

No. 256

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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

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ENROLLED
Committee Substitute for
SENATE BILL NO. 256

(By Mr. *Stacy*)

—•—

PASSED *March 9* 1984
In Effect *ninety days from* Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 256
(MR. STACY, *original sponsor*)

[Passed March 9, 1984; in effect ninety days from passage.]

AN ACT to amend and reenact sections one-d and one-e, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to and increasing the limit on salaries for the supervising inspector and inspectors in the office of oil and gas and continuing and reestablishing the oil and gas inspectors' examining board within the department of mines.

Be it enacted by the Legislature of West Virginia:

That sections one-d and one-e, article four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 4. OIL AND GAS WELLS.

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

- 1 (a) No person is eligible for appointment as an oil and
- 2 gas inspector or supervising inspector unless, at the time of
- 3 his probationary appointment, he (1) is a citizen of West

4 Virginia, in good health, and of good character, reputation
5 and temperate habits; (2) has had at least ten years'
6 practical experience in the oil and gas industry, at least five
7 years of which, immediately preceding his original
8 appointment shall have been in the oil and gas industry in
9 this state: *Provided*, That a diploma in geology or in mining
10 or petroleum engineering shall be considered the equivalent
11 of five years' practical experience; and (3) has good
12 theoretical and practical knowledge of oil and gas drilling
13 and production methods, practices and techniques, sound
14 safety practices and applicable mining laws.

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

28 (c) The salary of the supervising inspector shall be not
29 less than twenty-seven thousand five hundred dollars per
30 annum. Salaries of inspectors shall be not less than twenty-
31 two thousand dollars per annum. The supervising inspector
32 and inspectors shall receive mileage expense
33 reimbursement at the rate established by rule of the
34 commissioner of the department of finance and
35 administration for in-state travel of public employees.
36 Within the limits provided by law, the salary of each
37 inspector and of the supervising inspector shall be fixed by
38 the administrator, subject to the approval of the director of
39 the department of mines and oil and gas inspectors'
40 examining board. In fixing salaries of the oil and gas
41 inspectors and of the supervising inspector, the
42 administrator shall consider ability, performance of duty
43 and experience. No reimbursement for traveling expenses
44 may be made except upon an itemized account of such
45 expenses submitted by the inspector or supervising

46 inspector, as the case may be, who shall verify, upon oath,
47 that such expenses were actually incurred in the discharge
48 of his official duties.

49 (d) An inspector or the supervising inspector, after
50 having received a permanent appointment, shall be
51 removed from office only for physical or mental
52 impairment, incompetency, neglect of duty, drunkenness,
53 malfeasance in office, or other good cause.

54 Proceedings for the removal of an oil and gas inspector or
55 the supervising inspector may be initiated by the
56 administrator or the director of the department of mines
57 whenever either has reasonable grounds to believe and does
58 believe that adequate cause exists warranting removal.
59 Such a proceeding shall be initiated by a verified petition,
60 filed with the oil and gas inspectors' examining board by
61 the administrator or the director, setting forth with
62 particularity the facts alleged. Not less than twenty
63 reputable citizens engaged in oil and gas drilling and
64 production operations in the state may petition the
65 administrator or the director of the department of mines for
66 the removal of an inspector or the supervising inspector. If
67 such petition is verified by at least one of the petitioners,
68 based on actual knowledge of the affiant, and alleges facts
69 which, if true, warrant the removal of the inspector or
70 supervising inspector, the administrator or the director of
71 the department of mines shall cause an investigation of the
72 facts to be made. If, after such investigation, the
73 administrator or the director finds that there is substantial
74 evidence which, if true, warrants removal of the inspector
75 or supervising inspector, he shall file a petition with the oil
76 and gas inspectors' examining board requesting removal of
77 the inspector or supervising inspector.

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

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

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

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

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

**§22-4-1e. Oil and gas inspectors' examining board created;
composition; appointment, term and
compensation of members; meetings; powers and
duties generally; continuing and reestablishing
the oil and gas inspectors' examining board.**

1 (a) There is hereby created an oil and gas inspectors'
2 examining board consisting of five members who, except
3 for the public representative on such board, shall be
4 appointed by the governor, by and with the advice and
5 consent of the Senate. Members may be removed only for
6 the same causes and like manner as elective state officers.
7 One member of the board who shall be the representative of
8 the public, shall be a professor in the petroleum engineering
9 department of the school of mines at West Virginia
10 University appointed by the dean of said school; two
11 members shall be persons who by reason of previous
12 training and experience may reasonably be said to
13 represent the viewpoint of independent oil and gas

14 operators; and two members shall be persons who by reason
15 of previous training and experience may reasonably be said
16 to represent the viewpoint of major oil and gas producers.

17 The administrator for oil and gas shall be an ex officio
18 member of the board and shall serve as secretary of the
19 board without additional compensation, but he shall have
20 no right to vote with respect to any matter before the board.

21 The members of the board, except the public
22 representative, shall be appointed for overlapping terms of
23 eight years, except that the original appointments shall be
24 for terms of two, four, six and eight years, respectively. Any
25 member whose term expires may be reappointed by the
26 governor.

27 Each member of the board shall receive seventy-five
28 dollars per diem while actually engaged in the performance
29 of the work of the board, and shall receive mileage at the
30 rate of not more than fifteen cents for each mile actually
31 traveled going from the home of the member to the place of
32 the meeting of the board and returning therefrom, which
33 shall be paid out of the state treasury upon a requisition
34 upon the state auditor, properly certified by such members
35 of the board.

36 The public member shall serve as chairman of the board.

37 Members of the board, before performing any duty, shall
38 take and subscribe to the oath required by section five,
39 article four of the constitution of West Virginia.

40 The board shall meet at such times and places as shall be
41 designated by the chairman. It shall be the duty of the
42 chairman to call a meeting of the board on the written
43 request of two members, or on the written request of the
44 administrator for oil and gas or the director of the
45 department of mines. Notice of each meeting shall be given
46 in writing to each member by the secretary at least five days
47 in advance of the meeting. Three voting members shall
48 constitute a quorum for the transaction of business.

49 (b) In addition to other powers and duties expressly set
50 forth elsewhere in this article, the board shall:

51 (1) Establish, and from time to time revise, forms of
52 application for employment as an oil and gas inspector and
53 supervising inspector and forms for written examinations
54 to test the qualifications of candidates, with such
55 distinctions, if any, in the forms for oil and gas inspector

56 and supervising inspector as the board may from time to
57 time deem necessary or advisable;

58 (2) Adopt and promulgate reasonable rules and
59 regulations relating to the examination, qualification and
60 certification of candidates for appointment, and relating to
61 hearings for removal of inspectors or the supervising
62 inspector, required to be held by this article. All of such
63 rules and regulations shall be printed and a copy thereof
64 furnished by the secretary of the board to any person upon
65 request;

66 (3) Conduct, after public notice of the time and place
67 thereof, examinations of candidates for appointment. By
68 unanimous agreement of all members of the board, one or
69 more members of the board or an employee of the
70 department of mines may be designated to give to a
71 candidate the written portion of the examination;

72 (4) Prepare and certify to the administrator for oil and
73 gas and the director of the department of mines a register of
74 qualified eligible candidates for appointment as oil and gas
75 inspectors or as supervising inspectors, with such
76 differentiation, if any, between the certification of
77 candidates for oil and gas inspectors and for supervising
78 inspectors as the board may from time to time deem
79 necessary or advisable. The register shall list all qualified
80 eligible candidates in the order of their grades, the
81 candidate with the highest grade appearing at the top of the
82 list. After each meeting of the board held to examine such
83 candidates and at least annually, the board shall prepare
84 and submit to the administrator for oil and gas and the
85 director of the department of mines a revised and corrected
86 register of qualified eligible candidates for appointment,
87 deleting from such revised register all persons (a) who are
88 no longer residents of West Virginia, (b) who have allowed a
89 calendar year to expire without, in writing, indicating their
90 continued availability for such appointment, (c) who have
91 been passed over for appointment for three years, (d) who
92 have become ineligible for appointment since the board
93 originally certified that such persons were qualified and
94 eligible for appointment, or (e) who, in the judgment of at
95 least three members of the board, should be removed from
96 the register for good cause;

97 (5) Cause the secretary of the board to keep and preserve
 98 the written examination papers, manuscripts, grading
 99 sheets and other papers of all applicants for appointment
 100 for such period of time as may be established by the board.
 101 Specimens of the examinations given, together with the
 102 correct solution of each question, shall be preserved
 103 permanently by the secretary of the board;

104 (6) Issue a letter or written notice of qualification to
 105 each successful eligible candidate;

106 (7) Hear and determine proceedings for the removal of
 107 inspectors or the supervising inspector in accordance with
 108 the provisions of this article;

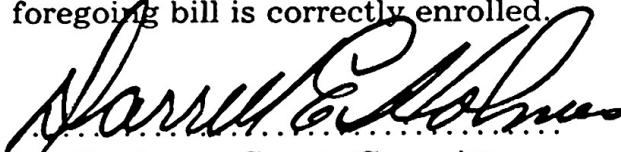
109 (8) Hear and determine appeals of inspectors or the
 110 supervising inspector from suspension orders made by the
 111 administrator for oil and gas pursuant to the provisions of
 112 section one-a of this article: *Provided*, That in order to
 113 appeal from any order of suspension, an aggrieved
 114 inspector or supervising inspector shall file such appeal in
 115 writing with the oil and gas inspectors' examining board
 116 not later than ten days after receipt of the notice of
 117 suspension. On such appeal the board shall affirm the
 118 action of the administrator for oil and gas unless it be
 119 satisfied from a clear preponderance of the evidence that
 120 the administrator for oil and gas has acted arbitrarily;

121 (9) Make an annual report to the governor concerning
 122 the administration of oil and gas inspection personnel in the
 123 state service; making such recommendations as the board
 124 considers to be in the public interest; and

125 (10) Render such advice and assistance to the
 126 administrator for oil and gas as he shall from time to time
 127 determine necessary or desirable in the performance of his
 128 duties.

129 (c) After having conducted a performance and fiscal
 130 audit through its joint committee on government
 131 operations, pursuant to section nine, article ten, chapter
 132 four of this code, the Legislature hereby finds and declares
 133 that the oil and gas inspectors' examining board within the
 134 department of mines should be continued and
 135 reestablished. Accordingly, notwithstanding the provisions
 136 of section four, article ten, chapter four of this code, the oil
 137 and gas inspectors' examining board within the department
 138 of mines shall continue to exist until the first day of July,
 139 one thousand nine hundred eighty-seven.


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



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Chairman Senate Committee

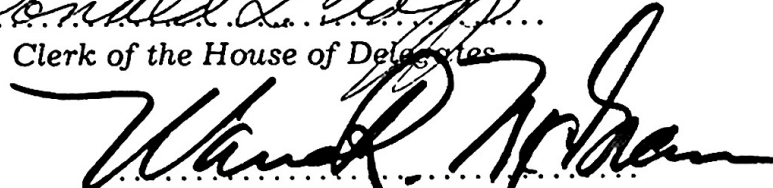

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

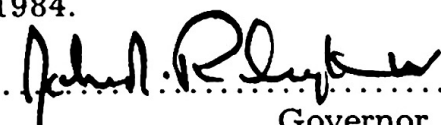

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

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

..... 
Governor

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