

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 883

By Senator Phillips

[Introduced March 24, 2025; referred
to the Committee on Energy, Industry, and Mining]

1 A BILL to amend and reenact §22A-1-8, §22A-1-9, §22A-1-11, §22A-1-12, §22A-1-13, §22A-4-5,
2 §22A-6-3, and §22A-9-1 of the Code of West Virginia, 1931, as amended, relating to
3 providing the Director of the West Virginia Office of Miners' Health, Safety, and Training
4 discretion and authority in the appointment of surface mine inspectors, mine safety
5 instructors, electrical inspectors, and underground mine inspectors.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING;
ADMINISTRATION; ENFORCEMENT.**

§22A-1-8. Mine inspectors; regions and districts; employment; tenure; oath.

1 Notwithstanding any other provisions of this code to the contrary, mine inspectors shall be
2 selected, serve and be removed as provided in this article.

3 The director shall divide the state into a sufficient number of regions, so as to equalize, as
4 far as practical, the work of each inspector. The director may assign inspectors to districts and may
5 designate and assign not more than one inspector-at-large and one assistant inspector-at-large to
6 each region. The director may designate the places of abode of inspectors at points convenient to
7 the mines of their respective districts, and, in the case of inspectors-at-large and assistant
8 inspectors-at-large, their respective regions.

9 All mine inspectors appointed after the mine inspectors' examining board has certified to
10 the director an adequate register of qualified eligible candidates, so long as the register contains
11 the names of at least three qualified eligible candidates, shall be appointed from the names on
12 such register. The director shall have full discretion and authority in the original appointment of all
13 mine inspectors; to include any testing and qualifications necessary for an applicant to be
14 considered for appointment. However, the director shall provide a report of any such appointment
15 to the Board of Coal Mine Health and Safety. Each original appointment shall be made by the
16 director for a probationary period of not more than one year.

17 The director shall prepare an adequate register of qualified eligible candidates for mine
18 inspector. Candidates for selection as mine inspector shall be made from the register. In the event
19 the number of qualified eligible candidates on the register is three or less, the director shall
20 undertake efforts to develop a new register containing more than three qualified eligible
21 candidates.

22 The director shall make each appointment from among the three qualified eligible
23 candidates on the register having the highest grades: *Provided*, That the director may, for good
24 cause, at least 30 days prior to making an appointment, strike any named candidate from the
25 register. Upon striking any named candidate from the register, the director shall immediately notify
26 in writing each member of the mine inspectors' examining board of the action, together with a
27 detailed statement of the reasons therefor. The candidate of his/her action and the reason for said
28 action. If the candidate requests, he/she can be placed back upon the register by written request
29 which shall not be unreasonably denied by the director. Thereafter, if the mine inspectors'
30 examining board finds, after hearing, that the action of the director was arbitrary or unreasonable,
31 it may then order the name of any candidate so stricken from the register to be reinstated thereon.
32 The reinstatement is effective from the date of removal from the register.

33 The name of any candidate passed over for appointment for three years shall be deleted
34 from the register.

35 After having served for a probationary period of one year to the satisfaction of the director,
36 a mine inspector ~~has~~ shall be eligible for permanent tenure, subject to dismissal only for cause in
37 accordance with the applicable provisions of §22A-1-12 of this code. No mine inspector, while in
38 office, may be directly or indirectly interested as an employee, owner, lessor, operator,
39 stockholder, superintendent or engineer of any coal mine. Before entering upon the discharge of
40 the duties as a mine inspector, he or she shall take the oath of office prescribed by section 5, article
41 IV of the Constitution of West Virginia, a certificate of which oath shall be filed in the office of the
42 Secretary of State.

43 The inspectors, inspectors-at-large and assistant inspectors-at-large, together with the
44 director, shall make all inspections authorized by this article and §22A-1-2 of this code and shall
45 perform such other duties as are imposed upon mine inspectors by this chapter and by any
46 applicable legislative rules.

§22A-1-9. Mine safety instructors; eligibility; qualifications; examinations; salary; provisions relating to underground mine inspectors applicable to mine safety instructors.

1 (a) The office shall employ a sufficient number of mine safety instructors as the director
2 determines to be reasonably necessary in fully and effectively carrying out the applicable
3 provisions of this chapter.

4 (b) To be eligible for employment as a mine safety instructor, the applicant shall be: (1) A
5 citizen of West Virginia, in good health, not less than 24 years of age, of good character and
6 reputation, and of temperate habits; (2) a person who has had at least five years of practical
7 experience in coal mines, at least two years of which has been in mines in this state: *Provided*,
8 That graduation from any accredited college of mining engineering may be considered equivalent
9 to two years of practical experience; (3) a person who has had practical experience with
10 dangerous gases found in coal mines, and who has a good theoretical and practical knowledge of
11 mines, mining methods, mine ventilation, sound safety practices and applicable mining laws and
12 rules; and (4) a person who possesses a West Virginia foreman-fireboss certification; or a person
13 who has had at least three years of experience as an actual working team member of a mine
14 rescue team, or at least three years of experience as a member of a first aid team or emergency
15 medical technician team; or a person who has had at least three years of experience as the safety
16 director, or the equivalent as approved by the mine inspectors' examining board, of a mine; or a
17 person who has had at least three years of experience as an active member of a mine safety
18 committee. For the purpose of this section, practical experience means the performance of normal
19 mining duties requiring a person to hold a certificate of competency and qualification as an

experienced miner prior to actually performing such duties.

(c) (1) In order to qualify for appointment as a mine safety instructor, an eligible applicant shall submit to written, oral and practical examinations administered by the mine inspectors' examining board director and furnish evidence of good health, character and other facts establishing eligibility as the board director may require. The examinations shall relate to the duties to be performed by a mine safety instructor and, shall be subject to the approval of the mine inspectors' examining board, may be prepared by the director. The director shall have full discretion and authority in the determination of eligibility and selection for appointment of all mine safety instructors; to include any testing and qualifications necessary for an applicant to be considered for appointment. However, the director shall provide a report of any such appointment to the Board of Coal Mine Health and Safety.

(2) If the board director finds after investigation and examination that an applicant: (A) Is eligible for appointment; and (B) has passed each required examination with a grade of at least 75% or an overall combined average score of 80%, the board director shall add the applicant's name and grades to the register of qualified eligible candidates and promptly certify its action in writing to the director. The director shall then appoint one of the candidates from the three having the highest grades.

(d) Mine safety instructors shall be paid an annual salary of not less than \$37,400, which shall be fixed by the director, who shall take into consideration ability, performance of duty and experience. Mine safety instructors shall devote all of their time to the duties of the office.

(e) Except as expressly provided in this section to the contrary, all provisions of this article relating to the eligibility, qualification, appointment, tenure and removal of underground mine inspectors, as well as those provisions relating to compensatory time and reimbursement for necessary expenses, are applicable to mine safety instructors.

§22A-1-11. Employment of electrical inspectors; eligibility; qualifications; examinations; salary; provisions relating to underground mine inspectors applicable to electrical

inspectors.

1 (a) The office shall employ a sufficient number of electrical inspectors as the director
2 determines to be reasonably necessary in fully and effectively carrying out the applicable
3 provisions of this chapter.

4 (b) To be eligible for employment as an electrical inspector, the applicant shall be: (1) A
5 citizen of West Virginia, in good health, not less than 24 years of age, of good character and
6 reputation, and of temperate habits; and (2) a person who has had five years of practical electrical
7 experience in coal mines, at least two of which were in mines in this state, or a degree in electrical
8 engineering from an accredited electrical engineering school and three years of practical electrical
9 experience in underground coal mining. For the purposes of this section, practical electrical
10 experience means the performance of duties requiring a person to be a certified electrician, as that
11 term is defined in §22A-1-12(d)(2) of this code, prior to actually performing such duties.

12 (c) (1) In order to qualify for appointment as an electrical inspector, an eligible applicant
13 shall submit to written, oral and practical examinations administered by the mine inspectors'
14 examining board director and furnish evidence of good health, character and other facts
15 establishing eligibility as the board director may require. The examinations shall relate to the
16 duties to be performed by an electrical inspector and, shall be subject to approval of the mine
17 inspectors' examining board, may be prepared by the director.

18 (2) If the board director finds after investigation and examination that an applicant: (A) Is
19 eligible for appointment; and (B) has passed the required examinations with an average grade of
20 at least ninety percent, the board director shall add the applicant's name and grades to the register
21 of qualified eligible candidates and promptly certify its action in writing to the director. The director
22 shall then appoint one of the candidates from the three having the highest grades. The director
23 shall have full discretion and authority in the determination of eligibility and selection for
24 appointment of all electrical inspectors; to include any testing and qualifications necessary for an
25 applicant to be considered for appointment. However, the director shall provide a report of any

26 such appointment to the Board of Coal Mine Health and Safety.

27 (d) Electrical inspectors shall be paid an annual salary of not less than \$42,828, which shall
28 be fixed by the director, who shall take into consideration ability, performance of duty and
29 experience. Electrical inspectors shall devote all of their time to the duties of the office.

30 (e) Except as expressly provided in this section to the contrary, all provisions of this article
31 relating to the eligibility, qualifications, appointment, tenure and removal of underground mine
32 inspectors, as well as those provisions relating to compensatory time and reimbursement for
33 necessary expenses, are applicable to mine electrical inspectors.

**§22A-1-12. Employment of underground mine inspectors; eligibility; qualifications;
examinations; salary and expenses; reinstatement; removal.**

1 (a) The office shall employ as many underground mine inspectors as the director
2 determines to be reasonably necessary in fully and effectively carrying out the applicable
3 provisions of this chapter.

4 (b) To be eligible for employment as a mine inspector the applicant shall be: (1) A citizen of
5 West Virginia, in good health, not less than 24 years of age, of good character and reputation, and
6 of temperate habits; (2) a person who has had at least five years of practical experience in coal
7 mines, at least two years of which have been in mines of this state: *Provided*, That graduation from
8 any accredited college of mining engineering may be considered the equivalent of two years of
9 practical experience; (3) a person who has had practical experience with dangerous gases found
10 in coal mines; and (4) a person who has a good theoretical and practical knowledge of mines,
11 mining methods, mine ventilation, sound safety practices, and applicable mining laws and rules.
12 For the purpose of this section, practical experience means the performance of normal mining
13 duties requiring a person to hold a certificate of competency and qualification as an experienced
14 underground miner prior to actually performing such duties.

15 (c) In order to qualify for appointment as an underground mine inspector, an eligible
16 applicant shall submit to written, oral, and practical examinations administered by the Mine

17 Inspectors' Examining Board director and furnish evidence of good health, character, and other
18 facts establishing eligibility as the board director may require. The examinations shall relate to the
19 duties to be performed by an underground mine inspector and, shall be subject to the approval of
20 the Mine Inspectors' Examining Board, may be prepared by the director. If the board director finds
21 after investigation and examination that an applicant: (1) Is eligible for appointment; and (2) has
22 passed each required examination, with a grade of at least 75% or an overall combined average
23 score of 80%, the board director shall add the applicant's name and grades to the register of
24 qualified eligible candidates and promptly certify its action in writing to the director. The director
25 shall then appoint one of the candidates from the three having the highest grades. The director
26 shall have full discretion and authority in the determination of eligibility and selection for
27 appointment of all underground mine inspectors; to include any testing and qualifications
28 necessary for an applicant to be considered for appointment. However, the director shall provide a
29 report of any such appointment to the Board of Coal Mine Health and Safety.

30 (d) Underground mine inspectors shall be paid an annual salary of not less than \$38,160;
31 assistant inspectors-at-large, not less than \$44,448; inspectors-at-large, not less than \$46,104,
32 each of which shall be fixed by the director, who shall take into consideration ability, performance
33 of duty, and experience. In accordance with established rules of the state's Travel Management
34 Office, underground mine inspectors shall also be allowed and paid expenses necessarily incident
35 to the performance of their official duties: *Provided*, That no reimbursement for expenses may be
36 made other than upon the timely submittal of a properly itemized expense account settlement
37 completed by the underground mine inspector, approved and countersigned by the director, or his
38 or her designated representative, verifying that the expenses were actually incurred in the
39 performance of official duties. Underground mine inspectors shall devote all of their time to the
40 duties of the office and shall be afforded compensatory time or compensation of at least the
41 regular rate for all time in excess of 40 hours per week.

42 (e) (1) An underground mine inspector, after having received a permanent appointment,

may be removed from office only for physical or mental impairment, incompetency, neglect of duty, public intoxication, malfeasance in office, or other similarly good cause.

(2) The director may remove an underground mine inspector at any time for the reasons set forth in §22A-1-12(e)(1) of this code. Upon such removal, the inspector shall be provided a written notice of removal, describing the cause(s) for removal and setting forth with particularity the facts on which the removal was based. Not less than 20 reputable citizens, who are operators or employees in mines in this state, may petition the director for the removal of an underground mine inspector. If the petition is verified by at least one of the petitioners, based on actual knowledge of the affiant of the alleged facts, which, if true, warrant the removal of the inspector, the director shall cause an investigation of the alleged facts to be made. If, after the investigation, the director finds that there is substantial evidence that warrants removal of the inspector, the director shall remove the inspector and provide him or her a written notice of removal, describing the cause(s) for removal and setting forth with particularity the evidence found in the investigation: *Provided*, That in all cases of removal, the inspector may request, in writing, a hearing before the Board of Coal Mine Health and Safety within 15 days of receipt of the notice of removal. The director shall provide the inspector written notice of the right to a hearing in the notice of removal.

(3) If the inspector requests a hearing in writing, the board shall promptly schedule a hearing and provide notice to the inspector of the time and place for such hearing, at which time and place the board shall hear all evidence offered in support of the removal and on behalf of the inspector. Each witness shall be sworn, and a transcript shall be made of all evidence taken and proceedings had at the hearing. No continuance may be granted except for good cause shown. The administrator of the board, or in their absence a member of the board designated by the board, has the power to administer oaths and subpoena witnesses.

(4) If any removed mine inspector requests a hearing and thereafter willfully refuses or fails to appear before the board, or having appeared, refuses to answer under oath any relevant question on the basis that the testimony or answer might incriminate him or her or refuses to waive

immunity from prosecution because of any relevant matter about which the inspector may be asked to testify, then the inspector shall forfeit his or her position.

(5) If the inspector fails to request a hearing in writing, or after requesting a hearing in writing and such hearing having been held, the board finds that the inspector should be removed based on a preponderance of the evidence, the board shall enter an order to that effect. Should the board find that the inspector should not have been removed, the inspector shall be reinstated. The decision of the board is final and is not subject to judicial review.

§22A-1-13. Employment of surface mine inspectors; eligibility; qualifications; examinations; salary; provisions relating to underground mine inspectors applicable to surface mine inspectors.

(a) The office shall employ as many surface mine inspectors as the director determines to be reasonably necessary in fully and effectively carrying out the applicable provisions of this chapter.

(b) To be eligible for employment as a surface mine inspector the applicant shall be: (1) a citizen of West Virginia, in good health, not less than twenty-four years of age, of good character and reputation and of temperate habits; (2) a person who has had at least five years of practical experience in coal mines, at least two years of which have been on surface mines in this State: *Provided*, That graduation from any accredited college of mining engineering may be considered the equivalent of two years of practical experience; and (3) a person who has a good theoretical and practical knowledge of surface mines, surface mining methods, sound safety practices and applicable mining laws and rules. For the purpose of this section, practical experience means the performance of normal mining duties requiring a person to hold a certificate of competency and qualification as an experienced surface miner prior to actually performing the duties.

(c)(1) In order to qualify for appointment as a surface mine inspector, an eligible applicant shall submit to written, oral and practical examinations administered by the Mine Inspectors' Examining Board director and furnish evidence of good health, character and other facts

17 establishing eligibility as the board director may require. The examinations shall relate to the
18 duties to be performed by a surface mine inspector and, shall be subject to the approval of the
19 mine inspectors' examining board, may be prepared by the director.

20 (2) If the board director finds after investigation and examination that an applicant is: (A)
21 Eligible for appointment; and (B) has passed each required examination with a grade of at least
22 75%, or an overall combined average score of 80%, the board director shall add the applicant's
23 name and grades to the register of qualified eligible candidates and promptly certify its action in
24 writing to the director. The director shall then appoint one of the candidates from the three having
25 the highest grades. The director shall have full discretion and authority in the determination of
26 eligibility and selection for appointment of all surface mine inspectors; to include any testing and
27 qualifications necessary for an applicant to be considered for appointment. However, the director
28 shall provide a report of any such appointment to the Board of Coal Mine Health and Safety.

29 (d) Surface mine inspectors shall be paid an annual salary of not less than \$37,332, which
30 shall be fixed by the director, who shall take into consideration ability, performance of duty, and
31 experience. Surface mine inspectors shall devote all of their time to the duties of the office.

32 (e) Except as expressly provided in this section to the contrary, all provisions of this article
33 relating to the eligibility, qualification, appointment, tenure, and removal of underground mine
34 inspectors, as well as those provisions relating to compensatory time and reimbursement for
35 necessary expenses, are applicable to surface mine inspectors.

ARTICLE 4. OPEN-PIT MINES, CEMENT MANUFACTURING PLANTS AND UNDERGROUND LIMESTONE AND SANDSTONE MINES.

§22A-4-5. Inspectors.

1 The Director of the Office of Miners' Health, Safety and Training shall divide the state into
2 not more than two mining districts and assign one inspector to each district. Such inspector shall
3 be a citizen of West Virginia, in good health, of good character and reputation, temperate in habits,

4 having a minimum of five years of practical experience in such mining operations and who at the
5 time of appointment is not more than 55 years of age. To qualify for appointment as such an
6 inspector, an eligible applicant shall submit to a written and oral examination by the mine
7 inspectors' examining board director and furnish such evidence of good health, character and
8 other facts establishing eligibility as the board director may require. If the board finds after
9 investigation and examination that an applicant: (1) Is eligible for appointment; and (2) has passed
10 all written and oral examinations, with a grade of at least 90% percent, the board director shall add
11 such applicant's name and grade to the register of qualified eligible candidates and certify its
12 action to the Director of the Office of Miners' Health, Safety and Training. No candidate's name
13 shall remain in the register for more than three years without requalifying. The director shall have
14 full discretion and authority in the determination of eligibility and selection for appointment of all
15 inspectors performing duties pursuant to this article; to include any testing and qualifications
16 necessary for an applicant to be considered for appointment. However, the director shall provide a
17 report of any such appointment to the Board of Coal Mine Health and Safety.

18 ~~Such~~ Any inspector appointed under this article shall have the same tenure accorded a
19 mine inspector, as provided in §22A-1-12(e) of this code and shall be paid not less than \$15,000
20 per year. Such inspector shall also receive reimbursement for traveling expenses at the rate of not
21 less than 15 cents for each mile actually traveled in the discharge of their duties in a privately
22 owned vehicle. Such inspector shall also be reimbursed for any expense incurred in maintaining
23 an office in his or her home, which office is used in the discharge of official duties: *Provided*, That
24 such reimbursement shall not exceed \$240 per annum.

ARTICLE 6. BOARD OF COAL MINE HEALTH AND SAFETY.

§22A-6-3. Board continued; membership; method of nomination and appointment; meetings; vacancies; quorum.

1 (a) The Board of Coal Mine Health and Safety is continued, and commencing July 1, 2010,
2 is a separate independent board within the Department of Commerce. The board consists of six

3 voting members and one ex officio, nonvoting member who are residents of this state, and who are
4 appointed as follows:

5 (1) The Governor shall appoint, by and with the advice and consent of the Senate, three
6 members to represent the viewpoint of those operators in this state. When such members are to
7 be appointed, the Governor shall request from the major trade association representing operators
8 in this state a list of three nominees for each such position on the board. All such nominees shall
9 be persons with special experience and competence in health and safety. There shall be
10 submitted with such list a summary of the qualifications of each nominee. If the full lists of
11 nominees are submitted in accordance with the provisions of this subdivision, the Governor shall
12 make the appointments from the persons so nominated. For purposes of this subdivision, the
13 major trade association representing operators in this state is that association which represents
14 operators accounting for over one half of the coal produced in mines in this state in the year prior to
15 the year in which the appointment is to be made.

16 (2) The Governor shall appoint, by and with the advice and consent of the Senate, three
17 members who can reasonably be expected to represent the viewpoint of the working miners of this
18 state. When members are to be appointed, the Governor shall request from the major employee
19 organization representing coal miners within this state a list of three nominees for each position on
20 the board. The highest ranking official within the major employee organization representing coal
21 miners within this state shall submit a list of three nominees for each such position on the board.
22 The nominees shall have a background in health and safety. The Governor shall make the
23 appointments from the requested list of nominees.

24 (3) All appointments made by the Governor under the provisions of subdivisions (1) and (2)
25 of this subsection shall be with the advice and consent of the Senate; and

26 (4) The Director of the Office of Miners' Health, Safety and Training or his or her designee
27 shall serve as an *ex officio*, nonvoting member.

28 (b) Members serving on the board on January 1, 2017, shall continue to serve for a

29 minimum of three years until June 30, 2020. The term is three years. Members are eligible for
30 reappointment.

31 (c) Commencing on July 1, 2017, the board shall assume all powers and responsibilities of
32 the Board of Miners' Training, Education and Certification established pursuant to §22A-7-1 *et*
33 *seq.* of this code, ~~the mine inspectors' examining board established pursuant to article nine of this~~
34 ~~chapter,~~ and the Mine Safety Technology Task Force established pursuant to §22A-11-1 *et seq.* of
35 this code.

36 (d) The Governor shall appoint, subject to the approval of a majority of the members of the
37 board appointed under subdivisions (1) and (2), subsection (a) of this section, a Health and Safety
38 Administrator in accordance with the provisions of §22A-6-6 of this code, who shall certify all
39 official records of the board. The Health and Safety Administrator shall be a full-time officer of the
40 Board of Coal Mine Health and Safety with the duties provided for in section six of this article. The
41 Health and Safety Administrator shall have such education and experience as the Governor
42 deems necessary to properly investigate areas of concern to the board in the development of rules
43 governing mine health and safety. The Governor shall appoint as Health and Safety Administrator
44 a person who has an independent and impartial viewpoint on issues involving mine safety. The
45 Health and Safety Administrator shall be a person who has not been during the two years
46 immediately preceding appointment, and is not during his or her term, an officer, trustee, director,
47 substantial shareholder, contractor, consultant or employee of any coal operator, or an employee
48 or officer of an employee organization or a spouse of any such person. The Health and Safety
49 Administrator shall have the expertise to draft proposed rules and shall prepare such rules as are
50 required by this code and on such other areas as will improve coal mine health and safety.

51 (e) The board shall meet at least once during each calendar month, or more often as may
52 be necessary, and at other times upon the call of the chair, or upon the request of any three
53 members of the board. Under the direction of the board, the Health and Safety Administrator shall
54 prepare an agenda for each board meeting giving priority to the promulgation of rules as may be

55 required from time to time by this code, and as may be required to improve coal mine health and
56 safety. The Health and Safety Administrator shall provide each member of the board with notice of
57 the meeting and the agenda as far in advance of the meeting as practical, but in any event, at least
58 five days prior thereto. No meeting of the board shall be conducted unless said notice and agenda
59 are given to the board members at least five days in advance, as provided herein, except in cases
60 of emergency, as declared by the director, in which event members shall be notified of the board
61 meeting and the agenda: *Provided*, That upon agreement of a majority of the quorum present, any
62 scheduled meeting may be ordered recessed to another day certain without further notice of
63 additional agenda.

64 When proposed rules are to be finally adopted by the board, copies of such proposed rules
65 shall be delivered to members not less than five days before the meeting at which such action is to
66 be taken. If not so delivered, any final adoption or rejection of rules shall be considered on the
67 second day of a meeting of the board held on two consecutive days, except that by the
68 concurrence of at least four members of the board, the board may suspend this rule of procedure
69 and proceed immediately to the consideration of final adoption or rejection of rules. When a
70 member fails to appear at three consecutive meetings of the board or at one half of the meetings
71 held during a one-year period, the Health and Safety Administrator shall notify the member and the
72 Governor of such fact. Such member shall be removed by the Governor unless good cause for
73 absences is shown.

74 (f) Whenever a vacancy on the board occurs, nominations and appointments shall be
75 made in the manner prescribed in this section: *Provided*, That in the case of an appointment to fill a
76 vacancy, nominations of three persons for each such vacancy shall be requested by and
77 submitted to the Governor within 30 days after the vacancy occurs by the major trade association
78 or major employee organization, if any, which nominated the person whose seat on the board is
79 vacant. The vacancy shall be filled by the Governor within 30 days of his or her receipt of the list of
80 nominations.

(g) A quorum of the board is four members which shall include at least two members representing the viewpoint of operators and at least two members representing the viewpoint of the working miners, and the board may act officially by a majority of those members who are present, except that no vote of the board may be taken unless all six voting members are present.

ARTICLE 9. MINE INSPECTORS' EXAMINING BOARD.

§22A-9-1. Mine Inspectors' Examining Board abolished and duties imposed upon the Board of Coal Mine Health and Safety Office of Miners' Health, Safety and Training.

The Mine Inspectors' Examining Board is hereby abolished, and all duties and responsibilities heretofore imposed upon the Board of Coal Mine Health and Safety pursuant to this article shall, on the effective date of the reenactment of this article and section of the code, be transferred to the Office of Miners' Health, Safety and Training. All duties and responsibilities imposed upon the Mine Inspectors' Examining Board are transferred and hereby imposed upon the Board of Coal Mine Health and Safety. On the effective date of the reenactment of this article and section of the code, all equipment and records necessary to effectuate the purposes of this article shall be transferred to the Board of Coal Mine Health and Safety. The Board of Coal Mine Health and Safety, having previously assumed the duties of the Mine Inspectors' Examining Board, shall transfer all records and equipment to the Office of Miners' Health, Safety and Training pertaining to the duties of the aforementioned Mine Inspectors' Examining Board and the subsequent assumption of said duties by the Board of Coal Mine Health and Safety.

In addition to other duties expressly set forth elsewhere in this article, the Board of Coal Mine Health and Safety Director of the Office of Miners' Health, Safety and Training shall:

(1) Establish and, from time to time, revise forms of application for employment as mine inspectors, which shall include the applicant's Social Security number and forms for written examinations to test the qualifications of candidates for that position;

(2) Adopt and promulgate reasonable rules relating to the examination, qualification, and certification of candidates for appointment as mine inspectors, and hearing for removal of

inspectors, held under §22A-1-12 of this code. All of such rules shall be printed and a copy thereof furnished by the board director to any person upon request. The board director shall determine whether applicants have the necessary experience to take the mine inspector examination, and the examination of candidates for appointment as a mine inspector shall be conducted by the board director and ~~it~~ he or she shall rank all applicants;

(3) Prepare and certify to the Director of the Office of Miners' Health, Safety, and Training a register of qualified eligible candidates for appointment as mine inspectors. The register shall list all qualified eligible candidates in the order of their grades, the candidate with the highest grade appearing at the top of the list. After each meeting of the board held to examine such candidates, and at least annually, the board shall prepare and submit to the Director of the Office of Miners' Health, Safety, and Training shall no less than annually prepare a revised and corrected register of qualified eligible candidates for appointment as mine inspector, deleting from such revised register all persons: (a) Who are no longer residents of West Virginia; (b) who have allowed a calendar year to expire without, in writing, indicating their continued availability for such appointment; (c) who have been passed over for appointment for three years; (d) who have become ineligible for appointment since the board director originally certified that such person was qualified and eligible for appointment as mine inspector; or (e) who, in the judgment of the board director, should be removed from the register for good cause by the board director;

(4) The board director shall keep and preserve the written examination papers, manuscripts, grading sheets, and other papers of all applicants for appointment as mine inspector for a period of two years. Specimens of the examinations given, together with the correct solution of each question, shall be preserved;

(5) The board director shall issue a letter or written notice of qualification to each successful eligible candidate;

(6) The Board of Coal Mine Health and Safety shall hear and determine proceedings for hearings for the removal of mine inspectors in accordance with the provisions of §22A-1-12 of this

code when requested in writing by the mine inspector;

(7) The board shall hear and determine appeals of mine inspectors from suspension orders made by the director pursuant to the provisions of §22A-1-4 of this code: *Provided*, That an aggrieved inspector, in order to appeal from any order of suspension, shall file such appeal in writing with the Board of Coal Mine Health and Safety not later than 10 days after receipt of notice of suspension. On such appeal the board shall promptly affirm the act of the director unless it is satisfied from a clear preponderance of the evidence that the director has acted arbitrarily. Each witness shall be sworn, and a transcript shall be made of all evidence taken and the proceedings had at the hearing. No continuance may be granted except for good cause shown. The administrator of the board, or in their absence a member of the board designated by the board, shall have the power to administer oaths and subpoena witnesses; and

(8) The board and office shall make an annual report to the Governor and the director concerning the administration of mine inspection personnel in the state service, making such recommendations as the board considers to be in the public interest.

NOTE: The purpose of this bill is to provide the director of the West Virginia Office of Miners' Health, Safety and Training discretion and authority in the appointment of surface mine inspectors, mine safety instructors, electrical inspectors, and underground mine inspectors.

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