

1 **H. B. 2862**

2  
3 (By Delegates D. Poling, Campbell, Skaff,  
4 Diserio and R. Phillips)

5  
6 (By Request of the Department of Environmental Protection)

7 [Introduced March 7, 2013; referred to the  
8 Committee on Energy, Industry and Labor, Economic  
9 Development then the Judiciary.]

10  
11 A BILL to amend and reenact §22-3-20 and §22-3-21 of the Code of  
12 West Virginia, 1931, as amended, all relating to informal  
13 conferences on surface mining permit applications; extending  
14 time to hold informal conferences; and extending time from an  
15 informal conference in which the secretary must issue or deny  
16 a surface-mining permit.

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

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

20 **ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.**

21 **§22-3-20. Public notice; written objections; public hearings;**  
22 **informal conferences.**

23 (a) At the time of submission of an application for a surface-  
24 mining permit or a significant revision of an existing permit  
25 pursuant to the provisions of this article, the applicant shall

1 submit to the ~~division~~ department a copy of the required  
2 advertisement. At the time of submission, the applicant shall  
3 place the advertisement in a local newspaper of general circulation  
4 in the county of the proposed surface-mining operation at least  
5 once a week for four consecutive weeks. The ~~director~~ secretary  
6 shall notify various appropriate federal and state agencies as well  
7 as local governmental bodies, planning agencies and sewage and  
8 water treatment authorities or water companies in the locality in  
9 which the proposed surface-mining operation will take place,  
10 notifying them of the operator's intention to mine on a  
11 particularly described tract of land and indicating the application  
12 number and where a copy of the proposed mining and reclamation plan  
13 may be inspected. These local bodies, agencies, authorities or  
14 companies may submit written comments within a reasonable period  
15 established by the ~~director~~ secretary on the mining application  
16 with respect to the effect of the proposed operation on the  
17 environment which is within their area of responsibility. Such  
18 comments shall be immediately transmitted by the ~~director~~ secretary  
19 to the applicant and to the appropriate office of the ~~division~~  
20 department. The ~~director~~ secretary shall provide the name and  
21 address of each applicant to the Commissioner of the Division of  
22 Labor who shall within fifteen days from receipt notify the  
23 ~~director~~ secretary as to the applicant's compliance, if necessary,  
24 with section fourteen, article five, chapter twenty-one of this

1 code.

2 (b) Any person having an interest which is or may be adversely  
3 affected, or the officer or head of any federal, state or local  
4 governmental agency, has the right to file written objections to  
5 the proposed initial or revised permit application for a surface-  
6 mining operation with the ~~director~~ secretary within thirty days  
7 after the last publication of the advertisement required in  
8 subsection (a) of this section. Such objections shall be  
9 immediately transmitted to the applicant by the ~~director~~ secretary  
10 and shall be made available to the public. If written objections  
11 are filed and an informal conference requested within thirty days  
12 of the last publication of the above notice, the ~~director~~ secretary  
13 shall then hold a conference in the locality of the proposed mining  
14 within ~~three weeks~~ a reasonable time after the close of the public  
15 comment period. Those requesting the conference shall be notified  
16 and the date, time and location of the informal conference shall  
17 also be advertised by the ~~director~~ secretary in a newspaper of  
18 general circulation in the locality at least two weeks prior to the  
19 scheduled conference date. The ~~director~~ secretary may arrange with  
20 the applicant, upon request by any party to the conference  
21 proceeding, access to the proposed mining area for the purpose of  
22 gathering information relevant to the proceeding. An electronic or  
23 stenographic record shall be made of the conference proceeding  
24 unless waived by all parties. ~~Such~~ The record shall be maintained

1 and shall be accessible to the parties at their respective expense  
2 until final release of the applicant's bond or other security  
3 posted in lieu thereof. The ~~director's~~ secretary's authorized  
4 agent ~~will~~ shall preside over the conference. In the event all  
5 parties requesting the informal conference stipulate agreement  
6 prior to the conference and withdraw their request, a conference  
7 need not be held.

8 **§22-3-21. Decision of secretary on permit application; hearing**  
9 **thereon.**

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

17 (b) If the application is approved, the permit shall be  
18 issued. If the application is disapproved, specific reasons  
19 therefor must be set forth in the notification. Within thirty days  
20 after the applicant is notified of the ~~director's~~ secretary's  
21 decision, the applicant or any person with an interest which is or  
22 may be adversely affected may request a hearing before the Surface  
23 Mine Board as provided in article one, chapter twenty-two-b of this  
24 code to review the ~~director's~~ secretary's decision.

NOTE: The purpose of this bill is to extend from three weeks to a reasonable time after the close of the public comment period the time in which the Department of Environmental Protection must hold an informal conference on a surface-mining permit application and extends from 30 days to 60 days from the informal conference the time in which the secretary must issue or deny a surface-mining permit.

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