

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 883

BY SENATOR PHILLIPS

[Reported March 29, 2025, from 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, underground mine inspectors, and inspectors; requiring
6 Office of Miners' Health, Safety and Training report certain information to Board of Coal
7 Mine Health and Safety; modifying certain age limit provisions regarding certain mine
8 inspectors; and limiting tenure eligibility for certain 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 (a) Notwithstanding any other provisions of this code to the contrary, mine inspectors shall
2 be selected, serve, and be removed as provided in this article.

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

13 (2) The director has full discretion and authority in the original appointment of all mine
14 inspectors, including any testing and qualifications necessary for an applicant to be considered
15 for appointment. The director shall report to the Board of Coal Mine Health and Safety:

16 (A) Any such appointment; and

17 (B) Information regarding all applications and testing. The board shall have access to all
18 applications and may be present during applicant testing.

19 Each original appointment shall be made by the director for a probationary period of not
20 more than one year.

21 (3) The director shall prepare a register of qualified eligible candidates for mine inspector.
22 Candidates shall be selected from the register. In the event the number of qualified eligible
23 candidates on the register is three or fewer, the director shall undertake efforts to develop a new
24 register containing more than three qualified eligible candidates.

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

36 (5) The name of any candidate passed over for appointment for three years shall be
37 deleted from the register.

38 **(b)** After having served for a probationary period of one year to the satisfaction of the
39 director, a mine inspector ~~has~~ is eligible for permanent tenure, subject to dismissal only for cause
40 in accordance with the applicable provisions of §22A-1-12 of this code. ~~No~~ A mine inspector,
41 while in office, may not be directly or indirectly interested as an employee, owner, lessor, operator,
42 stockholder, superintendent, or engineer of any coal mine. Before entering upon the discharge of
43 the duties as a mine inspector, he or she shall take the oath of office prescribed by Section 5,
44 Article IV of the Constitution of West Virginia, a certificate of which oath shall be filed in the office
45 of the Secretary of State.

46 **(c)** The inspectors, inspectors-at-large, and assistant inspectors-at-large, together with the
47 director, shall make all inspections authorized by this article and §22A-2-1 *et seq.* of this code
48 and shall perform such other duties as are imposed upon mine inspectors by this chapter and by
49 any 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~~

5 (1) Be a citizen of West Virginia, in good health, not less than 24 years of age, of good
6 character and reputation, and of temperate habits;

7 (2) ~~a person who has~~ Have had at least five years of practical experience in coal mines,
8 at least two years of which ~~has~~ have been in mines in this state: *Provided*, That graduation from
9 any accredited college of mining engineering may be considered equivalent to two years of
10 practical experience;

11 ~~(3) a person who has~~ Have had practical experience with dangerous gases found in coal
12 mines, and ~~who has a~~ have good theoretical and practical knowledge of mines, mining methods,
13 mine ventilation, sound safety practices, and applicable mining laws and rules; and

14 ~~(4) a person who possesses~~ Hold a West Virginia foreman-fireboss certification; or ~~a~~
15 ~~person who has had~~ have at least three years of experience as an actual working team member
16 of a mine rescue team; or have at least three years of experience as a member of a first aid team
17 or emergency medical technician team; or ~~a person who has~~ have had at least three years of
18 experience as the safety director; ~~or the equivalent as approved by the mine inspectors' examining~~
19 ~~board, of a mine; or a person who has~~ have had at least three years of experience as an active
20 member of a mine safety committee.

21 For the purpose of this section, practical experience means the performance of normal
22 mining duties requiring a person to hold a certificate of competency and qualification as an
23 experienced miner prior to actually performing such duties.

24 ~~(c)(1)~~ In order to qualify for appointment as a mine safety instructor, an eligible applicant
25 shall submit to written, oral, and practical examinations administered by the ~~mine inspectors'~~
26 ~~examining board~~ director and furnish evidence of good health, character, and other facts
27 establishing eligibility as the ~~board~~ director may require. The examinations shall relate to the
28 duties to be performed by a mine safety instructor and are subject to the approval of the ~~mine~~
29 ~~inspectors' examining board, may be prepared by the~~ director.

30 (1) The director has full discretion and authority in the original appointment of all mine
31 inspectors, including any testing and qualifications necessary for an applicant to be considered
32 for appointment. The director shall report to the Board of Coal Mine Health and Safety:

33 (A) Any such appointment; and

34 (B) Information regarding all applications and testing. The board shall have access to all
35 applications and may be present during applicant testing.

(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 percent or an overall combined average score of 80 percent, 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.

(a) The office shall employ a sufficient number of electrical 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 an electrical inspector, the applicant shall: ~~be~~

(1) Be a citizen of West Virginia, in good health, not less than 24 years of age, of good character and reputation, and of temperate habits; and

(2) ~~a person who has~~ Have had five years of practical electrical experience in coal mines, at least two of which were in mines in this state, or a degree in electrical engineering from an accredited electrical engineering school and three years of practical electrical experience in underground coal mining. For the purposes of this section, practical electrical experience means

the performance of duties requiring a person to be a certified electrician, as that term is defined in §22A-1-2(d)(2) of this code, prior to actually performing such duties.

(c) (1) In order to qualify for appointment as an electrical 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 establishing eligibility as the ~~board~~ director may require. The examinations shall relate to the duties to be performed by an electrical inspector and are subject to approval of the ~~mine inspectors' examining board~~, ~~may be prepared by the director~~.

(2) If the ~~board~~ director finds after investigation and examination that an applicant: (A) Is eligible for appointment; and (B) has passed the required examinations with an average grade of at least 90 percent, 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.

(3) The director has full discretion and authority in the original appointment of all mine inspectors, including any testing and qualifications necessary for an applicant to be considered for appointment. The director shall report to the Board of Coal Mine Health and Safety:

(A) Any such appointment; and

(B) Information regarding all applications and testing. The board shall have access to all applications and may be present during applicant testing.

(d) Electrical inspectors shall be paid an annual salary of not less than \$42,828, which shall be fixed by the director, who shall take into consideration ability, performance of duty and experience. Electrical inspectors 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, qualifications, 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 electrical inspectors.

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

(a) The office shall employ as many underground 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 mine inspector the applicant shall: ~~be~~

(1) Be a citizen of West Virginia, in good health, not less than 24 years of age, of good character and reputation, and of temperate habits;

(2) ~~a person who has~~ Have had at least five years of practical experience in coal mines, at least two years of which have been in mines of this state: *Provided*, That graduation from any accredited college of mining engineering may be considered the equivalent of two years of practical experience;

(3) ~~a person who has~~ Have had practical experience with dangerous gases found in coal mines; and

(4) ~~a person who has a~~ Have good theoretical and practical knowledge of mines, mining methods, mine ventilation, 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 underground miner prior to actually performing such duties.

(c) In order to qualify for appointment as an underground 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 establishing eligibility as the ~~board~~ director may require. The examinations shall relate to the duties to be performed by an underground mine inspector and are subject to the approval of the ~~Mine Inspectors' Examining Board, may be prepared by the~~ director. If the ~~board~~ director finds after investigation and examination that an applicant: (1) Is eligible for appointment; and (2) has

passed each required examination, with a grade of at least 75 percent or an overall combined average score of 80 percent, 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) The director has full discretion and authority in the original appointment of all mine inspectors, including any testing and qualifications necessary for an applicant to be considered for appointment. The director shall report to the Board of Coal Mine Health and Safety:

(1) Any such appointment; and

(2) Information regarding all applications and testing. The board shall have access to all applications and may be present during applicant testing.

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

~~(e)~~ (f) (1) An underground mine inspector, after ~~having received~~ receiving 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.

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

66 (3) If the inspector requests a hearing in writing, the board shall promptly schedule a
67 hearing and provide notice to the inspector of the time and place for such hearing, at which time
68 and place the board shall hear all evidence offered in support of the removal and on behalf of the
69 inspector. Each witness shall be sworn, and a transcript shall be made of all evidence taken and
70 proceedings had at the hearing. ~~No~~ A continuance may not be granted except for good cause
71 shown. The administrator of the board, or in their absence a member of the board designated by
72 the board, has the power to administer oaths and subpoena witnesses.

73 (4) If any removed mine inspector requests a hearing and thereafter willfully refuses or
74 fails to appear before the board, or having appeared, refuses to answer under oath any relevant
75 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) Be a citizen of West Virginia, in good health, not less than 24 years of age, of good character and reputation and of temperate habits;

(2)~~a person who has~~ Have 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~~ Have 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)(4) 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 establishing eligibility as the ~~board~~ director may require. The examinations shall relate to the duties to be performed by a surface mine inspector and are subject to the approval of the ~~mine inspectors' examining board~~, ~~may be prepared by the director~~.

(2) (1) If the ~~board~~ director finds after investigation and examination that an applicant: ~~is~~:
(A) is eligible for appointment; and (B) has passed each required examination with a grade of at least 75 percent, or an overall combined average score of 80 percent, 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.

(2) The director has full discretion and authority in the original appointment of all mine inspectors, including any testing and qualifications necessary for an applicant to be considered for appointment. The director shall report to the Board of Coal Mine Health and Safety:

(A) Any such appointment; and

(B) Information regarding all applications and testing. The board shall have access to all applications and may be present during applicant testing.

(d) Surface mine inspectors shall be paid an annual salary of not less than \$37,332, which shall be fixed by the director, who shall take into consideration ability, performance of duty, and experience. Surface mine inspectors 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 surface mine inspectors.

§22A-4-5. Inspectors.

(a) The Director of the Office of Miners' Health, Safety and Training shall divide the state into not more than two mining districts and assign one inspector to each district. Such inspector shall be a citizen of West Virginia, in good health, of good character and reputation, temperate in habits, ~~having~~ and have a minimum of five years of practical experience in such mining operations. ~~and who at the time of appointment is not more than fifty-five years of age~~ To qualify for appointment as such an inspector, an eligible applicant shall submit to a written and oral examination by the ~~mine inspectors' examining board~~ director and furnish such evidence of good health, character, and other facts establishing eligibility as the ~~board~~ director may require. If the ~~board~~ director finds after investigation and examination that an applicant: (1) Is eligible for appointment; and (2) has passed all written and oral examinations, with a grade of at least 90 percent, the ~~board~~ director shall add such applicant's name and grade to the register of qualified eligible candidates. ~~and certify its action to the Director of the Office of Miners' Health, Safety and Training.~~ No ~~A~~ candidate's name ~~shall~~ may not remain in the register for more than three years without requalifying.

~~Such~~

(b) The director has full discretion and authority in the original appointment of all mine inspectors, including any testing and qualifications necessary for an applicant to be considered for appointment. The director shall report to the Board of Coal Mine Health and Safety:

(1) Any such appointment; and

(2) Information regarding all applications and testing. The board shall have access to all applications and may be present during applicant testing.

(c) Any inspector appointed under this article shall have the same tenure accorded a mine inspector, as provided in §22A-1-12(e) of this code, and shall be paid not less than \$15,000 per year. Such inspector shall also receive reimbursement for traveling expenses at the rate of not less than 15 cents for each mile actually traveled in the discharge of their duties in a privately

26 owned vehicle. Such inspector shall also be reimbursed for any expense incurred in maintaining
27 an office in his or her home, which office is used in the discharge of official duties: *Provided*, That
28 such reimbursement ~~shall~~ may not exceed \$240 per annum.

**§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
4 are 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
15 to 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
18 this state. When members are to be appointed, the Governor shall request from the major
19 employee organization representing coal miners within this state a list of three nominees for each
20 position on the board. The highest ranking official within the major employee organization
21 representing coal miners within this state shall submit a list of three nominees for each such

position on the board. The nominees shall have a background in health and safety. The Governor shall make the appointments from the requested list of nominees.

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

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

(b) Members serving on the board on January 1, 2017, shall continue to serve for a minimum of three years until June 30, 2020. The term is three years. Members are eligible for reappointment.

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

(d) The Governor shall appoint, subject to the approval of a majority of the members of the board appointed under subdivisions (1) and (2), subsection (a) of this section, a Health and Safety Administrator in accordance with the provisions of §22A-6-6 of this code, who shall certify all official records of the board. The Health and Safety Administrator shall be a full-time officer of the Board of Coal Mine Health and Safety with the duties provided for in §22A-6-6 of this code. The Health and Safety Administrator shall have such education and experience as the Governor deems necessary to properly investigate areas of concern to the board in the development of rules governing mine health and safety. The Governor shall appoint as Health and Safety Administrator a person who has an independent and impartial viewpoint on issues involving mine safety. The Health and Safety Administrator shall be a person who has not been during the two years immediately preceding appointment, and is not during his or her term, an officer, trustee, director, substantial shareholder, contractor, consultant, or employee of any coal operator, or an

employee or officer of an employee organization or a spouse of any such person. The Health and Safety Administrator shall have the expertise to draft proposed rules and shall prepare such rules as are required by this code and on such other areas as will improve coal mine health and safety.

(e) The board shall meet at least once during each calendar month, or more often as may be necessary, and at other times upon the call of the chair, or upon the request of any three members of the board. Under the direction of the board, the Health and Safety Administrator shall prepare an agenda for each board meeting giving priority to the promulgation of rules as may be required, from time to time, by this code, and as may be required to improve coal mine health and safety. The Health and Safety Administrator shall provide each member of the board with notice of the meeting and the agenda as far in advance of the meeting as practical, but in any event, at least five days prior thereto. ~~No~~ A meeting of the board ~~shall~~ may not be conducted unless said notice and agenda are given to the board members at least five days in advance, as provided herein, except in cases of emergency, as declared by the director, in which event members shall be notified of the board meeting and the agenda: *Provided*, That upon agreement of a majority of the quorum present, any scheduled meeting may be ordered recessed to another day certain without further notice of additional agenda.

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

(f) Whenever a vacancy on the board occurs, nominations and appointments shall be made in the manner prescribed in this section. ~~Provided, That~~ In the case of an appointment to fill a vacancy, nominations of three persons for each such vacancy shall be requested by and submitted to the Governor within 30 days after the vacancy occurs by the major trade association or major employee organization, if any, which nominated the person whose seat on the board is vacant. The vacancy shall be filled by the Governor within 30 days of his or her receipt of the list of 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~~ a vote of the board may not be taken unless all six voting members are present.

§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 powers, duties, and responsibilities previously imposed upon the Board of Coal Mine Health and Safety pursuant to this article are 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 pertaining to the duties of and said transfer of the Mine Inspectors' Examining Board to the Office of Miners' Health, Safety, and Training.~~

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~~ conduct examination of candidates for appointment as a mine inspector, ~~shall be conducted by the board and it shall~~ and 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, with 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~~ 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 who: ~~(a) Who~~

(A) Are no longer residents of West Virginia; ~~(b) who~~

(B) Have allowed a calendar year to expire without, in writing, indicating their continued availability for such appointment; ~~(c) who~~

(C) Have been passed over for appointment for three years; ~~(d) who~~

(D) 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~~

38 (E) In the judgment of the ~~board~~ director, should be removed from the register for good
39 cause; ~~by the board~~

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

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

46 (6) The Board of Coal Mine Health and Safety shall hear and determine proceedings for
47 hearings for the removal of mine inspectors in accordance with the provisions of §22A-1-12 of
48 this code when requested in writing by the mine inspector;

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

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