

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4411

By Delegate Mallow

[Introduced January 10, 2024; Referred to
the Committee on the Judiciary]

1 A BILL to amend and reenact §22-6-2 the Code of West Virginia, 1931, as amended, relating to
 2 requiring the secretary of the Department of Environmental Protection to adopt rules
 3 relating to the standardization of leases, deeds or contracts relating to oil and gas,
 4 consistent in format with the purpose of making the terms of these documents less
 5 confusing to the landowners.

Be it enacted by the Legislature of West Virginia:

**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;
 inspectors.**

1 (a) The secretary shall have as his or her duty the supervision of the execution and
 2 enforcement of matters related to oil and gas set out in §22-6-1 *et seq.*, §22-6a-1 *et seq.*, §22-8-1
 3 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code.

4 (b) The secretary ~~is authorized to~~ may propose rules for legislative approval in accordance
 5 with ~~the provisions of~~ §29A-3-1 *et seq.* of this code necessary to effectuate the above stated
 6 purposes.

7 (c) The secretary shall have full charge of the oil and gas matters set out in §22-6-1 *et seq.*,
 8 §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this
 9 code. In addition to all other powers and duties conferred upon him or her, the secretary shall:
 10 ~~have the power and duty to~~

11 (1) Supervise and direct the activities of the Office of Oil and Gas and see that the
 12 purposes set forth in §22-6-2(a) and §22-6-2(b) of this code 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 §22-6-1 *et seq.*, §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et*
 15 *seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code and appoint them as such. All appointees

16 ~~must~~ shall be qualified civil service employees, but no person is eligible for appointment until he or
17 she has served in a probationary status for a period of six months to the satisfaction of the
18 secretary;

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

21 (4) Make investigations or inspections necessary to ensure compliance with and to enforce
22 the provisions of §22-6-1 *et seq.*, §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et*
23 *seq.*, and §22-21-1 *et seq.* of this code;

24 (5) Prepare report forms to be used by oil and gas inspectors or the supervising inspector
25 in making their findings, orders, and notices, upon inspections made in accordance with §22-6-1 *et*
26 *seq.*, §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of
27 this code;

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

31 (7) Hear and determine applications made by owners, well operators and coal operators
32 for the annulment or revision of orders made by oil and gas inspectors or the supervising inspector,
33 and to make inspections, in accordance with the provisions of §22-6-1 *et seq.*, §22-6A-1 *et seq.*,
34 §22-8-1 *et seq.*, and §22-9-1 *et seq.* of this code;

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

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

42 (10) Collect a permit fee of \$400 for each permit application filed other than an application
43 for a deep well, horizontal wells regulated pursuant to §22-6A-1 *et seq.* of this code, or a coalbed
44 methane well; and collect a permit fee of \$650 for each permit application filed for a deep well:
45 *Provided*, That no permit application fee is required when an application is submitted solely for the
46 plugging or replugging of a well, or to modify an existing application for which the operator
47 previously has submitted a permit fee under this section. All application fees required hereunder
48 are in lieu of and not in addition to any fees imposed under §22-11-1 *et seq.* of this code relating to
49 discharges of stormwater but are in addition to any other fees required by the provisions of this
50 article: *Provided, however*, That upon a final determination by the United States Environmental
51 Protection Agency regarding the scope of the exemption under section 402(l)(2) of the federal
52 Clean Water Act (33 U.S.C. 1342(l)(2)), which determination requires a "national pollutant
53 discharge elimination system" permit for stormwater discharges from the oil and gas operations
54 described therein, any permit fees for stormwater permits required under §22-11-1 *et seq.* of this
55 code for such operations may not exceed \$100.

56 (11) On or after July 1 of each year, collect from the responsible operator of the first 400
57 wells subject to §22-6-1 *et seq.*, §22-6A-1 *et seq.* or §22-21-1 *et seq.* of this code that has not yet
58 been plugged, and that produces more than an average, calculated by dividing the annual
59 production by 365, of 250,000 cubic feet of gas per day or more as reported to the State Tax
60 Commissioner in the previous reporting year, an annual oversight fee of \$350 for each well;

61 (12) On or after July 1 of each year, collect from the responsible operator of the first 400
62 wells subject to §22-6-1 *et seq.*, §22-6A-1 *et seq.* or §22-21-1 *et seq.* of this code that has not yet
63 been plugged, and that produces an average, calculated by dividing the annual production by 365,
64 of less than or equal to 250,000 cubic feet of gas but more than 60,000 cubic feet of gas per day as
65 reported to the State Tax Commissioner in the previous reporting year, an annual oversight fee of
66 \$75 for each well;

67 (13) On or after July 1 of each year, collect from the responsible operator of the first 4,000

68 wells subject to §22-6-1 *et seq.*, §22-6A-1 *et seq.* or §22-21-1 *et seq.* of this code that has not yet
69 been plugged, and that produces an average, calculated by dividing the annual production by 365,
70 of less than or equal to 60,000 cubic feet of gas but more than 10,000 cubic feet of gas per day as
71 reported to the State Tax Commissioner in the previous reporting year, an annual oversight fee of
72 \$25 for each well; *Provided*, That responsible operators with 500 or fewer unplugged wells that
73 produce an average, calculated by dividing the annual production by 365, of less than or equal to
74 60,000 cubic feet of gas but more than 10,000 cubic feet of gas per day are not subject to fees
75 under this subdivision;

76 (14) Perform all other duties which are expressly imposed upon the secretary by the
77 provisions of this chapter;

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

80 (16) Adopt rules with respect to the issuance, denial, retention, suspension or revocation of
81 permits, authorizations and requirements of this chapter, which rules shall assure that the rules,
82 permits and authorizations issued by the secretary are adequate to satisfy the purposes of §22-6-1
83 *et seq.*, §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.*
84 of this code particularly with respect to the consolidation of the various state and federal programs
85 which place permitting requirements on the exploration, development, production, storage and
86 recovery of this state's oil and gas; ~~and~~

87 (17) Adopt rules, no later than July 1, 2025, with respect to the standardization of leases,
88 deeds, or contracts relating to oil and gas, consistent in format with the purpose of making the
89 terms of these documents less confusing to the landowners. The rules shall also provide that all
90 leases, deeds, or contracts relating to oil and gas, or renewals or extensions of any of these
91 documents dated after July 1, 2025, shall conform to these rules; and

92 ~~(17)~~(18) Perform such acts as may be necessary or appropriate to secure to this state the
93 benefits of federal legislation establishing programs relating to the exploration, development,

94 production, storage and recovery of this state's oil and gas, which programs are assumable by the
95 State.

96 (d) The secretary ~~shall have authority to~~ may visit and inspect any well or well site and any
97 other oil or gas facility in this state and may call for the assistance of any oil and gas inspector or
98 inspectors or supervising inspector whenever such assistance is necessary in the inspection of
99 any such well or well site or any other oil or gas facility. Similarly, all oil and gas inspectors and
100 supervising inspectors ~~shall have authority to~~ may visit and inspect any well or well site and any
101 other oil or gas facility in this state. Such inspectors shall make all necessary inspections of oil and
102 gas operations required by §22-6-1 *et seq.*, §22-6a-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*,
103 §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code; administer and enforce all oil and gas laws and
104 rules; and perform other duties and services as may be prescribed by the secretary. The
105 inspectors shall note and describe all violations of §22-6-1 *et seq.*, §22-6a-1 *et seq.*, §22-8-1 *et*
106 *seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code and promptly report
107 those violations to the secretary in writing, furnishing at the same time a copy of the report to the
108 operator concerned. Any well operator, coal operator operating coal seams beneath the tract of
109 land, or the coal seam owner or lessee, if any, if ~~said~~ the owner or lessee is not yet operating said
110 coal seams beneath ~~said~~ the tract of land may request the secretary to have an immediate
111 inspection made. The operator or owner of every well or well site or any other oil or gas facility shall
112 cooperate with the secretary, all oil and gas inspectors and the supervising inspector in making
113 inspections or obtaining information.

114 (e) Subject to ~~the provisions of~~ §29B-1-1 *et seq.* of this code, all records of the office shall
115 be open to the public.

NOTE: The purpose of this bill is to require the secretary of the Department of Environmental Protection to adopt rules relating to the standardization of leases, deeds, or contracts relating to oil and gas, consistent in format with the purpose of making the terms of these documents less confusing to the landowners.

Strike-throughs indicate language that would be stricken from a heading or the present law,

and underscoring indicates new language that would be added.