

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2928

FISCAL
NOTE

BY DELEGATES FOSTER, P. MARTIN AND CRISS

[Introduced February 8, 2019; Referred
to the Committee on Government Organization then
the Judiciary.]

1 A BILL to amend and reenact §29A-1-3 of the Code of West Virginia, 1931, as amended, relating
 2 to the Public Service Commission; eliminating the commissions exemption from
 3 rulemaking requirements in Chapter 29A.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. DEFINITIONS AND APPLICATION OF CHAPTER.

§29A-1-3. Application of chapter; limitations.

1 (a) The provisions of this chapter do not apply in any respect whatever to executive orders
 2 of the Governor, which orders to the extent otherwise lawful shall be effective according to their
 3 terms: *Provided*, That the executive orders shall be admitted to record in the state register when
 4 and to the extent the Governor deems suitable and shall be included therein by the Secretary of
 5 State when tendered by the Governor.

6 (b) Except as to requirements for filing in the state register, and with the Legislature or its
 7 rule-making review committee, provided in this chapter or other law, the provisions of this chapter
 8 do not apply in any respect whatever to the West Virginia Board of Probation and Parole, ~~the~~
 9 ~~Public Service Commission~~, the Board of Public Works sitting as such, and the secondary schools
 10 activities commission: *Provided*, That rules of such agencies shall be filed in the state register in
 11 the form prescribed by this chapter and be effective no sooner than 60 consecutive days after
 12 being so filed: *Provided, however*, That the rules promulgated by the state colleges and
 13 universities shall only be filed with the higher education governing boards: *Provided further*, That
 14 such agencies may promulgate emergency rules in conformity with §29A-3-15 of this code.

15 (c) The provisions of this chapter do not apply to rules relating to or contested cases
 16 involving the conduct of inmates or other persons admitted to public institutions, the open seasons
 17 and the bag, creel, size, age, weight and sex limits with respect to the wildlife in this state, the
 18 conduct of persons in military service or the receipt of public assistance. Such rules shall be filed
 19 in the state register in the form prescribed by this chapter and be effective upon filing.

20 (d) Nothing herein shall be construed to affect, limit or expand any express and specific

21 exemption from this chapter contained in any other statute relating to a specific agency, but such
22 exemptions shall be construed and applied in accordance with the provisions of this chapter to
23 effectuate any limitations on such exemptions contained in any such other statute.

1 (e) All rules of the State Public Service Commission shall be subject to legislative review
2 and approval.

NOTE: The purpose of this bill is to eliminate the Public Service Commission's exemption from provisions of Chapter 29A and to make all Public Service Commission rules subject to the Legislature's review and approval.

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