

H. B. 2722

(By Delegates Anderson, Hamilton, Border-Sheppard, Canterbury,
Romine, D. Evans, Hamrick and Eldridge)

[Introduced February 13, 2015; referred to the
Committee on Energy then Finance.]

A BILL to amend and reenact §22-6-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §36-4-9b, all relating generally to oil and gas; requiring oil and gas lessees to make royalty payments within one hundred twenty days of production; providing for interest; providing for a complaint to be filed; and granting authority to the Secretary of the Department of Environmental Protection to suspend an oil and gas permit if royalty payments are not timely made.

Be it enacted by the Legislature of West Virginia:

That §22-6-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §36-4-9b, all to read as follows:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

**ARTICLE 6. OFFICE OF OIL AND GAS; OIL AND GAS WELLS; ADMINISTRATION;
ENFORCEMENT.**

§22-6-2. Secretary -- Powers and duties generally; department records open to public;

1 **inspectors.**

2 (a) The secretary shall have as his or her duty the supervision of the execution and
3 enforcement of matters related to oil and gas set out in this article and in articles six-a, eight, nine,
4 ten and twenty-one of this chapter.

5 (b) The secretary is authorized to propose rules for legislative approval in accordance with
6 the provisions of article three, chapter twenty-nine-a of this code necessary to effectuate the above
7 stated purposes.

8 (c) The secretary shall have full charge of the oil and gas matters set out in this article and
9 in articles six-a, eight, nine, ten and twenty-one of this chapter. In addition to all other powers and
10 duties conferred upon him or her, the secretary shall have the power and duty to:

11 (1) Supervise and direct the activities of the Office of Oil and Gas and see that the purposes
12 set forth in subsections (a) and (b) of this section are carried out;

13 (2) Determine the number of supervising oil and gas inspectors and oil and gas inspectors
14 needed to carry out the purposes of this article and articles six-a, eight, nine, ten, and twenty-one of
15 this chapter and appoint them as such. All appointees must be qualified civil service employees, but
16 no person is eligible for appointment until he or she has served in a probationary status for a period
17 of six months to the satisfaction of the secretary;

18 (3) Supervise and direct such oil and gas inspectors and supervising inspectors in the
19 performance of their duties;

20 (4) Make investigations or inspections necessary to ensure compliance with and to enforce
21 the provisions of this article and articles six-a, eight, nine, ten, and twenty-one of this chapter;

22 (5) Prepare report forms to be used by oil and gas inspectors or the supervising inspector in

1 making their findings, orders and notices, upon inspections made in accordance with this article and
2 articles six-a, eight, nine, ten and twenty-one of this chapter;

3 (6) Employ a hearing officer and such clerks, stenographers and other employees, as may be
4 necessary to carry out his or her duties and the purposes of the Office of Oil and Gas and fix their
5 compensation;

6 (7) Hear and determine applications made by owners, well operators and coal operators for
7 the annulment or revision of orders made by oil and gas inspectors or the supervising inspector, and
8 to make inspections, in accordance with the provisions of this article and articles eight and nine of
9 this chapter;

10 (8) Cause a properly indexed permanent and public record to be kept of all inspections made
11 by the secretary or by oil and gas inspectors or the supervising inspector;

12 (9) Conduct research and studies as the secretary shall deem necessary to aid in protecting
13 the health and safety of persons employed within or at potential or existing oil or gas production
14 fields within this state, to improve drilling and production methods and to provide for the more
15 efficient protection and preservation of oil and gas-bearing rock strata and property used in
16 connection therewith;

17 (10) Collect a permit fee of \$400 for each permit application filed other than an application
18 for a deep well, horizontal wells regulated pursuant to article six-a of this chapter, or a coalbed
19 methane well; and collect a permit fee of \$650 for each permit application filed for a deep well:
20 *Provided*, That no permit application fee is required when an application is submitted solely for the
21 plugging or replugging of a well, or to modify an existing application for which the operator
22 previously has submitted a permit fee under this section. All application fees required hereunder are

1 in lieu of and not in addition to any fees imposed under article eleven of this chapter relating to
2 discharges of stormwater but are in addition to any other fees required by the provisions of this
3 article: *Provided, however,* That upon a final determination by the United States Environmental
4 Protection Agency regarding the scope of the exemption under section 402(1)(2) of the federal Clean
5 Water Act (33 U.S.C. 1342(1)(2)), which determination requires a "national pollutant discharge
6 elimination system" permit for stormwater discharges from the oil and gas operations described
7 therein, any permit fees for stormwater permits required under article eleven of this chapter for such
8 operations may not exceed \$100.

9 (11) Perform all other duties which are expressly imposed upon the secretary by the
10 provisions of this chapter;

11 (12) Perform all duties as the permit issuing authority for the state in all matters pertaining
12 to the exploration, development, production, storage and recovery of this state's oil and gas;

13 (13) Adopt rules with respect to the issuance, denial, retention, suspension or revocation of
14 permits, authorizations and requirements of this chapter, which rules shall assure that the rules,
15 permits and authorizations issued by the secretary are adequate to satisfy the purposes of this article
16 and articles six-a, seven, eight, nine, ten and twenty-one of this chapter particularly with respect to
17 the consolidation of the various state and federal programs which place permitting requirements on
18 the exploration, development, production, storage and recovery of this state's oil and gas; ~~and~~

19 (14) Assess an administrative penalty or suspend a permit issued under this section if, upon
20 the filing of a complaint with the Office of Oil and Gas, a lessee has failed to pay the royalties due
21 the lessor, plus accrued interest, in a timely manor in accordance with section nine-b, article four,
22 chapter thirty-six of this chapter; and

1 ~~(14)~~ (15) Perform such acts as may be necessary or appropriate to secure to this state the
2 benefits of federal legislation establishing programs relating to the exploration, development,
3 production, storage and recovery of this state's oil and gas, which programs are assumable by the
4 state.

5 (d) The secretary shall have authority to visit and inspect any well or well site and any other
6 oil or gas facility in this state and may call for the assistance of any oil and gas inspector or
7 inspectors or supervising inspector whenever such assistance is necessary in the inspection of any
8 such well or well site or any other oil or gas facility. Similarly, all oil and gas inspectors and
9 supervising inspectors shall have authority to visit and inspect any well or well site and any other oil
10 or gas facility in this state. Such inspectors shall make all necessary inspections of oil and gas
11 operations required by this article and articles six-a, eight, nine, ten and twenty-one of this chapter;
12 administer and enforce all oil and gas laws and rules; and perform other duties and services as may
13 be prescribed by the secretary. The inspectors shall note and describe all violations of this article
14 and articles six-a, eight, nine, ten or twenty-one of this chapter and promptly report those violations
15 to the secretary in writing, furnishing at the same time a copy of the report to the operator concerned.
16 Any well operator, coal operator operating coal seams beneath the tract of land, or the coal seam
17 owner or lessee, if any, if said owner or lessee is not yet operating said coal seams beneath said tract
18 of land may request the secretary to have an immediate inspection made. The operator or owner of
19 every well or well site or any other oil or gas facility shall cooperate with the secretary, all oil and
20 gas inspectors and the supervising inspector in making inspections or obtaining information.

21 (e) Subject to the provisions of article one, chapter twenty-nine-b of this code, all records of
22 the office shall be open to the public.

1 **CHAPTER 36. ESTATES AND PROPERTY.**

2 **ARTICLE 4. COVENANTS.**

3 **§36-4-9b. Nonpayment of royalties; interest; complaint; permit suspension.**

4 (a) Holders of oil and gas leases shall pay all oil and gas royalties to their respective lessors
5 within one hundred twenty days of production. If the lessee fails to make its payments within that
6 time period, interest shall accrue on those unpaid amounts when any amount owed is \$100 or more.
7 The interest rate shall be the current prime rate plus two percent, compounded quarterly.

8 (b) Pursuant to section two, article six, chapter twenty-two of this code, if a lessee fails to pay
9 the amount due, plus accrued interest, in a timely manor the lessor may file a complaint with the
10 Office of Oil and Gas of the Department of Environmental Protection which may assess an
11 administrative penalty and if a lessee continues to refuse to pay the amount due the Secretary of the
12 Department of Environmental Protection may suspend the producer's permit.

NOTE: The purpose of this bill is to require oil and gas lessees to make royalty payments within one hundred twenty days of production. The bill provides for interest. The bill provides for a complaint to be filed. The bill grants the Secretary of the Department of Environmental Protection with the authority to suspend an oil and gas permit if royalty payments are not timely made.

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

§36-4-9b is new; therefore, it has been completely underscored.