

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4154

BY MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

(BY REQUEST OF THE EXECUTIVE)

[Introduced January 16, 2018; Referred
to the Committee on Government Organization then
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,
3 §5B-8-9, and §5B-8-10, all relating to establishing the 2018 Regulatory Reform Act;
4 providing legislative findings; defining terms; providing for an application process with the
5 Development Office to request a project be classified as a project of critical economic
6 concern; encouraging state agencies to provide for expeditious review of a license or
7 permit application even absent a designation as a project of critical economic concern;
8 establishing a procedure for the filing of a certificate of critical economic concern with state
9 agencies and the Development Office; providing for agencies to adopt an expedited
10 license and permit fee; providing for timelines, reports, and written explanations for
11 expedited license and permit review; clarifying a certificate of critical concern is not a
12 blanket waiver and does not guarantee a license or permit will be granted; requiring the
13 executive director to report to the Governor and the Joint Committee on Government and
14 Finance on or before November 1, 2019 and on or before every November 1st thereafter
15 regarding the success of this article; exempting this article from the state Freedom of
16 Information Act until a final license or permit decision is made; and granting the
17 Development Office with procedural rulemaking authority to implement the provisions of
18 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. Confidentiality.

1 Until a final decision is made by a state agency on a complete license or permit application,
2 any documents, data, or other writing made or received by the Governor or the Development
3 Office under the provisions of this article is exempt from the provisions of §29B-1-1 et seq. of this
4 code.

§5B-8-10. 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.