

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Senate Bill 316

SENATOR MAYNARD, *original sponsor*

[Originating in the Committee on Government
Organization; reported on January 31, 2020]

1 A BILL to amend and reenact §22C-9-4 of the Code of West Virginia, 1931, as amended, relating
2 to membership of the Oil and Gas Conservation Commission; and revising qualifications
3 of appointed public member and of appointed member who serves as chair of commission.

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 who has never been employed by, or a consultant to, a business involved in the
8 exploration and production of oil and gas, and who also owns land in the state. ~~not engaged in an~~
9 ~~activity under the jurisdiction of the Public Service Commission or the federal energy regulatory~~
10 ~~commission.~~ The third appointee shall possess a degree from an accredited college or university
11 in ~~petroleum~~ engineering or geology and must be a registered professional engineer with
12 ~~particular~~ knowledge and experience in the oil and gas industry and shall serve as commissioner
13 and as chair of the commission.

14 (b) The members of the commission appointed by the Governor shall be appointed for
15 overlapping terms of six years each, except that the original appointments shall be for terms of
16 two, four, and six years, respectively. Each member appointed by the Governor shall serve until
17 the member’s successor has been appointed and qualified. Members may be appointed by the

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

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

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

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

44 investigation of records and facilities as the commission deems proper. In the event of a conflict
45 between the duty to prevent waste and the duty to protect correlative rights, the commission's
46 duty to prevent waste shall be paramount.

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

49 (1) Regulate the spacing of deep wells;

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

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

58 (4) Serve as technical advisor regarding oil and gas to the Legislature and its members
59 and committees, to the Chief of the Office of Oil and Gas, to the Department of Environmental
60 Protection, and to any other agency of state government having responsibility related to the oil
61 and gas industry.

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

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

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

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

67 (1) Propose legislative rules;

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

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

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

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

NOTE: The purpose of this bill is to modify the requirement that one of the three members of the Oil and Gas Conservation Commission appointed by the Governor must possess a degree from an accredited college or university in petroleum engineering or geology, and be a registered professional engineer. The bill amends the requirement that the engineering degree be in petroleum engineering, allowing the degree to be in engineering, and removes the requirement that the appointee have particularized knowledge in the oil and gas industry, allowing the appointee to have knowledge in that industry. The bill amends the requirements for the public member of the commission, requiring that the public member have never been employed by or a consultant to a business involved in oil and gas exploration and production and also own land in the state.

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