WEST VIRGINIA LEGISLATURE
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ENROLLED

Senate Bill No. 462

(BY SENATORS FACEMIRE, BEACH, KIRKENDOLL, PALUMBO, CANN, EDGELL, SNYDER, STOLLINGS, D. HALL, McCABE AND PLYMALE)

[PASSED APRIL 11, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]
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[Passed April 11, 2013; in effect ninety days from passage.]

AN ACT to amend and reenact §22-3-20 and §22-3-21 of the Code of West Virginia, 1931, as amended, all relating to informal conferences on surface mining permit applications; extending time to hold informal conferences; and extending time from an informal conference in which the secretary must issue or deny a surface-mining permit.

Be it enacted by the Legislature of West Virginia:

That §22-3-20 and §22-3-21 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.

§22-3-20. Public notice; written objections; public hearings; informal conferences.

1 (a) At the time of submission of an application for a surface-mining permit or a significant revision of an existing permit pursuant to the provisions of this article, the applicant shall submit to the department a copy of the required
advertisement. At the time of submission, the applicant shall place the advertisement in a local newspaper of general circulation in the county of the proposed surface-mining operation at least once a week for four consecutive weeks. The secretary shall notify various appropriate federal and state agencies as well as local governmental bodies, planning agencies and sewage and water treatment authorities or water companies in the locality in which the proposed surface-mining operation will take place, notifying them of the operator's intention to mine on a particularly described tract of land and indicating the application number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities or companies may submit written comments within a reasonable period established by the secretary on the mining application with respect to the effect of the proposed operation on the environment which is within their area of responsibility. Such comments shall be immediately transmitted by the secretary to the applicant and to the appropriate office of the department. The secretary shall provide the name and address of each applicant to the Commissioner of the Division of Labor who shall within fifteen days from receipt notify the secretary as to the applicant's compliance, if necessary, pursuant to section fourteen, article five, chapter twenty-one of this code.

(b) Any person having an interest which is or may be adversely affected, or the officer or head of any federal, state or local governmental agency, has the right to file written objections to the proposed initial or revised permit application for a surface-mining operation with the secretary within thirty days after the last publication of the advertisement required in subsection (a) of this section. Such objections shall be immediately transmitted to the applicant by the secretary and shall be made available to the public. If written objections are filed and an informal conference
requested within thirty days of the last publication of the
above notice, the secretary shall then hold a conference in the
locality of the proposed mining within a reasonable time after
the close of the public comment period. Those requesting the
conference shall be notified and the date, time and location of
the informal conference shall also be advertised by the
secretary in a newspaper of general circulation in the locality
at least two weeks prior to the scheduled conference date.
The secretary may arrange with the applicant, upon request
by any party to the conference proceeding, access to the
proposed mining area for the purpose of gathering
information relevant to the proceeding. An electronic or
stenographic record shall be made of the conference
proceeding unless waived by all parties. The record shall be
maintained and shall be accessible to the parties at their
respective expense until final release of the applicant’s bond
or other security posted in lieu thereof. The secretary’s
authorized agent shall preside over the conference. In the
event all parties requesting the informal conference stipulate
agreement prior to the conference and withdraw their request,
a conference need not be held.

§22-3-21. Decision of secretary on permit application; hearing
thereon.

(a) If an informal conference has been held, the secretary
shall issue and furnish the applicant for a permit and persons
who were parties to the informal conference with the written
finding granting or denying the permit, in whole or in part,
and stating the reasons therefor within sixty days of the
informal conference, notwithstanding the requirements of
subsection (a), section eighteen of this article.

(b) If the application is approved, the permit shall be
issued. If the application is disapproved, specific reasons
therefor must be set forth in the notification. Within thirty
11 days after the applicant is notified of the secretary's decision, 
12 the applicant or any person with an interest which is or may 
13 be adversely affected may request a hearing before the 
14 Surface Mine Board as provided in article one, chapter 
15 twenty-two-b of this code to review the secretary's decision.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Originated in the Senate.

In effect ninety days from passage.

The within is approved this the 29th Day of April, 2013.

[Signature]  
Governor
PRESENTED TO THE GOVERNOR

APR 25 2013

Time 3:30