

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 888

BY SENATORS ROSE, RUCKER, TARR, AND CHAPMAN

[Introduced February 9, 2026; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article
2 designated §55-22-1, §55-22-2, §55-22-3, §55-22-4, §55-22-5, §55-22-6, §55-22-7, and
3 §55-22-8, relating to creating of the Judicial Deference Reform Act; stating a purpose;
4 setting forth definitions; prohibiting judicial deference to state agency interpretations;
5 addressing interpretive ambiguity; specifying applicability of the act; providing for
6 severability; and providing an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. JUDICIAL DEFERENCE REFORM ACT.

§55-22-1. Short title.

1 This article shall be known and may be cited as the Judicial Deference Reform Act.

§55-22-2. Purpose.

1 The purpose of this article is to ensure that state courts and administrative hearing officers
2 interpret state statutes, regulations, and sub-regulatory documents independently, without
3 deference to state agency interpretations, and to prioritize individual liberty and limited agency
4 authority in resolving interpretive ambiguities.

§55-22-3. Definitions.

1 For the purposes of this article:

2 (1) "State agency" means any department, division, board, commission, or other entity of
3 the state government authorized to promulgate regulations or issue sub-regulatory documents.

4 (2) "Sub-regulatory document" means any guidance, memorandum, policy statement, or
5 other interpretive document issued by a state agency that is not promulgated as a regulation
6 pursuant to the West Virginia Administrative Procedures Act.

7 (3) "De novo" means an independent judicial or administrative review of a statute,
8 regulation, or sub-regulatory document without deference to a state agency's interpretation.

§55-22-4. Prohibition on judicial deference to state agency interpretations.

1 (a) In any action involving the interpretation of a state statute, regulation, or sub-regulatory
2 document, a state court or an officer presiding over an administrative action shall not defer to a
3 state agency's interpretation of such statute, regulation, or sub-regulatory document.

4 (b) The court or hearing officer shall interpret the meaning and effect of the statute,
5 regulation, or sub-regulatory document de novo, applying all customary tools of statutory and
6 regulatory interpretation, including, but not limited to, textual analysis, legislative intent, and
7 applicable precedent.

§55-22-5. Resolution of interpretive ambiguity.

1 (a) In any action brought by or against a state agency, after applying all customary tools
2 of interpretation, if any ambiguity remains in the meaning or effect of a state statute, regulation,
3 or sub-regulatory document, the court or hearing officer shall resolve such ambiguity in favor of a
4 reasonable interpretation that:

5 (1) Limits the scope of the state agency's power and authority; and

6 (2) Maximizes the protection of individual liberty.

7 (b) The court or hearing officer shall not presume that ambiguity in a statute, regulation,
8 or sub-regulatory document grants discretionary authority to a state agency.

§55-22-6. Applicability.

1 (a) This article applies to all actions, suits, and administrative proceedings initiated on or
2 after the effective date of this article.

3 (b) This article does not apply to federal statutes, regulations, or actions involving federal
4 agencies, except where state courts or officers are expressly authorized to interpret federal law
5 in a state proceeding.

§55-22-7. Severability.

1 If any provision of this article or its application to any person or circumstance is held invalid,
2 the remainder of the article or the application of the provision to other persons or circumstances
3 shall not be affected.

§55-22-8. Effective date.

1 This article shall take effect on July 1, 2026.