WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED
Committee Substitute for
SENATE BILL NO. 256

(By Mr. .)

PASSED  March 5, 1984

In Effect  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 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-seven thousand five hundred dollars per annum. Salaries of inspectors shall be not less than twenty-two 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. Within 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
(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.

§22-4-le. 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.

(a) There is hereby created an oil and gas inspectors'
examining board consisting of five members who, except
for the public representative on such board, shall be
appointed by the governor, by and with the advice and
consent of the Senate. Members may be removed only for
the same causes and like manner as elective state officers.
One member of the board who shall be the representative of
the public, shall be a professor in the petroleum engineering
department of the school of mines at West Virginia
University appointed by the dean of said school; two
members shall be persons who by reason of previous
training and experience may reasonably be said to
represent the viewpoint of independent oil and gas
operators; and two members shall be persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of major oil and gas producers. The administrator for oil and gas shall be an ex officio member of the board and shall serve as secretary of the board without additional compensation, but he shall have no right to vote with respect to any matter before the board. The members of the board, except the public representative, shall be appointed for overlapping terms of eight years, except that the original appointments shall be for terms of two, four, six and eight years, respectively. Any member whose term expires may be reappointed by the governor. Each member of the board shall receive seventy-five dollars per diem while actually engaged in the performance of the work of the board, and shall receive mileage at the rate of not more than fifteen cents for each mile actually traveled going from the home of the member to the place of the meeting of the board and returning therefrom, which shall be paid out of the state treasury upon a requisition upon the state auditor, properly certified by such members of the board. The public member shall serve as chairman of the board. Members of the board, before performing any duty, shall take and subscribe to the oath required by section five, article four of the constitution of West Virginia. The board shall meet at such times and places as shall be designated by the chairman. It shall be the duty of the chairman to call a meeting of the board on the written request of two members, or on the written request of the administrator for oil and gas or the director of the department of mines. Notice of each meeting shall be given in writing to each member by the secretary at least five days in advance of the meeting. Three voting members shall constitute a quorum for the transaction of business. (b) In addition to other powers and duties expressly set forth elsewhere in this article, the board shall: (1) Establish, and from time to time revise, forms of application for employment as an oil and gas inspector and supervising inspector and forms for written examinations to test the qualifications of candidates, with such distinctions, if any, in the forms for oil and gas inspector
and supervising inspector as the board may from time to
time deem necessary or advisable;
(2) Adopt and promulgate reasonable rules and
regulations relating to the examination, qualification and
certification of candidates for appointment, and relating to
hearings for removal of inspectors or the supervising
inspector, required to be held by this article. All of such
rules and regulations shall be printed and a copy thereof
furnished by the secretary of the board to any person upon
request;
(3) Conduct, after public notice of the time and place
thereof, examinations of candidates for appointment. By
unanimous agreement of all members of the board, one or
more members of the board or an employee of the
department of mines may be designated to give to a
candidate the written portion of the examination;
(4) Prepare and certify to the administrator for oil and
gas and the director of the department of mines a register of
qualified eligible candidates for appointment as oil and gas
inspectors or as supervising inspectors, with such
differentiation, if any, between the certification of
candidates for oil and gas inspectors and for supervising
inspectors as the board may from time to time deem
necessary or advisable. The register shall list all qualified
eligible candidates in the order of their grades, the
candidate with the highest grade appearing at the top of the
list. After each meeting of the board held to examine such
candidates and at least annually, the board shall prepare
and submit to the administrator for oil and gas and the
director of the department of mines a revised and corrected
register of qualified eligible candidates for appointment,
deleting from such revised register all persons (a) who are
no longer residents of West Virginia, (b) who have allowed a
calendar year to expire without, in writing, indicating their
continued availability for such appointment, (c) who have
been passed over for appointment for three years, (d) who
have become ineligible for appointment since the board
originally certified that such persons were qualified and
eligible for appointment, or (e) who, in the judgment of at
least three members of the board, should be removed from
the register for good cause;
(5) Cause the secretary of the board to keep and preserve the written examination papers, manuscripts, grading sheets and other papers of all applicants for appointment for such period of time as may be established by the board. Specimens of the examinations given, together with the correct solution of each question, shall be preserved permanently by the secretary of the board;

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

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

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

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

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

(c) After having conducted a performance and fiscal audit through its joint committee on government operations, pursuant to section nine, article ten, chapter four of this code, the Legislature hereby finds and declares that the oil and gas inspectors' examining board within the department of mines should be continued and reestablished. Accordingly, notwithstanding the provisions of section four, article ten, chapter four of this code, the oil and gas inspectors' examining board within the department of mines shall continue to exist until the first day of July, one thousand nine hundred eighty-seven.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 20th day of March, 1984.

Governor