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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 2004

**ENROLLED**

Com. Sub. For Com. Sub. For  
SENATE BILL NO. 6116

(By Senator Ross, et al)

PASSED MARCH 13, 2004

In Effect 90 Days From Passage

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 616**

(SENATORS ROSS, LOVE, WEEKS AND EDGELL, *original sponsors*)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §22-1-9 of the code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22-3-33, all relating to the department of environmental protection generally; increasing the membership of the environmental protection advisory council; requiring that a meeting of the advisory council be called upon the written request of a majority of members; requiring that the council timely receive an agenda and related materials for each meeting; allowing council members to submit rule-making suggestions to the secretary for consideration; authorizing appointment of technical advisors; establishing a new quality assurance and compliance advisory committee; providing for procedures for committee meetings; authorizing payment of expenses; and authorizing the committee to review coal mining permit procedures and processes.

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

That §22-1-9 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 §22-3-33, all to read as follows:

**ARTICLE 1. DEPARTMENT OF ENVIRONMENTAL PROTECTION.**

**§22-1-9. Environmental protection advisory council.**

1 (a) There is created within the department of environ-  
2 mental protection the environmental protection advisory  
3 council. The environmental protection advisory council  
4 consists of twelve members. The secretary serves as an ex  
5 officio member of the council and as its chair. The re-  
6 maining eleven members are appointed by the governor.  
7 Each member serves for a term of four years and may be  
8 reappointed. Of the new members of the council ap-  
9 pointed, as a result of the enactment of this section during  
10 the two thousand four regular session, four shall be  
11 appointed for terms ending on the thirtieth day of June,  
12 two thousand six, four shall be appointed for terms ending  
13 two thousand seven and three shall be appointed for terms  
14 ending two thousand eight. Thereafter, each appointment  
15 shall be for a term of four years. Vacancies on the council  
16 shall be filled within sixty days after the vacancy occurs.

17 (b) The governor shall appoint members of the council  
18 from nominations submitted by the following organiza-  
19 tions:

20 (1) The largest state organization representing manufac-  
21 turers;

22 (2) The largest state trade organization representing coal  
23 producers;

24 (3) The largest state organization representing farming  
25 interests; and

26 (4) The largest employee organization representing coal  
27 miners within this state.

28 And from the following areas of interest:

29 (5) A forester registered pursuant to article nineteen,  
30 chapter thirty of this code and representing the interests  
31 of private owners of forest land;

32 (6) Two members shall represent organizations advocat-  
33 ing environmental protection;

34 (7) One member shall represent wild life conservation;

35 (8) One member shall be the department of environmen-  
36 tal protection environmental advocate;

37 (9) One member shall represent organizations represent-  
38 ing local governments; and

39 (10) One member shall represent public service districts.

40 In making subsequent appointments this balance of  
41 membership shall be maintained.

42 (c) Appointed members, who are not employees of the  
43 state, shall be paid the same compensation and expense  
44 reimbursement as is paid to members of the Legislature for  
45 their interim duties as recommended by the citizens  
46 legislative compensation commission and authorized by  
47 law for each day or portion thereof engaged in the dis-  
48 charge of official duties.

49 (d) The council shall meet at least once every quarter at  
50 the call of the chair on his or her own motion or at the  
51 request of any five members of the council presented in  
52 writing to the chair. At least fifteen days prior to each  
53 regularly scheduled quarterly meeting, or ten days in  
54 advance of a meeting called by the chair, the secretary  
55 shall provide to the council an agenda of all matters  
56 scheduled for discussion at the meeting together with any  
57 rules the secretary intends to propose for promulgation.

58 (e) The council shall:

59 (1) Consult with and advise the secretary on program  
60 and policy development, problem solving and other  
61 appropriate subjects;

62 (2) Identify and define problems associated with the  
63 implementation of the policy set forth in section one of  
64 this article;

65 (3) Provide and disseminate to industry and the public  
66 early identification of major federal program and regula-  
67 tory changes;

68 (4) Provide a forum for the resolution of conflicts  
69 between constituency groups;

70 (5) To the extent possible, strive for consensus on the  
71 development of overall environmental policy;

72 (6) Upon a majority vote of the members, the council  
73 may submit to the secretary suggestions for proposed  
74 rulemaking which the secretary may propose as amend-  
75 ments to an existing rule or as a new rule pursuant to the  
76 provisions of chapter twenty-nine-a of this code;

77 (7) Provide an annual report to the joint committee on  
78 government and finance on or before the first day of  
79 January of each year relating to its findings with regard to  
80 the division's performance during the previous year. The  
81 report will specifically address the department's perfor-  
82 mance in accomplishing the ten purposes set forth in  
83 subsection (b), section one of this article; and

84 (8) Appoint technical advisory committees as may be of  
85 assistance to the council and secretary in the development  
86 of programs.

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

**§22-3-33. Quality assurance and compliance advisory com-  
mittee.**

1 (a) A quality assurance and compliance advisory com-  
2 mittee is hereby established.

3 (b) The purpose of the advisory committee is to review  
4 mine permitting procedures and related requirements and  
5 to work with the office of mining and reclamation to  
6 improve upon the efficiency and quality of permits issued  
7 by the office and improvement of the permitting process.

8 (c) The secretary shall serve as an ex officio member of  
9 the advisory committee and as its chair.

10 (d) The governor shall appoint two members to the  
11 committee who each have five or more years experience in  
12 either underground or surface coal mining; two members  
13 who each have five or more years experience in environ-  
14 mental protection and one citizen at large from a coal  
15 producing region of the state who is not currently nor has  
16 been employed in the coal mining industry.

17 (e) After the initial appointments, members shall serve  
18 for staggered terms of six years and may be reappointed.  
19 Two of the members of the advisory committee first  
20 appointed shall serve terms ending on the thirtieth day of  
21 June, two thousand six, and one each for terms ending  
22 two, three and four years thereafter.

23 (f) Vacancies on the advisory committee shall be filled  
24 within sixty days after the vacancy occurs. Members  
25 appointed to fill vacancies shall serve for the remainder of  
26 the unexpired term.

27 (g) Any appointed member whose term has expired shall  
28 serve until a successor has been duly appointed and  
29 qualified.

30 (h) Appointed members of the advisory committee shall  
31 be paid the same compensation and expense reimburse-  
32 ment as is provided for members of the Legislature  
33 pursuant to sections six and eight, article two-a, chapter  
34 four of this code.

35 (i) The advisory committee shall meet at the call of the  
36 secretary or his or her designee, but not less than every  
37 four months.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is disapproved* this the *1st*.....

Day of *April*....., 2004.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR  
DATE 3.31.04  
TIME 10:45 AM