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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

ENROLLED

SENATE BILL NO. 72

(By Senators Brackenrich and Wiedebusch)

PASSED April 10, 1993
In Effect July 1, 1993 Passage

E N R O L L E D

Senate Bill No. 72

(BY SENATORS BRACKENRICH AND WIEDEBUSCH)

[Passed April 10, 1993; to take effect July 1, 1993.]

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 oil and gas conservation commission; changing compensation of members; and removing authority of commission to fix salary of oil and gas conservation commissioner.

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
3 and Gas Conservation Commission" which shall be

4 composed of five members. The director of the divi-
5 sion of environmental protection and the director for
6 the office of oil and gas shall be members of the
7 commission ex officio. The remaining three members
8 of the commission shall be appointed by the governor,
9 by and with the advice and consent of the Senate. Of
10 the three members appointed by the governor, one
11 shall be an independent producer and at least one
12 shall be a public member not engaged in full-time
13 employment in an activity under the jurisdiction of
14 the public service commission or the federal energy
15 regulatory commission. As soon as practical after
16 appointment of the members of the commission, the
17 governor shall call a meeting of the commission to be
18 convened at the state capitol for the purpose of
19 organizing and electing a chairman.

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

40 (c) The commission shall meet at such times and
41 places as shall be designated by the chairman. The
42 chairman may call a meeting of the commission at any
43 time, and he shall call a meeting of the commission
44 upon the written request of two members or upon the

45 written request of the oil and gas conservation com-
46 missioner. Notification of each meeting shall be given
47 in writing to each member by the chairman at least
48 five days in advance of the meeting. Any three
49 members, one of which may be the chairman, shall
50 constitute a quorum for the transaction of any busi-
51 ness as herein provided for. A majority of the commis-
52 sion shall be required to determine any issue brought
53 before it.

54 (d) The board shall pay each member the same
55 compensation as is paid to members of the Legislature
56 for their interim duties as recommended by the
57 citizens legislative compensation commission and
58 authorized by law for each day or portion thereof
59 engaged in the discharge of official duties and shall
60 reimburse each member for actual and necessary
61 expenses incurred in the discharge of official duties.

62 (e) The commission shall appoint the oil and gas
63 conservation commissioner and advise him regarding
64 his duties and authority under this article and consult
65 with him prior to his reaching any final decisions and
66 entering orders hereunder. However, the commission-
67 er has full and final authority under this article with
68 the commission serving in an advisory capacity to him.
69 The commissioner shall possess a degree from an
70 accredited college or university in petroleum engi-
71 neering or geology and must be a registered profes-
72 sional engineer with particular knowledge and experi-
73 ence in the oil and gas industry.

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

86 secretary of the oil and gas conservation commission.

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

89 (1) Regulate the spacing of deep wells;

90 (2) Make and enforce reasonable rules and regula-
91 tions and orders reasonably necessary to prevent
92 waste, protect correlative rights, govern the practice
93 and procedure before the commissioner and otherwise
94 administer the provisions of this article;

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

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

109 (h) After having conducted a preliminary perfor-
110 mance audit through its joint committee on govern-
111 ment operations, pursuant to section nine, article ten,
112 chapter four of this code, the Legislature hereby finds
113 and declares that the oil and gas conservation commis-
114 sion should be continued and reestablished. Accord-
115 ingly, notwithstanding the provisions of section four of
116 said article, the oil and gas conservation commission
117 shall continue to exist until the first day of July, one
118 thousand nine hundred ninety-seven.

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

[Handwritten Signature]
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1993.

[Handwritten Signature]
.....
Clerk of the Senate

Donald S. Yoss
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within *is approved* this the *6th*
day of *May*, 1993.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 9/24/93

Time 1:35pm