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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984



ENROLLED

HOUSE BILL No. 1224

(By Mr. Del. Starcher & Del. S. Damron)



Passed March 10, 1984

In Effect July 1, 1984 Passage



ENROLLED

H. B. 1224

(By DELEGATE STARCHER and DELEGATE I. DAMRON)

[Passed March 10, 1984; in effect July 1, 1984.]

AN ACT to amend and reenact section seven, article two-a, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section four, article six-a of said chapter, all relating to increasing to one hundred ten dollars from one hundred dollars the per diem for members of the board of coal mine health and safety; increasing to one hundred ten dollars from seventy-five dollars the per diem for members of the board of miner training, education and certification; and providing for expense reimbursement to members of both boards for meals, lodging and mileage at the rates established by the commissioner of the department of finance and administration for in-state travel of public employees.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2A. BOARD OF COAL MINE HEALTH AND SAFETY.

§22-2A-7. Compensation and expenses of board members.

1 Each member of the board not otherwise employed by the
2 state shall receive one hundred ten dollars per diem while
3 actually engaged in the performance of the duties of the
4 board. Each member shall be reimbursed for all reasonable
5 and necessary expenses actually incurred during the per-

6 performance of their duties, except that in the event the expenses
7 are paid by a third party, the members shall not be reim-
8 bursed by the state. Each member shall receive meals, lodging
9 and mileage expense reimbursements at the rates established
10 by rule and regulation of the commissioner of the depart-
11 ment of finance and administration for in-state travel of
12 public employees. The reimbursement shall be paid out of
13 the state treasury upon a requisition upon the state auditor,
14 properly certified by the director of the department of mines.
15 No employer shall prohibit a member of the board from
16 exercising leave of absence from his place of employment in
17 order to attend a meeting of the board or a meeting of a
18 subcommittee of the board, or to prepare for a meeting of
19 the board, any contract of employment to the contrary not-
20 withstanding.

**ARTICLE 6A. BOARD OF MINER TRAINING, EDUCATION AND
CERTIFICATION.**

**§22-6A-4. Board of miner training, education and certification
created; membership, method of appointment, terms.**

1 (a) There is hereby created a board of miner training,
2 education and certification, which shall consist of seven
3 members, who shall be appointed in the following manner:

4 (1) One member shall be appointed to represent the
5 viewpoint of surface mine operators in this state. When
6 such member is to be appointed, the governor shall request
7 from the major association representing surface coal opera-
8 tors in this state a list of three nominees to the board.
9 The governor shall select from said nominees one person
10 to serve on the board. For purposes of this subsection, the
11 major association representing the surface coal operators
12 in this state shall be deemed to be that association, if
13 any, which represents surface mine operators accounting
14 for over one half of the coal produced in surface mines
15 in this state in the year prior to that year in which the ap-
16 pointment is made.

17 (2) Two members shall be appointed to represent the
18 interests of the underground operators of this state. When
19 said members are to be appointed, the governor shall request

20 from the major association representing the underground coal
21 operators in this state a list of six nominees to the board.
22 The governor shall select from said nominees two persons to
23 serve on the board. For purposes of this subsection, the
24 major association representing the underground operators in
25 this state shall be deemed to be that association, if any,
26 which represents underground operators accounting for over
27 one half of the coal produced in underground mines in this
28 state in the year prior to that year in which the appointments
29 are made.

30 (3) Three members shall be appointed who can reasonably
31 be expected to represent the interests of the working miners
32 in this state. If the major employee organization repre-
33 senting coal miners in this state is divided into administra-
34 tive districts, the employee organization of each district shall,
35 upon request by the governor, submit a list of three nominees
36 for membership on the board. If such major employee or-
37 ganization is not so divided into administrative districts,
38 such employee organization shall, upon request by the gover-
39 nor, submit a list of twelve nominees for membership on the
40 board. The governor shall make such appointments from the
41 persons so nominated: *Provided*, That in the event nomina-
42 tions are made by administrative districts, not more than one
43 member shall be appointed from the nominees of any one
44 district unless there are less than three such districts in this
45 state.

46 (4) The seventh member of the board, who shall serve as
47 chairman, shall be a person selected and agreed upon by the
48 six persons appointed by the governor.

49 (5) All appointments made by the governor under this sec-
50 tion shall be with the advice and consent of the Senate: *Pro-*
51 *vided*, That persons so appointed while the Senate of this
52 state is not in session shall be permitted to serve up to
53 one year in an acting capacity, or until the next session of
54 the Legislature, whichever is less.

55 (b) The board hereby established shall be appointed by
56 the governor within three months of the effective date of
57 this act. As soon as the members of the board are appointed,

58 the director of the department of mines shall call an organiza-
59 tional meeting of the board. At said meeting all of the
60 board members then appointed shall select a seventh member
61 of the board to serve as chairman and draw lots to deter-
62 mine the length of the term they and the chairman shall
63 serve. Three members shall serve for three years; two mem-
64 bers shall serve for two years; and two members shall
65 serve for one year. Thereafter, members shall serve for a
66 term of three years. As so organized, the board shall meet
67 at the call of the chairman, at the call of the director, or
68 upon the request of any two members of the board: *Pro-*
69 *vided*, That no meeting of the board for any purpose shall
70 be conducted unless the board members are notified at least
71 five days in advance of a proposed meeting. In cases of an
72 emergency, members may be notified of a board meeting by
73 the most appropriate means of communication available.

74 (c) Whenever a vacancy on the board occurs, appointments
75 shall be made in the manner prescribed in this section:
76 *Provided*, That in the case of an appointment to fill a vacancy
77 nominations shall be submitted to the governor within thirty
78 days after the vacancy occurs. The vacancy shall be filled by
79 the governor within thirty days of his receipt of the list of
80 nominations.

81 (d) Each member of the board shall receive one hundred
82 ten dollars per diem while actually engaged in the per-
83 formance of the work of the board. Each member shall be
84 reimbursed for all reasonable and necessary expenses actually
85 incurred during the performance of their duties. Each member
86 shall receive meals, lodging and mileage expense reimburse-
87 ments at the rates established by rule and regulation of the
88 commissioner of the department of finance and administration
89 for in-state travel of public employees, which shall be paid out
90 of the state treasury upon a requisition upon the state auditor,
91 properly certified by such members of the board.

92 (e) A quorum of the board shall be four members. The
93 board may act officially by a majority of those members who
94 are present.

95 (f) The chairman of the board shall be a nonvoting mem-

96 ber: *Provided*, That in cases of a tie, the chairman shall
97 cast the deciding vote on the issue or issues under considera-
98 tion.

99 (g) The director of the department of mines shall serve
100 as the secretary to the board and shall be present or send
101 an authorized representative to all meetings of the board.

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

James L. Davis

Chairman Senate Committee

Donald Anello

Chairman House Committee

Originating in the House.

Takes effect July 1, 1984.

Judd C. Wells

Clerk of the Senate

Donald L. Kopp

Clerk of the House of Delegates

Walter P. McSwain

President of the Senate

Paul H. Lee, Jr.

Speaker House of Delegates

The within *is approved* this the *30*
day of *March*, 1984.

Paul D. Byrne

Governor

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