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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991



ENROLLED

HOUSE BILL No. 2243

(By ~~Mr.~~ Del. Flanigan & Love)



Passed Feb. 12, 1991

In Effect 90 Days From Passage

ENROLLED
H. B. 2243

(By DELEGATES FLANIGAN AND LOVE)

[Passed February 12, 1991; in effect ninety days from passage.]

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

Be it enacted by the Legislature of West Virginia:

That section four, article eight, 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 8. OIL AND GAS CONSERVATION.

§22-8-4. 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 continued as provided for in
2 subsection (h) of this section, the "West Virginia Oil and
3 Gas Conservation Commission" which shall be composed
4 of five members. The commissioner of the department
5 of energy and the director for the division of oil and gas
6 shall be members of the commission ex officio. The
7 remaining three members of the commission shall be
8 appointed by the governor, by and with the advice and
9 consent of the Senate. Of the three members appointed

10 by the governor, one shall be an independent producer
11 and at least one shall be a public member not engaged
12 in full-time employment in an activity under the
13 jurisdiction of the public service commission or the
14 federal energy regulatory commission. As soon as
15 practical after appointment of the members of the
16 commission, the governor shall call a meeting of the
17 commission to be convened at the state capitol for the
18 purpose of organizing and electing a chairman.

19 (b) The members of the commission appointed by the
20 governor shall be appointed for overlapping terms of six
21 years each, except that the original appointments shall
22 be for terms of two, four and six years, respectively.
23 Each member appointed by the governor shall serve
24 until his successor has been appointed and qualified.
25 Members may be appointed by the governor to serve any
26 number of terms. The members of the commission
27 appointed by the governor, before performing any duty
28 hereunder, shall take and subscribe to the oath required
29 by section 5, article IV of the constitution of West
30 Virginia. Vacancies in the membership appointed by the
31 governor shall be filled by appointment by him for the
32 unexpired term of the member whose office shall be
33 vacant and such appointment shall be made by the
34 governor within sixty days of the occurrence of such
35 vacancy. Any member appointed by the governor may
36 be removed by the governor in case of incompetency,
37 neglect of duty, gross immorality or malfeasance in
38 office.

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

51 determine any issue brought before it.

52 (d) Each member of the commission appointed by the
53 governor shall receive thirty-five dollars per diem not
54 to exceed one hundred days per calendar year while
55 actually engaged in the performance of his duties as a
56 member of the commission. Each member of the
57 commission shall also be reimbursed for all reasonable
58 and necessary expenses actually incurred in the perfor-
59 mance of his duties as a member of the commission.

60 (e) The commission shall appoint the oil and gas
61 conservation commissioner, fix his salary within avail-
62 able funds, and advise him regarding his duties and
63 authority under this article and consult with him prior
64 to his reaching any final decisions and entering orders
65 hereunder. However, the commissioner has full and
66 final authority under this article with the commission
67 serving in an advisory capacity to him. The commis-
68 sioner shall possess a degree from an accredited college
69 or university in petroleum engineering or geology and
70 must be a registered professional engineer with partic-
71 ular knowledge and experience in the oil and gas
72 industry.

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

86 (g) Without limiting his general authority, the com-
87 missioner shall have specific authority to:

88 (1) Regulate the spacing of deep wells;

89 (2) Make and enforce reasonable rules and regulations

90 and orders reasonably necessary to prevent waste,
91 protect correlative rights, govern the practice and
92 procedure before the commissioner and otherwise
93 administer the provisions of this article;

94 (3) Issue subpoenas for the attendance of witnesses
95 and subpoenas duces tecum for the production of any
96 books, records, maps, charts, diagrams and other
97 pertinent documents, and administer oaths and affirma-
98 tions to such witnesses, whenever, in the judgment of the
99 commissioner, it is necessary to do so for the effective
100 discharge of his duties under the provisions of this
101 article; and

102 (4) Serve as technical advisor regarding oil and gas
103 to the Legislature, its members and committees, to the
104 director for the division of oil and gas, to the department
105 of energy and to any other agency of state government
106 having responsibility related to the oil and gas industry.

107 Pursuant to the provisions of section four, article ten,
108 chapter four of this code, the oil and gas conservation
109 commission shall continue to exist until the first day of
110 July, one thousand nine hundred ninety-three, to allow
111 for the completion of an audit by the joint committee on
112 government operations.

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

Tommy Seck
Chairman Senate Committee

Ernest C Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Darrell Edmonds
Clerk of the Senate

Donald G. Keop
Clerk of the House of Delegates

Neil Fustette
President of the Senate

BBACALL
Speaker of the House of Delegates

The within is approved this the *28th* day of *February*, 1991.

Faston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 2/25/91

Time 2:50 PM