

No. 1136 ✓

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985

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# ENROLLED

HOUSE BILL No. 1136

(By Mr. Del. Nieselbusch)

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Passed March 15, 1985

In Effect From Passage

## ENROLLED

# H. B. 1136

(By DELEGATE WIEDEBUSCH)

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[Passed March 15, 1985; in effect from passage.]

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AN ACT to amend and reenact section four, article four-a, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to continuing and reestablishing the oil and gas conservation commission.

*Be it enacted by the Legislature of West Virginia:*

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

#### ARTICLE 4A. OIL AND GAS CONSERVATION.

**§22-4A-4. Oil and gas conservation commissioner and commission; commission membership; qualifications of members; terms of members; vacancies on commission; meetings; compensation and expenses; appointment and qualifications of commissioner; general powers and duties.**

1 (a) There is hereby created the "West Virginia Oil and Gas  
2 Conservation Commission" which shall be composed of five  
3 members. The director of the department of natural resources  
4 and the deputy director for oil and gas shall be members of  
5 the commission ex officio. The remaining three members of  
6 the commission shall be appointed by the governor, by and  
7 with the advice and consent of the Senate. Of the three  
8 members appointed by the governor, one shall be an  
9 independent producer and at least one shall be a public  
10 member not engaged in full-time employment in an activity  
11 under the jurisdiction of the public service commission or the

12 federal power commission. As soon as practical after  
13 appointment of the members of the commission, the governor  
14 shall call a meeting of the commission to be convened at the  
15 state capitol for the purpose of organizing and electing a  
16 chairman.

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17 (b) The members of the commission appointed by the  
18 governor shall be appointed for overlapping terms of six years  
19 each, except that the original appointments shall be for terms  
20 of two, four and six years, respectively. Each member  
21 appointed by the governor shall serve until his successor has  
22 been appointed and qualified. Members may be appointed by  
23 the governor to serve any number of terms. The members of  
24 the commission appointed by the governor, before performing  
25 any duty hereunder, shall take and subscribe to the oath  
26 required by section five, article four of the Constitution of  
27 West Virginia. Vacancies in the membership appointed by the  
28 governor shall be filled by appointment by him for the  
29 unexpired term of the member whose office shall be vacant  
30 and such appointment shall be made by the governor within  
31 sixty days of the occurrence of such vacancy. Any member  
32 appointed by the governor may be removed by the governor  
33 in case of incompetency, neglect of duty, gross immorality or  
34 malfeasance in office.

35 (c) The commission shall meet at such times and places as  
36 shall be designated by the chairman. The chairman may call  
37 a meeting of the commission at any time, and he shall call  
38 a meeting of the commission upon the written request of two  
39 members or upon the written request of the oil and gas  
40 conservation commissioner. Notification of each meeting shall  
41 be given in writing to each member by the chairman at least  
42 five days in advance of the meeting. Any three members, one  
43 of which may be the chairman, shall constitute a quorum for  
44 the transaction of any business as herein provided for. A  
45 majority of the commission shall be required to determine any  
46 issue brought before it.

47 (d) Each member of the commission appointed by the  
48 governor shall receive thirty-five dollars per diem not to exceed  
49 one hundred days per calendar year while actually engaged in  
50 the performance of his duties as a member of the commission.  
51 Each member of the commission shall also be reimbursed for  
52 all reasonable and necessary expenses actually incurred in the

53 performance of his duties as a member of the commission.

54 (e) The commission shall appoint the oil and gas conserva-  
55 tion commissioner, fix his salary within available funds, and  
56 advise him regarding his duties and authority under this article  
57 and consult with him prior to his reaching any final decisions  
58 and entering orders hereunder. However, the commissioner has  
59 full and final authority under this article with the commission  
60 serving in an advisory capacity to him. The commissioner shall  
61 possess a degree from an accredited college or university in  
62 petroleum engineering or geology and must be a registered  
63 professional engineer with particular knowledge and ex-  
64 perience in the oil and gas industry.

65 (f) The oil and gas commissioner is hereby empowered and  
66 it shall be his duty to execute and carry out, administer and  
67 enforce the provisions of this article in the manner provided  
68 herein. Subject to the provisions of section three of this article, \*  
69 the commissioner shall have jurisdiction and authority over all  
70 persons and property necessary therefor. The commissioner is  
71 authorized to make such investigation of records and facilities  
72 as he deems proper. In the event of a conflict between the duty  
73 to prevent waste and the duty to protect correlative rights, the  
74 commissioner's duty to prevent waste shall be paramount. He  
75 shall serve as secretary of the oil and gas conservation  
76 commission.

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77 (g) Without limiting his general authority, the commissioner  
78 shall have specific authority to:

79 (1) Regulate the spacing of deep wells;

80 (2) Make and enforce reasonable rules and regulations and  
81 orders reasonably necessary to prevent waste, protect  
82 correlative rights, govern the practice and procedure before the  
83 commissioner and otherwise administer the provisions of this  
84 article;

85 (3) Issue subpoenas for the attendance of witnesses and  
86 subpoenas duces tecum for the production of any books,  
87 records, maps, charts, diagrams and other pertinent docu-  
88 ments, and administer oaths and affirmations to such  
89 witnesses, whenever, in the judgement of the commissioner, it  
90 is necessary to do so for the effective discharge of his duties  
91 under the provisions of this article; and

92 (4) Serve as technical advisor regarding oil and gas to the  
93 legislature, its members and committees, to the deputy director  
94 for oil and gas, to the department of natural resources and  
95 to any other agency of state government having responsibility  
96 related to the oil and gas industry.

97 (h) After having conducted a performance audit through its  
98 joint committee on government operations, pursuant to section  
99 nine, article ten, chapter four of this code, the Legislature  
100 hereby finds and declares that the oil and gas conservation  
101 commission should be continued and reestablished. Accord-  
102 ingly, notwithstanding the provisions of section four, article  
103 ten, chapter four of this code, the oil and gas conservation  
104 commission shall continue to exist until the first day of July,  
105 one thousand nine hundred ninety-one.

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

*Bruce A. DeLoach*

Chairman Senate Committee

*Floyd Fuller*

Chairman House Committee

Originating in the House.

Takes effect from passage.

*Todd C. Wells*

Clerk of the Senate

*Donald J. Stapp*

Clerk of the House of Delegates

*Don Tomkovich*

President of the Senate

*Joseph P. Albright*

Speaker of the House of Delegates

The within *approved* this the *26th*  
day of *March*, 1985.

*Archa Pence Jr.*

Governor



THE

GOVERNOR

Date 3/22/85

Time 3:15 p.m.