

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **Senate Bill 269**

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND PREZIOSO

[BY REQUEST OF THE EXECUTIVE]

[Introduced January 12, 2018; Referred  
to the Committee on Government Organization; and then  
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §5B-8-1, §5B-8-2, §5B-8-3, §5B-8-4, §5B-8-5, §5B-8-6, §5B-8-7, §5B-8-8, and  
 3 §5B-8-9, all relating to establishing the 2018 Regulatory Reform Act; providing legislative  
 4 findings; defining terms; providing for an application process with the Development Office  
 5 to request a project be classified as a project of critical economic concern; encouraging  
 6 state agencies to provide for expeditious review of a license or permit application even  
 7 absent a designation as a project of critical economic concern; establishing a procedure  
 8 for the filing of a certificate of critical economic concern with state agencies and the  
 9 Development Office; providing for agencies to adopt an expedited license and permit fee;  
 10 providing for timelines, reports, and written explanations for expedited license and permit  
 11 review; clarifying a certificate of critical concern is not a blanket waiver and does not  
 12 guarantee a license or permit will be granted; requiring the executive director to report to  
 13 the Governor and the Joint Committee on Government and Finance on or before  
 14 November 1, 2019, and on or before every November 1 thereafter regarding the success  
 15 of this article; and granting the Development Office with procedural rule-making authority  
 16 to implement the provisions of this article.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 8. 2018 REGULATORY REFORM ACT.**

**§5B-8-1. Short title.**

1 This article shall be known as the "2018 Regulatory Reform Act".

**§5B-8-2. Legislative findings.**

1 (a) It is found and declared that there exists in this state a condition of substantial and  
 2 persistent unemployment and under employment which:

3 (1) Causes economic hardship to many individuals and families;

4 (2) Wastes vital human resources;

5 (3) Increases the public assistance burdens of the state;

- 6           (4) Impairs the security of family life;
- 7           (5) Prevents many of our youths from continuing their education;
- 8           (6) Impedes the economic and physical development of municipalities; and
- 9           (7) Adversely affects the welfare and prosperity of this state.
- 10          (b) It is hereby declared to be the policy of this state to:
- 11           (1) Promote a vigorous and growing economy;
- 12           (2) Prevent economic stagnation;
- 13           (3) Encourage the creation of new job opportunities;
- 14           (4) Ameliorate the hazards of unemployment and underemployment;
- 15           (5) Reduce the level of public assistance;
- 16           (6) Increase revenues to the state and its municipalities; and
- 17           (7) Achieve a stable diversified economy.
- 18          (c) The purpose of this article is to provide a mechanism for business and industry to
- 19 secure any necessary licenses or permits, without waiving the lawful conditions of the license or
- 20 permits, in an expeditious manner as possible.

**§5B-8-3. Definitions.**

1           As used in this article, the following words and phrases shall have the meanings given to  
2 them in this section unless the context clearly indicates otherwise:

3           "Development Office" is the West Virginia Development Office established pursuant to the  
4 provisions of §5B-2-1 et seq. of this code.

5           "Executive director" is the Executive Director of the West Virginia Development Office  
6 established pursuant to the provisions of §5B-2-2 of this code.

7           "Person" means any natural person, company, corporation, partnership, or any type of  
8 business entity.

9           "Project of critical economic concern" means an undertaking designated by the executive  
10 director to be significant, in its operational stage, by its ability to enhance, promote and encourage

11 business, commerce, and industry in West Virginia and to stimulate jobs and relieve  
12 underemployment and unemployment in West Virginia.

13 "State agency" means any office, department, board, commission, bureau, division,  
14 authority, public corporation, agency, or instrumentality of this state.

**§5B-8-4. Request for status as a project of critical economic concern; expeditious review  
of other project applications.**

1 (a) A person may apply to the Development Office and request that his or her project be  
2 classified as a project of critical economic concern. The Development Office shall render a written  
3 decision on the request within forty-five days of the filing and receipt of the request. If the project  
4 is found to be a project of critical economic concern, the Development Office may issue a  
5 certificate of critical economic concern. A certificate of critical economic concern expires two years  
6 from the date of issuance. However, a certificate of critical economic concern may be extended  
7 for an additional period of two years at the discretion of the executive director.

8 (b) For those projects that are not designated as a project of critical economic concern by  
9 the executive director, a state agency shall aspire to complete a review of a license or permit  
10 application in as expeditious manner as possible without compromising the integrity of the state  
11 agency's analysis of the application.

**§5B-8-5. Filing of certificate for a project of critical economic concern; expedited license  
or permit fee.**

1 (a) A person shall file the certificate of critical economic concern with the appropriate state  
2 agency that has licensing or permitting authority over the project. A person must file the certificate  
3 of critical economic concern at the time of filing the necessary license or permit application  
4 required for the project with the state agency. The state agency shall give priority to the project of  
5 critical economic concern in the handling and processing of license and permit applications.

6 (b) A state agency may by procedural rule specify an expedited license or permit fee for  
7 any license or permit application required for a project not designated a project of critical economic

8 concern.

**§5B-8-6. License and permit action by the state agency.**

1 (a) Within two months of the submission of a complete license or permit application, the  
2 state agency shall render a written report on the status of the complete license or permit  
3 application. The report shall contain information, which will enable the person to make a sound  
4 business decision as to whether to continue to pursue the license or permit. The report shall be  
5 sent to the license or permit applicant and the executive director.

6 (b) If the license or permit is not granted, then the state agency shall on the fourth, fifth,  
7 and sixth month anniversary of the submission of the complete license or permit application,  
8 render a written report on the status of the license or permit application. If at the end of the sixth  
9 month, a decision has not been rendered on the complete license or permit application, then, in  
10 addition to the applicant, a copy of the written report shall be rendered monthly thereafter to the  
11 Governor and the executive director until a decision to grant or reject the license or permit has  
12 been made.

**§5B-8-7. Licensing and permitting requirements.**

1 (a) The issuance of and the filing of a certificate of critical economic concern is not a waiver  
2 of any element, rule, regulation, or statute upon which the license or permit is granted.

3 (b) The issuance of and the filing of a certificate of critical economic concern does not  
4 guarantee that a license or permit will be granted by the state agency.

**§5B-8-8. Reporting requirements.**

1 The executive director shall prepare and submit a report to the Governor and the Joint  
2 Committee on Government and Finance on or before November 1, 2019, and November 1 each  
3 year thereafter, on the provisions of this article and shall specifically outline whether, in his or her  
4 professional opinion, the goals and duties required by this article are being accomplished.

**§5B-8-9. Rulemaking authority.**

1 The Development Office shall promulgate procedural rules in accordance with §29A-3-1

2 et seq. of this code to implement the provisions of this article.

NOTE: The purpose of this bill is to create the 2018 Regulatory Reform Act.

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