

1 AN ACT relating to the Reclamation Guaranty Fund Commission.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 350.506 is amended to read as follows:

4 (1) There is hereby created the Reclamation Guaranty Fund Commission which shall be
5 administratively attached to the cabinet. The commission shall consist of seven (7)
6 members. One (1) member shall be the secretary of the Energy and Environment
7 Cabinet, or his or her designee, who shall serve as chair of the commission. The
8 other six (6) members of the commission shall be appointed by the Governor ~~on~~
9 ~~July 1, 2013,~~ as follows:

10 (a) Three (3) members of the commission shall be representatives of ~~the~~ coal
11 mining ***permittees that participate in the fund***~~industry~~, with the following
12 qualifications ***tiered to represent the size of the operator measured in tons of***
13 ***coal sold:***

14 1. A representative of a permittee which participates in the fund and has
15 mined and sold less than one million (1,000,000) tons of coal during the
16 twelve (12) months preceding appointment;

17 2. A representative of a permittee which participates in the fund and has
18 mined and sold over one million (1,000,000) tons but less than five
19 million (5,000,000) tons of coal during the twelve (12) months
20 preceding appointment; and

21 3. ~~a.~~ A representative of a permittee which participates in the
22 fund and has mined and sold more than five million (5,000,000)
23 tons of coal during the twelve (12) months preceding
24 appointment~~; or~~

25 ~~b.~~ ~~If no permittee which participates in the fund has mined and sold~~
26 ~~more than five million (5,000,000) tons of coal in the twelve (12)~~
27 ~~months preceding appointment, the member shall be selected from~~

1 ~~permittees which meet the criteria for appointment set out in~~
 2 ~~subparagraph 2. of this paragraph];~~

3 **If no permittee that participates in the fund meets the qualifications stated**
 4 **in subparagraph 2. or in subparagraph 3. of this paragraph, then a**
 5 **qualified permittee shall be selected in a lower tier.**

6 (b) Two (2) members of the commission shall be representatives with a
 7 background in the insurance and banking industries with knowledge of the
 8 coal industry and chosen from a list of ~~[six (6)]~~ nominees submitted by the
 9 chair of the commission and the remaining members of the commission; and

10 (c) One (1) member shall be a certified public accountant who is not associated
 11 with, or does not have a financial interest in, coal mining operations in the
 12 Commonwealth of Kentucky.

13 (2) (a) ~~[The Governor shall initially appoint the other six (6) members as follows,~~
 14 ~~and whose terms shall commence with the beginning date of the establishment~~
 15 ~~of the fund:~~

16 1. ~~Two (2) members for a term of two (2) years;~~

17 2. ~~Two (2) members for a term of three (3) years; and~~

18 3. ~~Two (2) members for a term of four (4) years.~~

19 ~~(b) Subsequent]~~Appointments shall be made by the Governor for terms of four
 20 (4) years. Members may serve successive terms if reappointed, not to exceed
 21 two (2) full consecutive terms. Any vacancy in an unexpired term shall be
 22 filled for the unexpired portion of the term by the Governor; **and**~~[-]~~

23 ~~(b)(e)]~~A member of the commission shall be elected at the first meeting of
 24 each fiscal year by majority vote of the other members to serve as vice chair of
 25 the commission whose term shall be for one (1) year.

26 (3) The commission shall adopt bylaws by which it shall establish procedures for
 27 conduct of meetings.

- 1 (4) The official domicile of the commission shall be Franklin County. All actions of the
2 commission shall be considered to occur in Franklin County.
- 3 (5) ~~The [commission shall meet no less than once a month with the first meeting to be~~
4 ~~held on or before July 1, 2013, during the first year. Commencing with the second~~
5 ~~year, the]~~commission shall meet no less than once every three (3) months. Four (4)
6 members of the commission shall constitute a quorum at any meeting.
- 7 (6) Each commission member, except the cabinet representative, shall receive one
8 hundred fifty dollars (\$150) per diem for each meeting attended. Members of the
9 commission also shall be reimbursed for actual and necessary expenses directly
10 related to meetings of the commission.
- 11 (7) If a member of the commission fails to attend four (4) consecutive meetings, the
12 position shall be considered to be vacated, and the Governor, after receiving notice
13 of the vacancy from the commission, shall immediately appoint a qualified person
14 to serve the remainder of the term.
- 15 (8) Any member of the commission having any direct or indirect financial interest or
16 any other conflict of interest with respect to an assignment of classification pursuant
17 to KRS 350.518, sanctions for nonpayment of fees established in KRS 350.515 and
18 350.518, or assessment of the fee pursuant to KRS 350.518, shall not participate in
19 any discussion or vote pertaining to specific mining operations for which the
20 member is an owner or employee.
- 21 (9) Misuse of the office by a member of the commission to obtain personal, pecuniary,
22 or material gain or advantage for himself or a company in his dominion or control
23 shall be automatic grounds for removal by the Governor.
- 24 (10) Members of the commission, its agents, and employees shall be immune from suit
25 in any action, civil or criminal, which is based upon any official act or acts
26 performed by them in good faith.
- 27 (11) Members of the commission, its agents, and employees shall be subject to the terms

1 and provisions of the Executive Branch Code of Ethics, as set forth in KRS Chapter
2 11A.