WEST virginia Legislature

2021 regular session

Introduced

House Bill 3063

By Delegates Mandt, Ferrell, Criss, Fast, Hanna, Pritt, McGeehan, Phillips, Worrell and Hott

[Introduced March 11, 2021; Referred to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §4-16-1, relating to ensuring that the West Virginia Legislature has the power and authority to review presidential executive orders and federal actions; and prohibiting implementation of unconstitutional actions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. legislative review of presidential executive orders and federal agency actions.

§4-16-1. Providing for legislative review of presidential executive orders and federal agency actions.

(a) The West Virginia Legislature may review any executive order issued by the President of the United States, federal agency rule or federal congressional action to determine the constitutionality of such action. Upon recommendation from the Legislature, the Attorney General shall review such action by the federal government to determine the constitutionality of the action and whether the state should seek an exemption from the application of the action or seek to have the action declared unconstitutional.

(b) Should the Attorney General decline to pursue action based upon the determination of the Legislature, the Legislature may declare the action unconstitutional by a majority vote.

(c) Notwithstanding any other provision of law, the state, county, political subdivision or any other publicly funded organization shall not implement any action that restricts a person’s rights or that the Office of the Attorney General or the Legislature by a majority vote determines to be unconstitutional under subsection a of this section and which relates to:

(1) Pandemics or other health emergencies;

(2) The regulation of natural resources, including oil and natural gas;

(3) The regulation of the agriculture industry;

(4) The use of land;

(5) The regulation of the financial sector as it relates to environmental, social or governance standards;

(6) The regulation of the constitutional right to keep and bear arms;

(7) The regulation of education;

(8) The regulation of interscholastic, intramural or other extracurricular sports sponsored by an institution of higher education, a school district or a charter school; or

(9) Any other powers reserved by the State of West Virginia or the people of West Virginia.

NOTE: The purpose of this bill is to provide legislative oversight for potentially unconstitutional presidential executive orders and federal agency actions.

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