

CHAPTER 166

(HB 600)

AN ACT relating to the Reclamation Guaranty Fund Commission.

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

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

- (1) There is hereby created the Reclamation Guaranty Fund Commission which shall be administratively attached to the cabinet. The commission shall consist of seven (7) members. One (1) member shall be the secretary of the Energy and Environment Cabinet, or his or her designee, who shall serve as chair of the commission. The other six (6) members of the commission shall be appointed by the Governor~~[on July 1, 2013,]~~ as follows:
 - (a) Three (3) members of the commission shall be representatives of ~~[the]~~coal mining *permittees that participate in the fund*~~[industry]~~, with the following qualifications *tiered to represent the size of the operator measured in tons of coal sold*:
 1. A representative of a permittee which participates in the fund and has mined and sold less than one million (1,000,000) tons of coal during the twelve (12) months preceding appointment;
 2. A representative of a permittee which participates in the fund and has mined and sold over one million (1,000,000) tons but less than five million (5,000,000) tons of coal during the twelve (12) months preceding appointment; and
 3. ~~[a.—]~~A representative of a permittee which participates in the fund and has mined and sold more than five million (5,000,000) tons of coal during the twelve (12) months preceding appointment.~~;~~ ~~or~~
 - b. ~~—~~If no permittee which participates in the fund has mined and sold more than five million (5,000,000) tons of coal in the twelve (12) months preceding appointment, the member shall be selected from permittees which meet the criteria for appointment set out in subparagraph 2. of this paragraph;

If no permittee that participates in the fund meets the qualifications stated in subparagraph 2. or in subparagraph 3. of this paragraph, then a qualified permittee shall be selected in a lower tier;
 - (b) Two (2) members of the commission shall be representatives with a background in the insurance and banking industries with knowledge of the coal industry and chosen from a list of ~~[six (6)]~~nominees submitted by the chair of the commission and the remaining members of the commission; and
 - (c) One (1) member shall be a certified public accountant who is not associated with, or does not have a financial interest in, coal mining operations in the Commonwealth of Kentucky.
- (2) ~~(a) [The Governor shall initially appoint the other six (6) members as follows, and whose terms shall commence with the beginning date of the establishment of the fund:~~
 1. ~~—~~Two (2) members for a term of two (2) years;
 2. ~~—~~Two (2) members for a term of three (3) years; and
 3. ~~—~~Two (2) members for a term of four (4) years.~~(b) Subsequent]~~Appointments shall be made by the Governor for terms of four (4) years. Members may serve successive terms if reappointed, not to exceed two (2) full consecutive terms. Any vacancy in an unexpired term shall be filled for the unexpired portion of the term by the Governor.
 - (b)~~[(c)]~~ A member of the commission shall be elected at the first meeting of each fiscal year by majority vote of the other members to serve as vice chair of the commission whose term shall be for one (1) year.
- (3) The commission shall adopt bylaws by which it shall establish procedures for conduct of meetings.
- (4) The official domicile of the commission shall be Franklin County. All actions of the commission shall be considered to occur in Franklin County.

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

Signed by Governor April 8, 2022.