

1 **H. B. 2688**

2  
3 (By Delegates Caputo, Mahan, Boggs, Longstreth,  
4 Fragale and Barker)

5  
6 [Introduced January 20, 2011; referred to the

7 Committee on Energy, Industry and Labor, Economic Development and  
8 Small Business then Government Organization.]

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10  
11 A BILL to amend and reenact §22B-4-1 of the Code of West Virginia,  
12 1931, as amended, relating to increasing the number of  
13 appointments to the Surface Mine Board by one member; and  
14 requiring that the additional member is appointed from a list  
15 submitted by the major union representing coal miners to  
16 represent the view point of the working miners.

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

18 That §22B-4-1 of the Code of West Virginia, 1931, as amended,  
19 be amended and reenacted to read as follows:

20 **ARTICLE 4. SURFACE MINE BOARD.**

21 **§22B-4-1. Appointment and organization of Surface Mine Board.**

22 (a) On and after the effective date of this article, the  
23 "Reclamation Board of Review," heretofore created, shall continue  
24 in existence and hereafter shall be known as the "Surface Mine  
25 Board."

1 (b) The board shall be composed of ~~seven~~ eight members who  
2 shall be appointed by the Governor with the advice and consent of  
3 the Senate. Not more than four members of the board shall be of  
4 the same political party. Each appointed member of the board who  
5 is serving in such capacity on the effective date of this article  
6 shall continue to serve on the board until his or her term ends or  
7 he or she resigns or is otherwise unable to serve. As each  
8 member's term ends, or that member is unable to serve, a qualified  
9 successor shall be appointed by the Governor with the advice and  
10 consent of the Senate. One of the appointees to ~~such~~ the board  
11 shall be a person who, by reason of previous vocation, employment  
12 or affiliations, can be classed as one capable and experienced in  
13 coal mining. One member of the board shall be a person appointed  
14 by the Governor from a list containing the names of persons  
15 recommended to the Governor for appointment by the highest ranking  
16 official within the major employee organization representing coal  
17 miners within this state. The list shall be transmitted to the  
18 Governor requesting the Governor to appoint a person from the list  
19 to represent the viewpoint of working miners. One of the  
20 appointees to ~~such~~ the board shall be a person who, by reason of  
21 training and experience, ~~can~~ may be classed as one capable and  
22 experienced in the practice of agriculture. One of the appointees  
23 to ~~such~~ the board shall be a person who by reason of training and  
24 experience, can be classed as one capable and experienced in modern

1 forestry practices. One of the appointees to ~~such~~ the board shall  
2 be a person who, by reason of training and experience, can be  
3 classed as one capable and experienced in engineering. One of the  
4 appointees to ~~such~~ the board shall be a person who, by reason of  
5 training and experience, can be classed as one capable and  
6 experienced in water pollution control or water conservation  
7 problems. One of the appointees to ~~such~~ the board shall be a  
8 person with significant experience in the advocacy of environmental  
9 protection. One of the appointees to ~~such~~ the board shall be a  
10 person who represents the general public interest: *Provided, That,*  
11 in any case brought before the board relating to quarry operations  
12 as regulated by article four of chapter twenty-two of this code,  
13 two alternate board members will serve on the board who have  
14 expertise related to the operation of quarries. These two  
15 alternate members will serve in place of the board member appointed  
16 due to his or her expertise in coal operations and the board member  
17 which has been appointed due to his or her expertise in forestry.  
18 Each alternative member shall have the identical term as the member  
19 which he or she is replacing. The alternative board member  
20 replacing the member with expertise in coal shall be appointed  
21 based on his or her expertise in quarry operations. The  
22 alternative board member replacing the member with expertise in  
23 forestry shall be appointed based on his or her expertise in  
24 geology.

1           (c) During his or her tenure on the board, no member shall  
2 receive significant direct or indirect financial compensation from  
3 or exercise any control over any person or entity which holds or  
4 has held, within the two years next preceding the member's  
5 appointment, a permit to conduct activity regulated by the  
6 division, under the provisions of article three or four, chapter  
7 twenty-two of this code, or any similar agency of any other state  
8 or of the federal government: *Provided*, That the member classed as  
9 experienced in coal mining, the member classed as experienced in  
10 engineering, the member classed as experienced in water pollution  
11 control or water conservation problems and the two alternative  
12 board members serving to hear quarry related cases may receive  
13 significant financial compensation from regulated entities for  
14 professional services or regular employment so long as the  
15 professional or employment relationship is disclosed to the board.  
16 No member shall participate in any matter before the board related  
17 to a regulated entity from which the member receives or has  
18 received, within the preceding two years direct or indirect  
19 financial compensation. For purposes of this section, "significant  
20 direct or indirect financial compensation" means twenty percent of  
21 gross income for a calendar year received by the member, any member  
22 of his or her immediate family or the member's primary employer.

23           (d) The members of the board shall be appointed for terms of  
24 the same duration as their predecessor under the original

1 appointment of ~~two~~ three members appointed to serve a term of two  
2 years; two members appointed to serve a term of three years; two  
3 members to serve a term of four years; and one member to serve a  
4 term of five years. Any member whose term expires may be  
5 reappointed by the Governor. In the event a board member is unable  
6 to complete the term, the Governor shall appoint a person with  
7 similar qualification to complete the term. The successor of any  
8 board member appointed pursuant to this article must possess the  
9 qualification as prescribed herein. Each vacancy occurring in the  
10 office of a member of the board shall be filled by appointment  
11 within 60 days after ~~such~~ the vacancy occurs.

NOTE: The purpose of this bill is to increase the number of appointments to the Surface Mine Board by one member and to require that the additional member is appointed from a list submitted by the major union representing coal miners to represent the view point of the working miners.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.