

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1312

By: Representative Shepherd

By: Senator Rapert

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 11 OF
THE ARKANSAS CODE CONCERNING LABOR AND INDUSTRIAL
RELATIONS; AND FOR OTHER PURPOSES.

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 11
OF THE ARKANSAS CODE CONCERNING LABOR AND
INDUSTRIAL RELATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 11-7-401 is repealed to remove obsolete references to the now-abolished Coal Mine Examining Board, the powers, duties, and functions of which were transferred to the Director of the Department of Labor by Acts 1989, No. 536, § 2.

~~11-7-401. Coal Mine Examining Board Members, organization, and proceedings.~~

~~(a)(1) There shall be appointed by the Governor a board of four (4) examiners appointed for a term of four (4) years.~~

~~(A) Two (2) of the board members shall be practical miners who have had at least eight (8) years' experience as miners in mines of Arkansas or elsewhere; and~~

~~(B) Two (2) of the members shall be operators of coal mines in the State of Arkansas or representatives thereof.~~

~~(2) One (1) additional member of the board shall be selected by the four (4) appointed members.~~



~~(b) The members of the examining board may receive expense reimbursement in accordance with § 25-16-901 et seq.~~

~~(c) Immediately after their appointment, the examiners shall meet and organize by selecting a chair and secretary. The secretary shall keep on file all examination questions and their answers and all examination records and papers belonging to the board.~~

~~(d) The examining board shall convene upon call of the chair and, except in case of emergency, notices shall be published in one (1) newspaper of general circulation in each county in which there are coal mines, at least five (5) days before the day of the meeting.~~

SECTION 2. Arkansas Code § 11-7-402 is amended to remove obsolete references to the now-abolished Coal Mine Examining Board to read as follows:

11-7-402. ~~Coal Mine Examining Board~~ Director of the Department of Labor - Power to administer oaths.

(a) ~~In order to~~ To more effectively carry out the intentions and purposes of this section and §§ 11-7-409 - 11-7-414, ~~members of the Coal Mine Examining Board shall have the power to~~ the Director of the Department of Labor may administer oaths to ~~any and~~ all persons who are applicants, or who may vouch, in any manner, for the previous service or qualifications of ~~any~~ an applicant ~~in order to obtain for him or her a certificate pursuant to~~ under this section and §§ 11-7-409 - 11-7-414.

(b) ~~Any~~ A person who ~~shall falsely testify or swear~~ falsely testifies or swears to any matter material to ~~such~~ the examination or to the service or qualification of ~~any applicant shall be deemed~~ an applicant is guilty of perjury ~~and upon conviction shall be subject to the penalties prescribed by the laws of the State of Arkansas against those who commit perjury.~~

SECTION 3. Arkansas Code § 11-7-404(b)(3), concerning emergency appointment of a coal mine foreman, is amended to read as follows:

(3)(A) In case of emergency, ~~any~~ a mine owner, with consent of the ~~Coal Mine Examining Board~~ director, may employ ~~any~~ a trustworthy or experienced man or woman who ~~shall~~ does not possess a certificate, for a period of not more than thirty (30) days as mine foreman or fire boss.

(B) ~~In the event that~~ If the holder of a permit fails to qualify after thirty (30) days, his or her permit shall be revoked.

SECTION 4. Arkansas Code § 11-7-405 is amended to read as follows:

11-7-405. Fire bosses, mine foremen, etc. – Duplicate certificate.

In case of loss or destruction of a certificate, the ~~secretary of the examining board~~ Director of the Department of Labor, upon satisfactory proof of the loss or destruction, may issue a duplicate on the payment of the sum of one dollar (\$1.00).

SECTION 5. Arkansas Code § 11-7-406 is amended to replace obsolete references to the Coal Mine Examining Board with the Director of the Department of Labor, to whom the powers, duties, and functions of the Coal Mine Examining Board were transferred by Acts 1989, No. 536, § 2, to read as follows:

11-7-406. Fire bosses, mine foremen, etc. – Revocation of certificate.

(a) All certificates issued pursuant to this subchapter may be revoked by the ~~board of examiners~~ Director of the Department of Labor after a hearing upon due notice to the holder of the certificate and upon written charges preferred by the ~~board~~ director or by some interested person for violation of this section and §§ 11-7-401 and 11-7-403 – 11-7-405 and 11-7-407.

(b)(1) A complaint may be filed against the holder of a certificate for intoxication, mental disabilities, neglect of duty, or other sufficient cause.

(2) The holder of the certificate so cancelled shall have the right to appear before the ~~examining board~~ director after the expiration of three (3) months and be reexamined if he or she shall first satisfy the ~~board~~ director that the incapacity complained of ~~shall have~~ has ceased to exist.

SECTION 6. Arkansas Code § 11-7-410(a), concerning the certification of coal miners, is amended to replace obsolete references to the Coal Mine Examining Board with the Director of the Department of Labor, to whom the powers, duties, and functions of the Coal Mine Examining Board were transferred by Acts 1989, No. 536, § 2, to read as follows:

(a) It shall be unlawful for any person to work as a coal miner in any coal mine in this state without first having a certificate of qualification and competency to do so from the ~~Coal Mine Examining Board of this state~~ Director of the Department of Labor, nor shall any person, firm, or

corporation employ as a coal miner in his or her coal mine in the State of Arkansas any person who does not hold a certificate, nor shall any mine foreman, overseer, or superintendent permit or suffer any person to be employed under him or her, or in any coal mine under his or her charge or supervision, as a coal miner in this state, except as provided in this act, who does not hold a certificate of qualification.

SECTION 7. Arkansas Code § 11-7-411 is amended to replace obsolete references to the Coal Mine Examining Board with the Director of the Department of Labor, to whom the powers, duties, and functions of the Coal Mine Examining Board were transferred by Acts 1989, No. 536, § 2, to read as follows:

11-7-411. Coal miners – Examination – Qualifications – Certificates.

(a) ~~The Coal Mine Examining Board of this state~~ Director of the Department of Labor shall hold sufficient examinations each year in places to be determined by the ~~board~~ director, which, in ~~its~~ his or her opinion, will be most convenient to applicants desiring to engage in the business of coal mining.

(b) All examinations held by the ~~Coal Mine Examining Board~~ director shall be conducted in the English language and shall be of a practical nature, so as to determine the competency and qualifications of each applicant.

(c) The ~~board~~ director shall:

(1) ~~examine~~ Examine under oath all persons who ~~may~~ apply for certificates, except those regularly employed in the State of Arkansas and exempted under ~~the provisions of~~ § 11-7-409, as to their previous experience as coal miners; and

(2)(A) ~~shall grant~~ Grant certificates of competency and qualification to such applicants as ~~it~~ the director may find finds to be qualified.

(B) The certificate, when so issued, ~~shall entitle~~ entitles the holder ~~thereof~~ to be employed as, and to do the work of, a coal miner in this state.

(d)(1) ~~No~~ A certificate of competency and qualification shall not be issued or delivered to any person under this act, unless:

(A) He or she first ~~shall produce~~ produces evidence of

having had not less than two (2) years of practical experience working as a coal miner or working with a coal miner; and

(B) He or she is competent to mine coal in the coal mines of this state.

(2) In no case shall the applicant be deemed competent or qualified under this act unless he or she appears in person before the ~~examining board~~ director and orally answers ~~intelligently and~~ correctly at least twelve (12) practical questions propounded to him or her by the ~~board~~ director pertaining to requirements and qualifications of a practical coal miner.

(e) The ~~board~~ director shall keep an accurate record of ~~its~~ proceedings and meetings and in the record shall show a correct detailed account of the examination of each applicant with the questions asked and his or her answers, and ~~at each of its meetings, the board~~ the director shall keep the records open for the inspection of the parties in interest.

(f) ~~No~~ A miner's certificate granted under ~~the provisions of~~ this act ~~shall be~~ is not transferable, and any effort to transfer the certificate shall be deemed a violation of this act.

(g) The certificate shall be issued ~~only at meetings of the board, and the certificate shall not be legal unless signed by at least a majority of the members of the board~~ and signed by the director.

(h)(1) Each applicant for the certificate provided for ~~herein~~ under this section shall pay a fee of fifty cents (50¢) to the ~~board~~ director at the time of making application and, if successful in the examination, shall pay an additional fee of fifty cents (50¢) for the certificate.

(2) All fees collected from ~~these~~ applicants shall be paid into the Coal Mine Examining Fund and paid out of the fund as other moneys are paid out.

SECTION 8. Arkansas Code § 11-7-412 is amended to replace obsolete references to the Coal Mine Examining Board with the Director of the Department of Labor, to whom the powers, duties, and functions of the Coal Mine Examining Board were transferred by Acts 1989, No. 536, § 2, and to make stylistic changes to read as follows:

11-7-412. Coal miners – Temporary permit – Grandfather clause.

(a) A person making application for a coal miner's certificate of

competency and qualification shall be granted a temporary permit to work until such time as an examination is held by the ~~board~~ Director of the Department of Labor and if, in the judgment of the ~~board~~ director, he or she is so qualified.

~~(b) Any person regularly employed before June 9, 1949, in any coal mine in the State of Arkansas, shall be entitled to receive a certificate of competency under this act without further notice or examination, and to pay a fee of fifty cents (50¢) for the certificate.~~

~~(e)~~(b) All fees collected from the applicants shall be paid into the Coal Mine Examining Fund and paid out of the fund as other moneys are paid out.

SECTION 9. Arkansas Code § 11-7-414 is amended to replace obsolete references to the Coal Mine Examining Board with the Director of the Department of Labor, to whom the powers, duties, and functions of the Coal Mine Examining Board were transferred by Acts 1989, No. 536, § 2, and to make stylistic changes to read as follows:

11-7-414. Coal miners – Duplicate certificate – Revocation of certificate.

The ~~Coal Mining Examining Board~~ Director of the Department of Labor shall possess powers to issue duplicate certificates and ~~to~~ revoke certificates in all cases as provided in §§ 11-7-405 and 11-7-406.

SECTION 10. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

It is the intent of the General Assembly that:

(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-First General Assembly;

(2) To the extent that a conflict exists between an act of the regular session of the Ninety-First General Assembly and this act:

(A) The act of the regular session of the Ninety-First General Assembly shall be treated as a subsequent act passed by the General Assembly for the purpose of:

(i) Giving the act of the regular session of the Ninety-First General Assembly its full force and effect; and

(ii) Amending or repealing the appropriate parts of

the Arkansas Code of 1987; and

(B) Section 1-2-107 shall not apply; and

(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987.

APPROVED: 02/21/2017