WEST VIRGINIA CODE: §29a-3A-20

§29A-3A-20. Sunset provision in rules.

(a) Any new legislative rule promulgated pursuant to this article after April 1, 2016, shall include a sunset provision terminating the rule on August 1 of the fifth year following its promulgation: *Provided*, That the rule may be renewed by the Legislature pursuant to the rulemaking procedures and authority in this article: *Provided, however*, That if a different sunset or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute's provision shall control: *Provided further*, That this subsection shall not apply to emergency rules promulgated pursuant to §29A-3A-16 of this code.

(b) Any legislative rule existing as of April 1, 2016, that is thereafter amended pursuant to this article shall include a sunset provision terminating the rule on August 1 of the applicable year as part of the amendment: *Provided*, That the rule may be renewed by the Legislature pursuant to the rule-making procedures and authority in this article: *Provided, however*, That if a different sunset or termination provision exists in the statute under which the legislative rule is promulgated, the enabling statute's provision controls: *Provided further*, That this subsection shall not apply to emergency rules promulgated pursuant to §29A-3A-16 of this code.

(c) The existence of a sunset provision terminating a legislative rule shall not preclude the repeal of the legislative rule by the Legislature prior to its termination.

(d) As part of its rule review under this article, the Legislative Oversight Commission on Education Accountability may establish a procedure for timely review of a legislative rule prior to its termination if the agency has affirmatively sought renewal prior to expiration. The procedure may include a requirement that the agency show cause as to why the terminating legislative rule is required and necessary to be continued for another term of years.

(e) The Secretary of State shall provide notice to the agency and the Legislative Oversight Commission on Education Accountability at least 18 months prior to every legislative rule's termination date. The agency has 60 days from receipt of the notice to file the legislative rule with the Secretary of State and the Legislative Oversight Commission on Education Accountability affirmatively seeking renewal of the legislative rule: *Provided*, That, if the legislative rule that is scheduled to sunset is not being amended or changed, except for a new sunset date, the rule is not subject to the public comment period requirements contained in §29A-3A-6 of this code. The Legislative Oversight Commission on Education Accountability, as part of its rule review under this article, may begin reviewing a legislative rule upon its filing.

(f) If the agency has promulgated a legislative rule with a sunset date prior to May 1 of the

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applicable year, the agency may file a technical amendment with the Secretary of State for the purpose of establishing a sunset date of August 1 of the applicable year.

(g) The Secretary of State shall file a notice of sunset in the State Register within 30 days following the expiration of a legislative rule.

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