

HB 2881

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



# ENROLLED

HOUSE BILL No. 2881

(By Delegate Douglas, Collins, Tucker, Prunty,  
Claypole, Stalnaker and Capito )



Passed April 12, 1997

In Effect July 1, 1997 Passage

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**H. B. 2881**

(BY DELEGATES DOUGLAS, COLLINS, TUCKER, PRUNTY, CLAYPOLE,  
STALNAKER AND CAPITO)

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[Passed April 12, 1997; in effect July 1, 1997.]

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AN ACT to amend and reenact sections three, four, five and twelve, article ten, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto four new sections, designated sections four-a, five-a, ten-a and eleven-a, all relating to changing termination dates for agencies pursuant to the West Virginia sunset law; defining compliance monitoring and further inquiry update; changing termination dates of agencies following full performance evaluations, preliminary performance reviews and compliance monitoring and further inquiry updates; specifying duties of joint committee on government operations in conducting compliance monitoring and further inquiry updates; and changing one type of recommendation that may be made by the joint committee on government operations in its annual report.

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

That sections three, four, five and twelve, article ten, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto four new sections, designated sections four-a, five-a, ten-a and eleven-a, all to read as follows:

**ARTICLE 10. THE WEST VIRGINIA SUNSET LAW.**

**§4-10-3. Definitions.**

1 As used in this article, unless the context clearly  
2 indicates a different meaning:

3 (1) "Agency" means any bureau, department,  
4 division, commission, agency, committee, office, board,  
5 authority, subdivision, program, council, advisory body,  
6 cabinet, panel, system, task force, fund, compact,  
7 institution, survey, position, coalition or other entity,  
8 however designated, in the state of West Virginia.

9 (2) "Committee" means the joint committee on  
10 government operations, hereinafter continued, to perform  
11 duties under this article.

12 (3) "Full performance evaluation" means to  
13 determine for an agency whether or not the agency is  
14 operating in an efficient and effective manner and to  
15 determine whether or not there is a demonstrable need for  
16 the continuation of the agency, pursuant to the provisions  
17 of section ten of this article. References in this code to  
18 performance audit or full performance audit shall be  
19 taken as and shall mean full performance evaluation.

20 (4) "Preliminary performance review" means to  
21 determine for an agency whether or not the agency is  
22 performing in an efficient and effective manner and to  
23 determine whether or not there is a demonstrable need for  
24 the continuation of the agency pursuant to the provisions  
25 of section eleven of this article.

26 (5) "Compliance monitoring and further inquiry  
27 update" means to determine for an agency whether or not  
28 the agency has complied with recommendations contained  
29 in a completed full performance evaluation or a  
30 completed preliminary performance review conducted  
31 pursuant to this article and that further inquiry into the  
32 operation of the agency may be conducted pursuant to the  
33 provisions of sections ten-a and eleven-a of this article.

**§4-10-4. Termination of agencies following full performance evaluations.**

1       The following agencies shall be terminated on the date  
2 indicated, but no agency may be terminated under this  
3 section unless a full performance evaluation has been  
4 conducted upon such agency:

5       (1) On the first day of July, one thousand nine  
6 hundred ninety-eight: Workers' compensation; office of  
7 judges of workers' compensation; department of health  
8 and human resources; purchasing division within the  
9 department of administration.

10       (2) On the first day of July, one thousand nine  
11 hundred ninety-nine: Division of environmental pro-  
12 tection; West Virginia parkways, economic development  
13 and tourism authority.

14       (3) On the first day of July, two thousand: Division of  
15 corrections.

16       (4) On the first day of July, two thousand one:  
17 Division of natural resources.

18       (5) On the first day of July, two thousand two:  
19 Division of highways; division of labor.

20       (6) On the first day of July, two thousand three:  
21 Division of culture and history; school building authority.

**§4-10-4a. Termination of agencies previously subject to full  
performance evaluations following compliance  
monitoring and further inquiry updates.**

1       The following agencies shall be terminated on the date  
2 indicated, but no agency may be terminated under this  
3 section unless a compliance monitoring and further  
4 inquiry update has been completed on the agency  
5 subsequent to the prior completion of a full performance  
6 evaluation:

7       (1) On the first day of July, one thousand nine  
8 hundred ninety-eight: Division of personnel; division of  
9 rehabilitation services.

10       (2) On the first day of July, one thousand nine  
11 hundred ninety-nine: Tourism functions within the West  
12 Virginia development office.

**§4-10-5. Termination of agencies following preliminary performance reviews.**

1 The following agencies shall be terminated on the date  
2 indicated, but no agency may be terminated under this  
3 section unless a preliminary performance review has been  
4 conducted upon such agency:

5 (1) On the first day of July, one thousand nine  
6 hundred ninety-six: Juvenile facilities review panel.

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7 (2) On the first day of July, one thousand nine  
8 hundred ninety-seven: <sup>OIL AND GAS CONSERVATION COMMISSION;</sup> public employees insurance agency  
9 advisory board; cable television advisory board.

10 (3) On the first day of July, one thousand nine  
11 hundred ninety-eight: Women's commission; state lottery  
12 commission; meat inspection program of the department  
13 of agriculture; soil conservation committee of the  
14 department of agriculture; state board of risk and  
15 insurance management; board of examiners of land  
16 surveyors; commission on uniform state laws; West  
17 Virginia's membership in the interstate commission on the  
18 Potomac River Basin; family law masters system; board of  
19 examiners in speech pathology and audiology; board of  
20 social work examiners; child support enforcement  
21 division; West Virginia lending and credit rate board;  
22 public defender services.

23 (4) On the first day of July, one thousand nine  
24 hundred ninety-nine: Public service commission; tree fruit  
25 industry self improvement assessment program; capitol  
26 building commission; board of banking and financial  
27 institutions; state building commission; West Virginia state  
28 police.

29 (5) On the first day of July, two thousand: Family  
30 protection services board; environmental quality board;  
31 West Virginia's membership in the Ohio River valley water  
32 sanitation commission; ethics commission; oil and gas  
33 inspector's examining board; veterans' council; West  
34 Virginia's membership in the southern regional education  
35 board; board of respiratory care practitioners; board of

36 examiners in counseling; educational broadcasting  
37 authority; West Virginia state rail authority.

38 (6) On the first day of July, two thousand one: Real  
39 estate commission; marketing and development division of  
40 the department of agriculture; board of architects; public  
41 employees insurance agency; public employees insurance  
42 agency finance board; center for professional develop-  
43 ment; rural health advisory panel.

44 (7) On the first day of July, two thousand two:  
45 Whitewater commission within the division of natural  
46 resources; state geological and economic survey;  
47 unemployment compensation; West Virginia contractor  
48 licensing board.

49 (8) On the first day of July, two thousand three:  
50 Driver's licensing advisory board; West Virginia  
51 commission for national and community service.

**§4-10-5a. Termination of agencies previously subject to  
preliminary performance reviews following  
compliance monitoring and further inquiry  
updates.**

1 The following agencies shall be terminated on the date  
2 indicated, but no agency may be terminated under this  
3 section unless a compliance monitoring and further  
4 inquiry update has been completed on the agency  
5 subsequent to the prior completion of a preliminary  
6 performance review:

7 (1) On the first day of July, one thousand nine  
8 hundred ninety-eight: Board of investments; emergency  
9 medical services advisory council; human rights  
10 commission; parks section and parks functions of the  
11 division of natural resources.

12 (2) On the first day of July, one thousand nine  
13 hundred ninety-nine: Office of water resources of the  
14 division of environmental protection; office of  
15 environmental advocate of the division of environmental  
16 protection; governor's cabinet on children and families;  
17 West Virginia health care cost review authority.

**§4-10-10a. Compliance monitoring and further inquiry updates of agencies by the committee subsequent to a completed full performance evaluation.**

1 It shall be the duty of the committee to conduct a  
2 compliance monitoring and further inquiry update of  
3 every agency scheduled for termination under section  
4 four-a of this article.

5 In conducting such compliance monitoring and  
6 further inquiry update, the committee shall determine to  
7 what extent the agency has complied with recommenda-  
8 tions contained in the completed full performance  
9 evaluation. The committee may direct that further inquiry  
10 into the operation of the agency be undertaken as part of  
11 the compliance monitoring and further inquiry update.

**§4-10-11a. Compliance monitoring and further inquiry updates of agencies by the committee subsequent to a completed preliminary performance review.**

1 It shall be the duty of the committee to conduct a  
2 compliance monitoring and further inquiry update of  
3 every agency scheduled for termination under section  
4 five-a of this article.

5 In conducting such compliance monitoring and  
6 further inquiry update, the committee shall determine to  
7 what extent the agency has complied with  
8 recommendations contained in the completed preliminary  
9 performance review. The committee may direct that  
10 further inquiry into the operation of the agency be  
11 undertaken as part of the compliance monitoring and  
12 further inquiry update.

**§4-10-12. Annual report by the committee.**

1 The committee shall complete its deliberations with  
2 respect to agencies scheduled for termination and make  
3 an annual report thereon to the Legislature not later than  
4 ten days after the Legislature convenes in regular session  
5 in the year of the scheduled termination for the agency:  
6 *Provided*, That any such annual report required in the  
7 year one thousand nine hundred ninety-seven, and every

8 fourth year thereafter, shall be made not later than ten  
9 days after the Legislature convenes on the second  
10 Wednesday in February. The annual report shall consist  
11 of an analysis of the agency including matters as are  
12 expressly mandated to be considered by the committee as  
13 set forth in this article, together with the recommendations  
14 of the committee. The committee shall make one of five  
15 recommendations: (1) The agency be terminated as  
16 scheduled; (2) the agency be continued and reestablished;  
17 (3) the agency be continued and reestablished, and the  
18 statutes governing it be amended in specific ways to  
19 correct ineffective or discriminatory practices and  
20 procedures, burdensome rules and regulations, lack of  
21 protection of the public interest, overlapping of  
22 jurisdiction with other agencies, unwarranted exercise of  
23 authority either in law or in fact or any other deficiencies;  
24 (4) a full performance evaluation be performed on an  
25 agency on which a preliminary review has been  
26 completed; or (5) the agency be continued for a period of  
27 time not to exceed one year for the purpose of completing  
28 a compliance monitoring and further inquiry update.

29 In the event the committee makes recommendations  
30 concerning the continuation or reestablishment of  
31 agencies pursuant to this article, the annual report shall  
32 include draft bills effectuating the recommendations.

33 Copies of the annual reports shall be made available to  
34 all members of the Legislature, to the agency that is the  
35 subject of the report and to the public generally. A copy  
36 of the annual report shall be formally filed immediately  
37 by the committee with the clerk of each house.

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

*Paul Hoover*  
Chairman Senate Committee

*Mike Santasi*  
Chairman House Committee

Originating in the House.

Takes effect July 1, 1997.

*Carroll Adams*  
Clerk of the Senate

*Suzanne M. Gandy*  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
President of the Senate

*Robert L. Taylor*  
Speaker of the House of Delegates

The within *is approved* this the *7<sup>th</sup>*  
day of *May*, 1997.

*Jefferson R. Perdue*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 5/1/97

Time 3:00 pm