

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 316

BY SENATOR MAYNARD

[Introduced January 13, 2020; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §22C-9-4 of the Code of West Virginia, 1931, as amended, relating
2 to membership of oil and gas conservation commission; and revising the qualifications of
3 one commission member who is appointed by the Governor.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. OIL AND GAS CONSERVATION.

§22C-9-4. Oil and gas conservation commissioner and commission; commission membership; qualifications of members; terms of members; vacancies on commission; meetings; compensation and expenses; appointment and qualifications of commissioner; general powers and duties.

1 (a) The “oil and gas conservation commission” shall be composed of five members. The
2 director of the Department of Environmental Protection and the chief of the office of oil and gas
3 shall be members of the commission ex officio. The remaining three members of the commission
4 shall be appointed by the Governor, by and with the advice and consent of the Senate, and may
5 not be employees of the Department of Environmental Protection. Of the three members
6 appointed by the Governor, one shall be an independent producer and at least one shall be a
7 public member not engaged in an activity under the jurisdiction of the Public Service Commission
8 or the federal energy regulatory commission. The third appointee shall possess ~~a degree from an~~
9 ~~accredited college or university in petroleum engineering or geology and must be a registered~~
10 ~~professional engineer with particular~~ knowledge and experience in the oil and gas industry and
11 shall serve as commissioner and as chair of the commission.

12 (b) The members of the commission appointed by the Governor shall be appointed for
13 overlapping terms of six years each, except that the original appointments shall be for terms of
14 two, four and six years, respectively. Each member appointed by the Governor shall serve until
15 the members successor has been appointed and qualified. Members may be appointed by the
16 Governor to serve any number of terms. The members of the commission appointed by the
17 Governor, before performing any duty hereunder, shall take and subscribe to the oath required

18 by section 5, article IV of the Constitution of West Virginia. Vacancies in the membership
19 appointed by the Governor shall be filled by appointment by the Governor for the unexpired term
20 of the member whose office is vacant and such appointment shall be made by the Governor within
21 60 days of the occurrence of such vacancy. Any member appointed by the Governor may be
22 removed by the Governor in case of incompetency, neglect of duty, gross immorality or
23 malfeasance in office. A commission member's appointment shall be terminated as a matter of
24 law if that member fails to attend three consecutive meetings. The Governor shall appoint a
25 replacement within 30 days of the termination.

26 (c) The commission shall meet at such times and places as shall be designated by the
27 chair. The chair may call a meeting of the commission at any time, and shall call a meeting of the
28 commission upon the written request of two members or upon the written request of the oil and
29 gas conservation commissioner or the chief of the office of oil and gas. Notification of each
30 meeting shall be given in writing to each member by the chair at least 14 calendar days in advance
31 of the meeting. Three members of the commission, at least two of whom are appointed members,
32 shall constitute a quorum for the transaction of any business.

33 (d) The commission shall pay each member the same compensation as is paid to
34 members of the Legislature for their interim duties as recommended by the citizens legislative
35 compensation commission and authorized by law for each day or portion thereof engaged in the
36 discharge of official duties and shall reimburse each member for actual and necessary expenses
37 incurred in the discharge of official duties.

38 (e) The commission is hereby empowered and it is the commission's duty to execute and
39 carry out, administer and enforce the provisions of this article in the manner provided herein.
40 Subject to the provisions of §22C-9-3 of this code, the commission has jurisdiction and authority
41 over all persons and property necessary therefor. The commission is authorized to make such
42 investigation of records and facilities as the commission deems proper. In the event of a conflict

43 between the duty to prevent waste and the duty to protect correlative rights, the commission's
44 duty to prevent waste shall be paramount.

45 (f) Without limiting the commission's general authority, the commission shall have specific
46 authority to:

47 (1) Regulate the spacing of deep wells;

48 (2) Make and enforce reasonable rules and orders reasonably necessary to prevent
49 waste, protect correlative rights, govern the practice and procedure before the commission and
50 otherwise administer the provisions of this article;

51 (3) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the
52 production of any books, records, maps, charts, diagrams and other pertinent documents, and
53 administer oaths and affirmations to such witnesses, whenever, in the judgment of the
54 commission, it is necessary to do so for the effective discharge of the commission's duties under
55 the provisions of this article; and

56 (4) Serve as technical advisor regarding oil and gas to the Legislature, its members and
57 committees, to the chief of office of oil and gas, to the Department of Environmental Protection
58 and to any other agency of state government having responsibility related to the oil and gas
59 industry.

60 (g) The commission may delegate to the commission staff the authority to approve or deny
61 an application for new well permits, to establish drilling units or special field rules if:

62 (1) The application conforms to the rules of the commission; and

63 (2) No request for hearing has been received.

64 (h) The commission may not delegate its authority to:

65 (1) Propose legislative rules;

66 (2) Approve or deny an application for new well permits, to establish drilling units or special
67 field rules if the conditions set forth in subsection (g) of this section are not met; or

68 (3) Approve or deny an application for the pooling of interests within a drilling unit.

69 (i) Any exception to the field rules or the spacing of wells which does not conform to the
70 rules of the commission, and any application for the pooling of interests within a drilling unit, must
71 be presented to and heard before the commission.

72 (j) The commission is hereby empowered and it is the commission's duty to execute and
73 carry out, administer, and enforce the relevant provisions of §37B-1-1 *et seq.* of this code
74 concerning mineral development by cotenants for all wells at all depths. The commission has
75 jurisdiction and authority over all persons and property necessary therefor. The commission is
76 authorized to make such investigation of records and facilities as the commission deems proper.

NOTE: The purpose of this bill is to remove the requirements that one member, appointed by the Governor, of the Oil and Gas Conservation Commission must possess a degree from an accredited college or university in petroleum engineering or geology, and be a registered professional engineer.

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