

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 517

BY SENATORS SYPOLT AND ROBERTS

[Originating in the Committee on Government

Organization; reported on March 5, 2021]

1 A BILL to amend and reenact §29A-3-19 of the Code of West Virginia, 1931, as amended, relating
2 to sunset provisions of legislative rules; removing the five-year sunset requirement for new
3 legislative rules after initial five-year sunset provision; requiring all legislative rules to
4 sunset on July 1 of the applicable year effective July 1, 2021; authorizing the Secretary of
5 State to modify all active legislative rules with sunset provisions in accordance with this
6 requirement; and requiring the Secretary of State to file a notice of sunset in the State
7 Register upon the expiration of a legislative rule.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. RULEMAKING.

§29A-3-19. Sunset provision in rules.

1 (a) Any new legislative rule promulgated pursuant to this article after April 1, 2016, shall
2 include a sunset provision terminating the rule on July 1 of the fifth year following its promulgation:
3 ~~after five years.~~ *Provided*, That the rule may be renewed for ~~additional terms of five years or less~~
4 by the Legislature pursuant to the rule-making procedures and authority in this article: *Provided*,
5 *however*, That if a different sunset or termination provision exists in the statute under which the
6 proposed rule is promulgated, the enabling statute's provision shall control: *Provided further*, That
7 this subsection shall not apply to rules promulgated by the Department of Environmental
8 Protection or emergency rules promulgated pursuant to §29A-3-15 of this code.

9 (b) Any legislative rule existing as of April 1, 2016, that is thereafter ~~modified~~ amended
10 pursuant to this article, shall include a sunset provision as part of the ~~modification~~ amendment
11 setting forth a termination date for the rule: *Provided*, That the rule may be renewed ~~for additional~~
12 ~~terms of years~~ by the Legislature pursuant to the rule-making procedures and authority in this
13 article: *Provided, however*, That if a different sunset or termination provision exists in the statute
14 under which the legislative rule is promulgated, the enabling statute's provision controls: *Provided*
15 *further*, That this subsection shall not apply to legislative rules promulgated by the Department of
16 Environmental Protection or emergency rules promulgated pursuant to §29A-3-15 of this code.

17 (c) The existence of a sunset provision terminating a legislative rule shall not preclude the
18 repeal of the legislative rule by the Legislature prior to its termination.

19 (d) As part of its rule review under this article, the Legislative Rule-Making Review
20 Committee may establish a procedure for timely review of a legislative rule prior to its termination
21 for those agencies that have affirmatively sought renewal prior to expiration. The procedure may
22 include a requirement that the agency show cause as to why the terminating legislative rule is
23 required and necessary to be continued for another term of years.

24 (e) The Secretary of State shall provide notice to the promulgating agency and the
25 Legislative Rule-Making Review Committee at least 18 months prior to every legislative rule's
26 termination date. The promulgating agency has 60 days from receipt of the notice to file the
27 legislative rule with the Secretary of State and the Legislative Rule-Making Review Committee
28 affirmatively seeking renewal of the legislative rule: *Provided*, That the legislative rule that is
29 scheduled to sunset may not be amended or changed except for a new sunset date and is not
30 subject to the public comment period requirements contained in §29A-3-5 of this code. The
31 Legislative Rule-Making Review Committee, as part of its rule review under this article, may begin
32 reviewing a legislative rule upon its filing.

33 (f) Effective July 1, 2021, each legislative rule subject to the provisions of this section shall
34 have a termination date of July 1 of the applicable year. The Secretary of State shall modify each
35 active legislative rule with a sunset provision and conform each rule to the provisions of this
36 subsection.

37 (g) The Secretary of State shall file a notice of sunset in the State Register within 30 days
38 following the expiration of a legislative rule.