ENROLLED

House Bill No. 2896

(By Delegates Douglas, Kuhn, Perdue, Prunty, Flanigan, Angotti and Ellem)

Passed April 14, 2001

In Effect Ninety Days from Passage
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H. B. 2896

(BY DELEGATES DOUGLAS, KUHN, PERDUE, PRUNTY, FLANIGAN, ANGOTTI AND ELLEM)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and three, article seven, chapter twenty-two-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the oil and gas inspectors' examining board; removing minimum salary provisions; revising grievance procedures; revising procedures of appeal of suspension or dismissal; levels of grievance proceedings; and revising qualifications to serve on board.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article seven, chapter twenty-two-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 7. OIL AND GAS INSPECTORS' EXAMINING BOARD.

§ 22C-7-2. Oil and gas inspectors; eligibility for appointment; qualifications; salary; expenses; removal.
(a) No person is eligible for appointment as an oil and gas inspector or supervising inspector unless, at the time of his or her probationary appointment, such person (1) is a citizen of West Virginia, in good health, and of good character, reputation and temperate habits; (2) has had at least six years' actual relevant experience in the oil and gas industry: Provided, That not exceeding three years of such experience shall be satisfied by any combination of (i) a bachelor of science degree in science or engineering which shall be considered the equivalent of three years' actual relevant experience in the oil and gas industry, (ii) an associate degree in petroleum technology which shall be considered the equivalent of two years actual relevant experience in the oil and gas industry, and (iii) actual relevant environmental experience including, without limitation, experience in wastewater, solid waste or reclamation each full year of which shall be considered as a year of actual relevant experience in the oil and gas industry; 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 director of the division of environmental protection. No candidate’s name may remain on the register for more than three years without re-qualifying.
(c) Within the limits provided by law, the salary of each inspector and of the supervising inspector shall be fixed by the director, and the oil and gas inspectors' examining board may make recommendations for salary determinations. In fixing salaries of the oil and gas inspectors and of the supervising inspector, the director shall consider ability, performance of duty and experience. Inspectors and supervising inspectors are entitled to mileage expense reimbursement at the rate established for in-state travel of public employees, in the governor's travel rules, as administered by the department of administration. No reimbursement for traveling expenses may be made except upon an itemized account of such expenses submitted by the inspector or supervising inspector, as the case may be, who shall verify, upon oath, that such expenses were actually incurred in the discharge of official duties.

(d)(1) For grievances concerning matters other than suspension or dismissal, inspectors may file written grievances in accordance with the procedures set forth article six-a, chapter twenty-nine, of this code. For a level one grievance, the inspector shall file the grievance with the supervising inspector. For a level two grievance, the inspector shall file the grievance with the chief of the office of oil and gas.

(2) An inspector or the supervising inspector, after having received a permanent appointment, shall be suspended or dismissed by the chief of the office of oil and gas only for physical or mental impairment, incompetency, neglect of duty, drunkenness, malfeasance in office or other good cause.

(3) Not less than twenty reputable citizens engaged in oil and gas drilling and production operations in the state may petition the chief of the office of oil and gas for the dismissal 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 chief shall cause an investigation of the facts to be made. If, after such investigation, the chief finds that there is substantial evidence which, if true, warrants dismissal of the inspector or supervising inspector, the chief shall bring the petition before the oil and gas inspectors' examining board requesting dismissal of the inspector or supervising inspector.

(4) A level three grievance is a hearing before the board to consider the appeal of a level two grievance, the appeal of suspension or dismissal by the chief, or a citizens' petition seeking dismissal of an inspector or supervising inspector. For any level three grievance, the chief may not preside over the hearing and may not vote. The remaining members of the board shall select a member of the board to serve as acting chair, who may not vote.

(5) An appeal of an inspector from a suspension or dismissal by the chief may be filed by the end of the tenth day following the suspension or dismissal notwithstanding the time limits and requirements set forth in subsection c, section four, article six-a of chapter twenty-nine of this code.

(6) On receipt of an appeal of a level two grievance, an appeal of suspension or dismissal by the chief, or a citizens' petition seeking dismissal 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 notwithstanding the time limits and requirements set forth in subsection c, section four, article six-a of chapter twenty-nine of this code. There shall be attached to the copy of the notice served upon the inspector or supervising inspector a copy of the appeal or petition filed with such board.
(7) At the time and place designated in said notice, the oil and gas inspectors’ examining board shall conduct a level three grievance proceeding in which the testimony shall be recorded to enable a transcript to be prepared for any further appeal. The board shall hear all evidence offered in support of the appeal or 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.

(8) The acting chair of the board may administer oaths and subpoena witnesses.

(9) 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 the inspector’s testimony or answer might incriminate such inspector, or refuses to accept a grant of immunity from prosecution on account of any relevant matter about which the inspector may be asked to testify at such hearing before such board, forfeits the inspector’s position notwithstanding any provisions to the contrary in section six, article six-a, chapter twenty-nine of this code.

(10) If, after hearing, the oil and gas inspectors’ examining board finds that the inspector or supervising inspector should be suspended, dismissed or otherwise disciplined, it shall enter an order to that effect. An appeal of the decision of the board shall proceed as a level four proceeding under the provisions of subsection d, section four, article six-a, chapter twenty-nine. The provisions of subsection (e) of that section regarding an expedited grievance shall not apply to oil and gas inspectors.

§ 22C-7-3. Oil and gas inspectors’ examining board created; composition; appointment, term and compensation of members; meetings; powers and duties generally.
(a) (1) There is hereby continued an oil and gas inspectors' examining board consisting of five members, two of whom shall be ex officio members and three of whom shall be appointed by the governor, by and with the advice and consent of the Senate. Appointed members may be removed only for the same causes and like manner as elective state officers. One member of the board shall be the representative of the public at large and shall be a person who is knowledgeable about the subject matter of this article and has no direct financial interest in oil and gas production other than the receipt of royalty payments which do not exceed ten percent of his or her annual income and who by reason of previous training or experience may reasonably be said to represent the viewpoint of surface owners or environmental organizations: Provided, That the public member serving on the board on the first day of January, two thousand one, shall remain on the board until the expiration of his term and is also eligible for reappointment. One member shall be a person who by reason of previous training and experience may reasonably be said to represent the viewpoint of independent oil and gas operators. One member shall be a person who by reason of previous training and experience may reasonably be said to represent the viewpoint of major oil and gas producers.

(2) The chief of the office of oil and gas of the division of environmental protection and the chief of the office of water resources of the division of environmental protection or their designees shall be ex officio members.

(3) The appointed members of the board shall be appointed for overlapping terms of six years, except that the original appointments shall be for terms of two, four and six years, respectively. Any member whose term expires may be reappointed by the governor.
(4) The board shall pay each member the same compensation and expense reimbursement as is paid to members of the legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof engaged in the discharge of official duties.

(5) The chief of the office of oil and gas or the chief's designee serving pursuant to subdivision two of this subsection shall serve as chair of the board: Provided, That for any level three grievance proceeding the chief or the chief's designee may not serve as a chair or vote. The board shall elect a secretary from its members.

(6) Members of the board, before performing any duty, shall take and subscribe to the oath required by section five, article IV of the constitution of West Virginia.

(7) The board shall meet at such times and places as shall be designated by the chair. It is the duty of the chair to call a meeting of the board on the written request of two members. Notice of each meeting shall be given in writing to each member by the secretary at least five days in advance of the meeting. A majority of members is 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, which shall include the applicant's social security number, 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 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 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 division of environmental protection may be designated to give to a candidate the written portion of the examination;

(4) Prepare and certify to the director of the division of environmental protection 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 consider 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 director of the division of environmental protection 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 suspension, dismissal or other discipline of inspectors or the supervising inspector in accordance with the provisions of this article;

(8) 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

(9) Render such advice and assistance to the director of the division of environmental protection as the director shall from time to time determine necessary or desirable in the performance of such duties.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]

Chairman Senate Committee

[Signature]

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

[Signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker of the House of Delegates

The within is approved this the 1st day of May, 2001.

[Signature]

Governor