

Senate Bill No. 355

(By Senator M. Hall)

[Introduced January 29, 2015; referred to the Committee on Government Organization; and then
to the Committee on Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
designated §29A-3-19, relating to implementing a quality control procedure for agency rules.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
section, designated §29A-3-19, to read as follows:

ARTICLE 3. RULE MAKING.

§29A-3-19. Quality control process for agency rules.

(a) This section may be known and cited as the "Quality Control Procedure For Agency Rules
Act".

(b) The Legislature finds that:

(1) West Virginia has consistently been considered one of the more difficult states for
businesses to thrive for various reasons;

(2) One of the key reasons this state has been consistently rated as a difficult jurisdiction for

1 businesses is because the state's regulatory environment is rated as one of the most burdensome in
2 the country for businesses;

3 (3) This burdensome regulatory environment has had a significantly negative impact on
4 economic development and growth in this state;

5 (4) If meaningful action is not taken to address this regulatory burden it is likely the state's
6 economic development and growth will continue to be impeded;

7 (5) There must be a quality control procedure implemented that will provide for an evaluation
8 of the regulatory burden on business and industry; and

9 (6) These burdensome rules must be repealed or modified in order to improve this state's
10 business climate and economic health.

11 (c) Definitions:

12 (1) "Cost-benefit analysis" means the Joint Committee on Government and Finance's
13 Oversight of West Virginia University's and Marshall University's following evaluation of a rule:

14 (A) Confirm and measure need for rule making;

15 (B) Identify regulatory options and a base to compare alternatives;

16 (C) Select an analytical framework;

17 (D) Identify groups affected by rule change;

18 (E) Identify and quantify the costs and benefits of each identified regulatory option;

19 (F) Monetize costs and benefits of each option;

20 (G) Adjust costs and benefits for inflation;

21 (H) Discount costs and benefits to present value;

22 (I) Calculate net benefits or cost-effectiveness ratios; and

1 (J) Report analysis and findings in impact statements.

2 (2) "Modification" means changes or amendments to an agency rule that alters the function
3 or material purpose of a rule, or creates an additional burden upon business and industry.

4 (3) "Moratorium" means a suspension of promulgating new rules or the modification of
5 existing rules.

6 (4) "Sunset" means the expiration of a rule on a date whereby it is repealed.

7 (d) *Agency Rule and Modification Moratorium* -- There is a five-year moratorium on the
8 adoption of new agency rules and modification of existing rules beginning on the effective date of
9 this section. However, this subsection does not apply to new emergency rules or modifications or
10 new rules or modifications required by federal or state law.

11 (e) *Cost-Benefit analysis for existing rules*. -- All existing rules in effect upon the effective
12 date of this legislation shall undergo a cost-benefit analysis within three years beginning on the
13 effective date of this legislation. The cost-benefit analysis shall be conducted by the Joint Committee
14 on Government and Finance through a partnership with West Virginia University and Marshall
15 University. The Joint Committee on Government and Finance shall oversee the universities' efforts
16 in conducting this comprehensive cost-benefit analysis of all existing agency rules. The Joint
17 Committee on Government and Finance shall review the universities' report detailing its findings for
18 each agency rule. After the Joint Committee reviews the universities' report it may make
19 modifications and adopt a final report. A copy of the final report shall be provided to the Legislature
20 and the Board of Regulatory Reform established in subsection (g) of this section within four years
21 of the effective date of this section.

22 (f) *Post Moratorium Rules and Modifications*. -- Any state rule promulgated or modified after

1 the moratorium has expired shall contain a seven-year sunset provision. Additionally, these post-
2 moratorium rules or modifications must undergo a cost benefit analysis conducted by the Joint
3 Committee on Government and Finance through a partnership with West Virginia University and
4 Marshall University before they are promulgated or modified to determine if the renewal or
5 modification will burden business and industry. The Joint Committee on Government and Finance
6 shall oversee the universities' efforts in conducting this comprehensive cost-benefit analysis of post-
7 moratorium rules or modifications prior to their effective date. The Joint Committee on Government
8 and Finance shall review the universities' report detailing its findings for each agency rule or
9 modification. After the Joint Committee on Government and Finance reviews the universities' report
10 it may make modifications and adopt a final report. The Joint Committee on Government and
11 Finance shall develop a final report detailing its findings. A copy of the final report shall be
12 provided to the Legislature and the Board of Regulatory Reform before the post-moratorium rule or
13 modification becomes effective.

14 (g) *Board of Regulatory Reform:*

15 (1) The Governor shall establish the Board of Regulatory Reform within the Department of
16 Administration.

17 (2) The Department of Administration shall provide the Board of Regulatory Reform with
18 staff who are presently employed by the agency.

19 (3) The agency shall provide the Board of Regulatory Reform with facilities from their
20 existing operations.

21 (4) The Board of Regulatory Reform shall elect a chair by a majority vote who serves a
22 biannual term.

1 (5) The Board of Regulatory Reform shall develop its own internal operating procedures.

2 (6) The Governor shall appoint at least seven persons to serve on the Board of Regulatory
3 Reform who are not compensated for their services.

4 (7) In selecting persons to serve on the Board of Regulatory Reform, the Governor shall
5 choose one person who is a representative of the West Virginia Chamber of Commerce, one person
6 who represents the West Virginia Manufacturer's Association, one person who represents the West
7 Virginia Business and Industry Council, one person who represents the West Virginia Department
8 of Commerce, one person who represents the West Virginia Business Roundtable, one person who
9 represents West Virginia University and one person who represents Marshall University.

10 (8) The Board of Regulatory Review shall:

11 (A) By a majority vote make recommendations to the Governor regarding the termination or
12 modification of agency rules after reviewing the Joint Committee on Government and Finance's final
13 report regarding the cost-benefit analysis of an agency rule; and

14 (B) By a majority vote, make recommendations to the Governor based upon petitions
15 received from business and industry, with or without a hearing, to terminate or modify rules by
16 businesses or industries aggrieved by agency rules.

17 (h) *Severability.* -- If any provision of this section or application thereof to any person or any
18 circumstance is held invalid, such invalidity shall not affect other provisions or applications of this
19 section which can be given effect without the invalid provision or its application, and to this end the
20 provisions of this section are declared to be severable.

NOTE: The purpose of this bill is to implement quality control procedures for agency rules.

This section is new; therefore, strike-throughs and underscoring have been omitted.