WEST VIRGINIA CODE: §29a-3A-12

§29A-3A-12. Submission of legislative rules to the Legislative Oversight Commission on Education Accountability.

(a) When the agency finally approves a proposed legislative rule for submission to the Legislature pursuant to §29A-3A-10 of this code, the agency shall electronically submit the agency-approved rule to the Legislative Oversight Commission on Education Accountability and electronically file notice of approval in the State Register. Electronic copies of the proposed legislative rule shall include the following information:

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

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

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

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

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

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

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

(8) All public comments for each proposed rule. The agency may consolidate substantially similar comments in the interest of efficiency;

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

WV Legislature

(10) Any other information which the commission may request or which may be required by law. The agency shall submit its final agency-approved rule as required by this subsection.

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

(1) Whether the agency has exceeded the scope of its statutory authority in approving the proposed legislative rule;

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

(3) Whether the proposed legislative rule overlaps, duplicates, or conflicts with any other provision of this code, any other rule adopted by the same or a different agency, or any federal statutes or regulations;

(4) Whether the proposed legislative rule is necessary to fully accomplish the objectives of the statute under which the proposed rule was promulgated;

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

(6) Whether the proposed legislative rule could be made less complex or more readily understandable by the general public;

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

(8) Whether federal funding will be impacted by its expiration and explanation as to how.

(c) After reviewing the legislative rule, the commission 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 or modifications;

(4) Require the agency to withdraw the rule; or

(5) Reject the proposed rule.

The commission shall file notice of its action in the State Register and with the agency

WV Legislature

proposing the rule: *Provided*, That when the commission makes the recommendations of subdivision (2), (3), (4), or (5) of this subsection, the notice shall contain a statement of the reasons for the recommendation.

(d) When the commission recommends that a rule be authorized, in whole or in part, by the Legislature, the commission shall instruct its staff or the office of Legislative Services to draft a bill authorizing promulgation of all or part of the legislative rule and incorporating the amendments recommended by the commission. If the commission 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.

WV Legislature