

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

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for

Senate Bill 570

BY SENATORS RUCKER AND THORNE

[Reported March 25, 2025, from the Committee on
Government Organization]

1 A BILL to amend and reenact §29A-3-11 of the Code of West Virginia, 1931, as amended, relating
2 to the submission of legislative rules; establishing factors to be considered in determining
3 economic impact of proposed legislative rules; and mandating Legislative Rule-Making
4 Committee identify whether rule submission met statutory requirements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. RULEMAKING.

§29A-3-11. Submission of legislative rules to the Legislative Rule-Making Review Committee.

1 (a) When an agency finally approves a proposed legislative rule for submission to the
2 Legislature, pursuant to the provisions of §29A-3-9 of this ~~article~~ code, the secretary of the
3 executive department which administers the agency pursuant to the provisions of §5F-2-1 *et seq.*,
4 of this code shall submit to the Legislative Rule-Making Review Committee at its offices or at a
5 regular meeting of ~~such~~ that committee a number of copies in electronic or paper form as
6 requested by the committee, which shall include the following information:

7 (1) The full text of the legislative rule as finally approved by the agency, with new language
8 underlined and with language to be deleted from any existing rule stricken through but clearly
9 legible;

10 (2) A brief summary of the content of the legislative rule and a description and a copy of
11 any existing rule which the agency proposes to amend or repeal;

12 (3) A statement of the circumstances which require the rule;

13 (4) A detailed description of the rule's purpose and all proposed changes to the rule;

14 (5) A fiscal note containing all information included in a fiscal note for either house of the
15 Legislature, ~~a statement of the economic impact of the rule on the state or its residents~~, and, if
16 there are any adjustments to any fees or other special revenue included in the rule, a fiscal note
17 shall include, for any fund affected by adjustments to fees or other special revenue, the fund
18 name, the fund number, and the past five years of actual revenues and expenses of the fund;

19 (6) A statement in the electronic or paper form of the economic impact of the rule on the
20 state and its residents, considering:

21 (i) Regulatory or transactional costs;

22 (ii) Business productivity, innovation, or competitiveness, including the ability of persons
23 doing business in the state to compete with persons doing business in other states or domestic
24 markets;

25 (iii) Private-sector job creation or employment;

26 (iv) Private-sector investment;

27 (v) Economic growth; and

28 (vi) Whether the proposed legislative rule would require non-governmental persons or
29 entities to invest manhours in order to comply with the proposed legislative rule and, if so, what
30 is the aggregate cost of compliance, as calculated by multiplying the aggregate manhours of labor
31 across the state by \$60 per hour, as adjusted for inflation.

32 ~~(6)~~ (7) One copy of any relevant federal statutes or regulations;

33 ~~(7)~~ (8) An explanation of the statutory authority for the rule, including a detailed summary
34 of the effect of each provision of the rule with citation to the specific statute which empowers the
35 agency to enact such provision;

36 ~~(8)~~ (9) All public comments for each proposed rule. An agency may consolidate
37 substantially similar comments in the interest of efficiency;

38 ~~(9)~~ (10) All written responses by the agency to the substance of any public comments
39 received, including whether the agency chose to modify the proposed rule in response to the
40 comments or, if no changes were made, the rationale for declining to incorporate or make any
41 suggested changes responding to the public comments. An agency may consolidate substantially
42 similar responses in the interest of efficiency: *Provided*, That the agency's response shall address
43 each issue and concern expressed by all comments received; and

44 ~~(10)~~ (11) Any other information ~~which~~ that the committee may request or ~~which~~ that may
45 be required by law. If the agency is an agency, board, or commission ~~which~~ that is not
46 administered by an executive department as provided for in §5F-2-1 *et seq.*, of this code, the
47 agency shall submit the final agency-approved rule as required by this subsection.

48 (b) The committee shall review each proposed legislative rule and, in its discretion, may
49 hold public hearings thereon. Such review shall include, but not be limited to, a determination of:

50 (1) Whether the agency has specific statutory authority to propose the rule and has not
51 exceeded the scope of its statutory authority in approving the proposed legislative rule;

52 (2) Whether the proposed legislative rule is in conformity with the legislative intent of the
53 statute which the rule is intended to implement, extend, apply, interpret, or make specific;

54 (3) Whether the proposed legislative rule overlaps, duplicates, or conflicts with any other
55 provision of this code, any other rule adopted by the same or a different agency, with federal
56 statutes and rules, or with local laws and rules;

57 (4) Whether federal funding will be impacted by its expiration and explanation as to such;

58 (5) Whether the proposed legislative rule is necessary to fully accomplish the objectives
59 of the statute under which the rule was proposed for promulgation;

60 (6) Whether the proposed legislative rule is reasonable, especially as it affects the
61 convenience of the general public or of persons particularly affected by it;

62 (7) Whether the proposed legislative rule could be made less complex or more readily
63 understandable by the general public; ~~and~~

64 (8) Whether the proposed legislative rule was proposed for promulgation in compliance
65 with the requirements of this article and with any requirements imposed by any other provision of
66 this code-; and

67 (9) Whether the proposed legislative rule would have an economic impact on the state or
68 its residents.

(c) After reviewing the legislative rule, the committee shall recommend that the Legislature:

- (1) Authorize the promulgation of the legislative rule;
- (2) Authorize the promulgation of part of the legislative rule;
- (3) Authorize the promulgation of the legislative rule with certain amendments;
- (4) Recommend that the proposed rule be withdrawn; or
- (5) Reject the proposed rule.

The committee shall file notice of its action in the State Register and with the agency proposing the rule: *Provided*, That when the committee makes the recommendations of subdivision (2), (3), (4), or (5) of this subsection, the notice shall contain a statement of the reasons for such recommendation. The notice shall also identify whether the agency's proposed legislative rule followed the established requirements stated in §29A-3-11(a)(1)-(11) of this code.

(d) When the committee recommends that a rule be authorized, in whole or in part, by the Legislature, the committee shall instruct its staff or the office of Legislative Services to draft a bill authorizing the promulgation of all or part of the legislative rule and incorporating such amendments as the committee desires. If the committee recommends that the rule not be authorized, it shall include in its report a draft of a bill authorizing promulgation of the rule together with a recommendation. Any draft bill prepared under this section shall contain a legislative finding that the rule is within the legislative intent of the statute which the rule is intended to implement, extend, apply, or interpret and shall be available for any member of the Legislature to introduce to the Legislature.