WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

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ENROLLED

HOUSE BILL No. 2881

Douglas, Collins, Tucker, Prunty,
Claypole, Stalnaker and Capito
(By Delegate ___________________________)

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Passed ___________________________ April 12, 1997

In Effect ___________________________ July 1, 1997 Passage
ENROLLED

H. B. 2881

(By Delegates Douglas, Collins, Tucker, Prunty, Claypole, Stalnaker and Capito)

[Passed April 12, 1997; in effect July 1, 1997.]

AN ACT to amend and reenact sections three, four, five and twelve, article ten, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto four new sections, designated sections four-a, five-a, ten-a and eleven-a, all relating to changing termination dates for agencies pursuant to the West Virginia sunset law; defining compliance monitoring and further inquiry update; changing termination dates of agencies following full performance evaluations, preliminary performance reviews and compliance monitoring and further inquiry updates; specifying duties of joint committee on government operations in conducting compliance monitoring and further inquiry updates; and changing one type of recommendation that may be made by the joint committee on government operations in its annual report.

Be it enacted by the Legislature of West Virginia:

That sections three, four, five and twelve, article ten, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto four new sections, designated sections four-a, five-a, ten-a and eleven-a, all to read as follows:

ARTICLE 10. THE WEST VIRGINIA SUNSET LAW.
§4-10-3. Definitions.

As used in this article, unless the context clearly indicates a different meaning:

1. "Agency" means any bureau, department, division, commission, agency, committee, office, board, authority, subdivision, program, council, advisory body, cabinet, panel, system, task force, fund, compact, institution, survey, position, coalition or other entity, however designated, in the state of West Virginia.

2. "Committee" means the joint committee on government operations, hereinafter continued, to perform duties under this article.

3. "Full performance evaluation" means to determine for an agency whether or not the agency is operating in an efficient and effective manner and to determine whether or not there is a demonstrable need for the continuation of the agency, pursuant to the provisions of section ten of this article. References in this code to performance audit or full performance audit shall be taken as and shall mean full performance evaluation.

4. "Preliminary performance review" means to determine for an agency whether or not the agency is performing in an efficient and effective manner and to determine whether or not there is a demonstrable need for the continuation of the agency pursuant to the provisions of section eleven of this article.

5. "Compliance monitoring and further inquiry update" means to determine for an agency whether or not the agency has complied with recommendations contained in a completed full performance evaluation or a completed preliminary performance review conducted pursuant to this article and that further inquiry into the operation of the agency may be conducted pursuant to the provisions of sections ten-a and eleven-a of this article.

§4-10-4. Termination of agencies following full performance evaluations.
The following agencies shall be terminated on the date indicated, but no agency may be terminated under this section unless a full performance evaluation has been conducted upon such agency:

(1) On the first day of July, one thousand nine hundred ninety-eight: Workers’ compensation; office of judges of workers’ compensation; department of health and human resources; purchasing division within the department of administration.

(2) On the first day of July, one thousand ninety-nine: Division of environmental protection; West Virginia parkways, economic development and tourism authority.

(3) On the first day of July, two thousand: Division of corrections.

(4) On the first day of July, two thousand one: Division of natural resources.

(5) On the first day of July, two thousand two: Division of highways; division of labor.

(6) On the first day of July, two thousand three: Division of culture and history; school building authority.

§4-10-4a. Termination of agencies previously subject to full performance evaluations following compliance monitoring and further inquiry updates.

The following agencies shall be terminated on the date indicated, but no agency may be terminated under this section unless a compliance monitoring and further inquiry update has been completed on the agency subsequent to the prior completion of a full performance evaluation:

(1) On the first day of July, one thousand nine hundred ninety-eight: Division of personnel; division of rehabilitation services.

(2) On the first day of July, one thousand ninety-nine: Tourism functions within the West Virginia development office.
§4-10-5. Termination of agencies following preliminary performance reviews.

The following agencies shall be terminated on the date indicated, but no agency may be terminated under this section unless a preliminary performance review has been conducted upon such agency:

1. (1) On the first day of July, one thousand nine hundred ninety-six: Juvenile facilities review panel.

2. (2) On the first day of July, one thousand nine hundred ninety-seven: Public employees insurance agency advisory board; cable television advisory board.

3. (3) On the first day of July, one thousand nine hundred ninety-eight: Women's commission; state lottery commission; meat inspection program of the department of agriculture; soil conservation committee of the department of agriculture; state board of risk and insurance management; board of examiners of land surveyors; commission on uniform state laws; West Virginia's membership in the interstate commission on the Potomac River Basin; family law masters system; board of social work examiners; child support enforcement division; West Virginia lending and credit rate board; public defender services.

4. (4) On the first day of July, one thousand nine hundred ninety-nine: Public service commission; tree fruit industry self improvement assessment program; capitol building commission; board of banking and financial institutions; state building commission; West Virginia state police.

5. (5) On the first day of July, two thousand: Family protection services board; environmental quality board; West Virginia's membership in the Ohio River valley water sanitation commission; ethics commission; oil and gas inspector's examining board; veterans' council; West Virginia's membership in the southern regional education board; board of respiratory care practitioners; board of
examiners in counseling; educational broadcasting authority; West Virginia state rail authority.

(6) On the first day of July, two thousand one: Real estate commission; marketing and development division of the department of agriculture; board of architects; public employees insurance agency; public employees insurance agency finance board; center for professional development; rural health advisory panel.

(7) On the first day of July, two thousand two: Whitewater commission within the division of natural resources; state geological and economic survey; unemployment compensation; West Virginia contractor licensing board.

(8) On the first day of July, two thousand three: Driver’s licensing advisory board; West Virginia commission for national and community service.

§4-10-5a. Termination of agencies previously subject to preliminary performance reviews following compliance monitoring and further inquiry updates.

The following agencies shall be terminated on the date indicated, but no agency may be terminated under this section unless a compliance monitoring and further inquiry update has been completed on the agency subsequent to the prior completion of a preliminary performance review:

(1) On the first day of July, one thousand nine hundred ninety-eight: Board of investments; emergency medical services advisory council; human rights commission; parks section and parks functions of the division of natural resources.

(2) On the first day of July, one thousand nine hundred ninety-nine: Office of water resources of the division of environmental protection; office of environmental advocate of the division of environmental protection; governor’s cabinet on children and families; West Virginia health care cost review authority.
§4-10-10a. **Compliance monitoring and further inquiry updates of agencies by the committee subsequent to a completed full performance evaluation.**

1. It shall be the duty of the committee to conduct a compliance monitoring and further inquiry update of every agency scheduled for termination under section four-a of this article.

2. In conducting such compliance monitoring and further inquiry update, the committee shall determine to what extent the agency has complied with recommendations contained in the completed full performance evaluation. The committee may direct that further inquiry into the operation of the agency be undertaken as part of the compliance monitoring and further inquiry update.

§4-10-11a. **Compliance monitoring and further inquiry updates of agencies by the committee subsequent to a completed preliminary performance review.**

1. It shall be the duty of the committee to conduct a compliance monitoring and further inquiry update of every agency scheduled for termination under section five-a of this article.

2. In conducting such compliance monitoring and further inquiry update, the committee shall determine to what extent the agency has complied with recommendations contained in the completed preliminary performance review. The committee may direct that further inquiry into the operation of the agency be undertaken as part of the compliance monitoring and further inquiry update.

§4-10-12. **Annual report by the committee.**

1. The committee shall complete its deliberations with respect to agencies scheduled for termination and make an annual report thereon to the Legislature not later than ten days after the Legislature convenes in regular session in the year of the scheduled termination for the agency: Provided, That any such annual report required in the year one thousand nine hundred ninety-seven, and every
fourth year thereafter, shall be made not later than ten
days after the Legislature convenes on the second
Wednesday in February. The annual report shall consist
of an analysis of the agency including matters as are
expressly mandated to be considered by the committee as
set forth in this article, together with the recommendations
of the committee. The committee shall make one of five
recommendations: (1) The agency be terminated as
scheduled; (2) the agency be continued and reestablished;
(3) the agency be continued and reestablished, and the
statutes governing it be amended in specific ways to
correct ineffective or discriminatory practices and
procedures, burdensome rules and regulations, lack of
protection of the public interest, overlapping of
jurisdiction with other agencies, unwarranted exercise of
authority either in law or in fact or any other deficiencies;
(4) a full performance evaluation be performed on an
agency on which a preliminary review has been
completed; or (5) the agency be continued for a period of
time not to exceed one year for the purpose of completing
a compliance monitoring and further inquiry update.

In the event the committee makes recommendations
concerning the continuation or reestablishment of
agencies pursuant to this article, the annual report shall
include draft bills effectuating the recommendations.

Copies of the annual reports shall be made available to
all members of the Legislature, to the agency that is the
subject of the report and to the public generally. A copy
of the annual report shall be formally filed immediately
by the committee with the clerk of each house.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1997.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 7th day of May, 1997.

Governor
PRESENTNESS TO THE
GOVERNOR
Date 5/1/97
Time 3:00 PM