

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Enrolled
Committee Substitute
for
Senate Bill 517

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2021 APR - 2 P 1:45

FILED

BY SENATORS SYPOLT AND ROBERTS

[Passed March 25, 2021; in effect from passage]

SBS17

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[Passed March 25, 2021; in effect from passage]

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2021 APR - 2 P 1: 46

FILED

1 AN ACT to amend and reenact §29A-3-19 of the Code of West Virginia, 1931, as amended,
2 relating to sunset provisions of legislative rules; requiring new legislative rules to contain
3 a sunset provision terminating the legislative rule on August 1 of the fifth year following
4 promulgation; removing the five-year sunset requirement for new legislative rules after
5 initial five-year sunset provision; requiring all legislative rules to sunset on August 1 of the
6 applicable year; authorizing an agency to file a technical amendment with the Secretary
7 of State to correct sunset dates in accordance with this requirement; and requiring the
8 Secretary of State to file a notice of sunset in the State Register upon the expiration of a
9 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 August 1 of the fifth year following its
3 promulgation: *Provided*, That the rule may be renewed by the Legislature pursuant to the rule-
4 making procedures and authority in this article: *Provided, however*, That if a different sunset or
5 termination provision exists in the statute under which the proposed rule is promulgated, the
6 enabling statute's provision shall control: *Provided further*, That this subsection shall not apply to
7 rules promulgated by the Department of Environmental Protection or emergency rules
8 promulgated pursuant to §29A-3-15 of this code.

9 (b) Any legislative rule existing as of April 1, 2016, that is thereafter amended pursuant to
10 this article, shall include a sunset provision terminating the rule on August 1 of the applicable year
11 as part of the amendment: *Provided*, That the rule may be renewed by the Legislature pursuant
12 to the rule-making procedures and authority in this article: *Provided, however*, That if a different
13 sunset or termination provision exists in the statute under which the legislative rule is
14 promulgated, the enabling statute's provision controls: *Provided further*, That this subsection shall

15 not apply to legislative rules promulgated by the Department of Environmental Protection or
16 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, if the legislative rule that is
29 scheduled to sunset is not being amended or changed, except for a new sunset date, the rule is
30 not 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) Any agency that has promulgated a legislative rule with a sunset date prior to May 1
34 of the applicable year, may file a technical amendment with the Secretary of State for the purposes
35 of establishing a sunset date of August 1 of the applicable year.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Mr. J. H. Chapman
.....
Chairman, Senate Committee

Dean J. Pappalardo
.....
Chairman, House Committee

Originated in the Senate.

In effect from passage.

Joe Lavin
.....
Clerk of the Senate

Steve Namm
.....
Clerk of the House of Delegates

C. P. B.
.....
President of the Senate

Les Hunter
.....
Speaker of the House of Delegates

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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FILED

The within *is approved* this the *2nd*
April
Day of 2021.

James E. Cantor
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 29 2021

Time 10:46 am