing of the coal operator or operators, owners and lessees, if any, to whom copies of the plat and notice shall have been mailed as herein required, and upon presentation of such written consent to the department. The notice above provided for may be given to the coal operator by delivering or mailing it by registered or certified mail as above to any agent or superintendent in actual charge of mines.

A permit to drill, or to fracture or stimulate an oil or gas well, shall not be issued unless the application therefor is accompanied by a bond of the operator in the sum of ten thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, conditioned on full compliance with all laws, rules and regulations relating to the drilling, redrilling, deepening, casing, plugging, abandonment and reclamation of wells and for furnishing such reports and information as may be required by the department: Provided, That when such operator makes or has made application for permits to drill a number of wells or fracture or stimulate a well or wells the operator may in lieu of furnishing a separate bond furnish a blanket bond in the sum of fifty thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, and conditioned as aforesaid: Provided, however, That in lieu of corporate surety on a separate or blanket bond, as the case may be, the operator may elect to deposit with the administrator cash or the following collateral securities or any combination thereof: (1) Bonds of the United States or agency thereof, or those guaranteed by, or for which the credit of the United States or agency therefor is pledged for the payment of the principal and interest thereof; (2) direct general obligation bonds of this state, or any other state, or territory of the United States, or the District of Columbia,
unconditionally guaranteed as to the principal and interest
by such other state or territory of the United States, or the
District of Columbia if such other state, territory, or the
District of Columbia has the power to levy taxes for the
payment of the principal and interest of such securities, and
if at the time of the deposit such other state, territory, or the
District of Columbia is not in default in the payment of any
part of the principal or interest owing by it upon any part of
its funded indebtedness; (3) direct general obligation bonds
of any county, district, city, town, village, school district or
other political subdivision of this state issued pursuant to
law and payable from ad valorem taxes levied on all the
taxable property located herein, that the total indebtedness
after deducting sinking funds and all debts incurred for
self-sustaining public works does not exceed five percent of
the assessed value of all taxable property therein at the time
of the last assessment made before the date of such deposit,
and that the issuer has not, within five years prior to the
making thereof, been in default for more than ninety days in
the payment of any part of the principal or interest on any
debt, evidenced by its bonds; (4) revenue bonds issued by
this state or any agency of this state when such bonds are
payable from revenues or earnings specifically pledged for
the payment of principal and interest, and a lawful sinking
fund or reserve fund has been established and is being
maintained for the payment of such bonds; (5) revenue
bonds issued by a municipality in this state for the
acquisition, construction, improvement or extension of a
waterworks system, or a sewerage system, or a combined
waterworks and sewerage system, when such bonds are
payable from revenue or earnings specifically pledged for
the payment of principal and interest, and a lawful sinking
fund or reserve fund has been established and is being
maintained for the payment of such bonds; (6) revenue
bonds issued by a public service board of a public service
district in this state for the acquisition, construction,
improvement or extension of any public service properties,
or for the reimbursement or payment of the costs and
expenses of creating the district, when such bonds are
payable from revenue or earnings specifically pledged for
the payment of principal and interest, and a lawful sinking
fund or reserve fund has been established and is being
maintained for the payment of such bonds; (7) revenue bonds issued by a board of trustees of a sanitary district in this state for the corporate purposes of such district, when such bonds are payable from revenue or earnings specifically pledged for the payment of principal and interest, and a lawful sinking fund or reserve fund has been established and is being maintained for the payment of such bonds; and (8) bonds issued by a federal land bank or home owners' loan corporation. The cash deposit or market value, or both, of the collateral securities shall be equal to or greater than the penalty of the separate or blanket bond, as the case may be. Upon receipt of any such deposit or cash or collateral securities, the administrator shall immediately deliver the same to the treasurer of the state of West Virginia. The treasurer shall determine whether any such securities satisfy the requirements of this section. If the securities are approved they shall be accepted by the treasurer. If the securities are not approved, they shall be rejected and returned to the operator and no permit shall be issued until a corporate surety bond is filed or cash or proper collateral securities are filed in lieu of such surety. The treasurer shall hold any cash or securities in the name of the state in trust for the purposes for which the deposit was made. The operator shall be entitled to all interest and income earned on the collateral securities filed by such operator so long as the operator is in full compliance with all laws, rules and regulations relating to the drilling, redrilling, deepening, casing, plugging, abandonment and reclamation of wells and for furnishing such reports and information as may be required by the department. The operator making the deposit shall be entitled from time to time to receive from the treasurer, upon the written order of the administrator, the whole or any portion of such securities upon depositing with the treasurer in lieu thereof cash equal to or greater than the penalty of the bond, or other approved securities of the classes herein specified having a market value equal to or greater than the penalty of the bond, or a corporate surety bond.

When an operator has furnished a separate bond from a corporate bonding or surety company to drill, fracture or stimulate an oil or gas well and the well produces oil or gas, or both, its operator may deposit with the administrator
cash from the sale of the oil or gas, or both, until the total
deposited is ten thousand dollars. When the sum of the cash
deposited is ten thousand dollars, the separate bond for the
well shall be released by the department. Upon receipt of
such cash, the administrator shall immediately deliver the
same to the treasurer of the state of West Virginia. The
treasurer shall hold such cash in the name of the state in
trust for the purpose for which the bond was furnished and
the deposit was made. The operator shall be entitled to all
interest and income which may be earned on the cash
deposited so long as the operator is in full compliance with
all laws, rules and regulations relating to the drilling,
redrilling, deepening, casing, plugging, abandonment and
reclamation of the well for which the cash was deposited
and so long as he has furnished all reports and information
as may be required by the department. If the cash realized
from the sale of oil or gas, or both, from the well is not
sufficient for the operator to deposit with the administrator
the sum of ten thousand dollars within one year of the day
the well started producing, the corporate or surety company
which issued the bond on the well may notify the operator
and the department of its intent to terminate its liability
under its bond. The operator then shall have thirty days to
furnish a new bond from a corporate bonding or surety
company or collateral securities, as provided in the next
preceding paragraph of this section, with the department. If
a new bond or collateral securities are furnished by the
operator, the liability of the corporate bonding or surety
company under the original bond shall terminate as to any
acts and operations of the operator occurring after the
effective date of the new bond or the date the collateral
securities are accepted by the treasurer of the state of West
Virginia. If the operator does not furnish a new bond or
collateral securities, as provided in the next preceding
paragraph of this section, with the department, he shall
immediately plug, fill and reclaim the well in accordance
with all of the provisions of law, rules and regulations
applicable thereto. In such case, the corporate or surety
company which issued the original bond shall be liable for
any plugging, filling or reclamation not performed in
accordance with such laws, rules and regulations.

Any such bond shall remain in force until released by the
department and the department shall release the same when it is satisfied the conditions thereof have been fully performed. Upon the release of any such bond, any cash or collateral securities deposited shall be returned by the administrator to the operator who deposited same.

If any of the requirements of this article or rules and regulations promulgated pursuant thereto or the orders of the administrator have not been complied with within the time limit set by the violation notice as defined in sections one-g, one-h and one-i of this article, the performance bond shall then be forfeited.

When any bond is forfeited pursuant to the provisions of this article or rules and regulations promulgated pursuant thereto the administrator shall give notice to the attorney general who shall collect the forfeiture without delay.

All forfeitures shall be deposited in the treasury of the state of West Virginia in the special reclamation fund as defined in section twelve-a of this article.

§22-4-9. Plugging, abandonment and reclamation of well; notice of intention; performance bonds or securities in lieu thereof; affidavit showing time and manner.

All dry or abandoned wells or wells presumed to be abandoned under the provisions of section seven of this article shall be plugged and reclaimed in accordance with this section and the other provisions of this article and in accordance with the rules and regulations promulgated by the administrator.

Prior to the commencement of plugging operations and the abandonment of any well, the well operator shall either (a) notify, by registered or certified mail, the department of mines and the coal operator operating coal seams, the coal seam owner of record or lessee of record, if any, to whom notices are required to be given by section two of this article, and the coal operators to whom notices are required to be given by section two-a of this article, of its intention to plug and abandon any such well (using such form of notice as the department may provide), giving the number of the well and its location and fixing the time at which the work of plugging and filling will be commenced, which time shall be not less than five days after the day on which such notice so mailed is received or in due course should be received by the department of mines, in order that a representative or
representatives of the department and such coal operator, owner or lessee, if any, may be present at the plugging and filling of the well: Provided, That whether such representatives appear or do not appear, the well operator may proceed at the time fixed to plug and fill the well in the manner hereinafter described, or (b) first obtain the written approval of the department of mines and such coal operator, owner or lessee, if any, or (c) in the event the well to be plugged and abandoned is one on which drilling or reworking operations have been continuously progressing pursuant to authorization granted by the department, first obtain the verbal permission of the administrator or his designated representative to plug and abandon such well, except that the well operator shall, within a reasonable period not to exceed five days after the commencement of such plugging operations, give the written notices required by subdivision (a) above.

No well may be plugged or abandoned unless prior to the commencement of plugging operations and the abandonment of any well the department is furnished a bond of the operator in the sum of ten thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, conditioned on full compliance with all laws, rules and regulations relating to the casing, plugging, abandonment and reclamation of wells and for furnishing such reports and information as may be required by the department. When a number of wells are involved, the operator may in lieu of furnishing a separate bond furnish a blanket bond in the sum of fifty thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, and conditioned as aforesaid. In lieu of corporate surety on a separate or blanket bond, as the case may be, the operator may elect to deposit with the administrator cash or collateral securities as specified in section two of this article. All of the provisions of section two dealing with cash or collateral securities in lieu of corporate surety shall be fully applicable hereto except for the condition of the bond with respect to which the operator must be in full compliance in order to be entitled to the interest and income earned on such securities. The operator
shall be entitled to such interest and income under this section so long as the operator is in full compliance with all laws, rules and regulations relating to the casing, plugging, abandonment and reclamation of wells and for furnishing such reports and information as may be required by the department. Any such bond shall remain in force until released by the department and the department shall release the same when it is satisfied the conditions thereof have been fully performed. Notwithstanding the foregoing provisions, any operator who, in accordance with section two of this article, has furnished a separate bond, which has not been released by the department, for the drilling, converting or drilling for the introduction of liquids, for the disposal of sewage, industrial waste or other waste or the effluent therefrom, or introducing pressure, whether liquid or gas, or introducing liquid for the purposes provided for in section ten-a of this article or fracturing of the well that is now proposed to be plugged and abandoned, or who, in accordance with the provisions of said section two of this article, has furnished a blanket bond which has not been released by the department shall not be required by this section to furnish any other bond. When the plugging, filling and reclamation of a well have been completed, an affidavit, in triplicate, shall be made (on a form to be furnished by the department) by two experienced persons who participated in the work, the administrator or his designated representative, in which affidavit shall be set forth the time and manner in which the well was plugged and filled and the land reclaimed. One copy of this affidavit shall be retained by the well operator, another (or true copies of same) shall be mailed to the coal operator or operators, if any, and the third to the department of mines.

§22-4-22. Reorganization; report required.
1 (a) The Legislature finds that the office of the administrator is, as of the first day of February, one thousand nine hundred eighty-three, inadequately organized, staffed, equipped and housed to perform the functions presently assigned to it and likely to be assigned to it.
2 (b) The director shall assure that the administrator effectively implements the provisions of this section.
3 (c) Within the appropriations and other funds lawfully
available to the office, the administrator, under the
supervision, direction and authority of the director, shall (1)
promptly prepare a plan for the reorganization of the office
that will ensure the efficient, fair, modern, prompt and
effective administration and enforcement of the statutes
now or hereafter committed to the office for execution,
including adequate provision for personnel, equipment,
training and working space, (2) consult with the civil
service commission to design and implement a plan for the
retention, attraction, training and appropriate
compensation of qualified inspectors, including, if
appropriate, separate classifications or steps for inspectors
whose training, efficiency and experience may justify
increased compensation, (3) design and implement a plan to
reduce and ultimately eliminate any existing backlog of
work in the approval of filings under the "Natural Gas
Policy Act of 1978," the timely and effective processing of
permits, applications, the conduct of inspections and
enforcement activities, and all other duties assigned to the
office by law or developed by departmental rule, (4) design
and implement a plan for optimum utilization of personnel,
increased use of modern communication and other
administration and enforcement techniques, sufficient to
assure maximum efficiency of the office within the means
provided by appropriations or other funds, and (5) file with
the clerk of each house of the Legislature, for immediate
presentation to each house, a report of full compliance with
this section and any further recommendations of the
director or the administrator to assist in the proper
operation of the office, which report shall be approved by
the director and so filed on the first day of the regular
session of the Legislature to be held in the year one
thousand nine hundred eighty-four.
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.

In 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 29th day of March, 1983.

[Signature]
Governor