

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2919**

4  
5 (By Delegates Ennis, Givens, Ferro, Ferns,  
6 Swartzmiller, Storch, Varner, Jones and Pethtel)

7 (Originating in the Committee on Education)

8 [February 1, 2011]

9  
10 A BILL to amend and reenact §18B-1-2 and §18B-2A-1 of the Code of  
11 West Virginia, 1931, as amended, correcting names of certain  
12 state institutions of higher education.

13 *Be it enacted by the Legislature of West Virginia:*

14 That §18B-1-2 and §18B-2A-1 of the Code of West Virginia,  
15 1931, as amended, be amended and reenacted, all to read as follows:

16 **ARTICLE 1. GOVERNANCE.**

17 **§18B-1-2. Definitions.**

18 The following words when used in this chapter and chapter  
19 eighteen-c of this code have the meanings ascribed to them unless  
20 the context clearly indicates a different meaning:

21 (a) "Governing boards" or "boards" means the institutional  
22 boards of governors created pursuant to section one, article two-a  
23 of this chapter;

24 (b) "Free-standing community and technical colleges" means  
25 Southern West Virginia Community and Technical College, West  
26 Virginia Northern Community and Technical College, and Eastern West

1 Virginia Community and Technical College, which may not be operated  
2 as branches or off-campus locations of any other state institution  
3 of higher education;

4 (c) "Community and technical college", in the singular or  
5 plural, means the free-standing community and technical colleges  
6 and other state institutions of higher education which deliver  
7 community and technical college education. This definition  
8 includes ~~Southern West Virginia Community and Technical College,~~  
9 ~~West Virginia Northern Community and Technical College,~~ Eastern  
10 ~~West Virginia Community and Technical College,~~ New River Community  
11 ~~and Technical College,~~ West Virginia University at Parkersburg, The  
12 ~~Community and Technical College at West Virginia University~~  
13 ~~Institute of Technology,~~ Blue Ridge Community and Technical  
14 ~~College,~~ Marshall Community and Technical College, West Virginia  
15 ~~State Community and Technical College and Pierpont Community and~~  
16 ~~Technical College~~ Blue Ridge Community and Technical College,  
17 Bridgemont Community and Technical College, Eastern West Virginia  
18 Community and Technical College, Kanawha Valley Community and  
19 Technical College, Mountwest Community and Technical College, New  
20 River Community and Technical College, Pierpont Community and  
21 Technical College, Southern West Virginia Community and Technical  
22 College, West Virginia Northern Community and Technical College,  
23 and West Virginia University at Parkersburg;

24 (d) "Community and technical college education" means the  
25 programs, faculty, administration and funding associated with the  
26 delivery of community and technical college education programs;

1 (e) "Essential conditions" means those conditions which shall  
2 be met by community and technical colleges as provided in section  
3 three, article three-c of this chapter;

4 (f) "Higher education institution" means any institution as  
5 defined by Sections 401(f), (g) and (h) of the federal Higher  
6 Education Facilities Act of 1963, as amended;

7 (g) "Higher Education Policy Commission", "Policy Commission"  
8 or "Commission" means the commission created pursuant to section  
9 one, article one-b of this chapter;

10 (h) "Chancellor for Higher Education" means the chief  
11 executive officer of the Higher Education Policy Commission  
12 employed pursuant to section five, article one-b of this chapter;

13 (i) "Chancellor for Community and Technical College Education"  
14 means the chief executive officer of the West Virginia Council for  
15 Community and Technical College Education employed pursuant to  
16 section three, article two-b of this chapter;

17 (j) "Chancellor" means the Chancellor for Higher Education  
18 where the context refers to a function of the Higher Education  
19 Policy Commission. "Chancellor" means Chancellor for Community and  
20 Technical College Education where the context refers to a function  
21 of the West Virginia Council for Community and Technical College  
22 Education;

23 (k) "Institutional operating budget" or "operating budget"  
24 means for any fiscal year an institution's total unrestricted  
25 education and general funding from all sources in the prior fiscal  
26 year, including, but not limited to, tuition and fees and

1 legislative appropriation, and any adjustments to that funding as  
2 approved by the Commission or Council based on comparisons with  
3 peer institutions or to reflect consistent components of peer  
4 operating budgets;

5 (l) "Community and technical college education program" means  
6 any college-level course or program beyond the high school level  
7 provided through a public institution of higher education resulting  
8 in or which may result in a two-year associate degree award  
9 including an associate of arts, an associate of science and an  
10 associate of applied science; certificate programs and skill sets;  
11 developmental education; continuing education; collegiate credit  
12 and noncredit workforce development programs; and transfer and  
13 baccalaureate parallel programs. All programs are under the  
14 jurisdiction of the Council. Any reference to "post-secondary  
15 vocational education programs" means community and technical  
16 college education programs as defined in this subsection;

17 (m) "Rule" or "rules" means a regulation, standard, policy or  
18 interpretation of general application and future effect;

19 (n) "Vice Chancellor for Administration" means the person  
20 employed in accordance with section two, article four of this  
21 chapter. Any reference in this chapter or chapter eighteen-c of  
22 this code to "Senior Administrator" means Vice Chancellor for  
23 Administration;

24 (o) "State college" means Bluefield State College, Concord  
25 University, Fairmont State University, Glenville State College,  
26 Shepherd University, West Liberty ~~State College~~ University or West

1 Virginia State University;

2 (p) "State institution of higher education" means any  
3 university, college or community and technical college under the  
4 jurisdiction of a governing board as that term is defined in this  
5 section;

6 (q) "Board of visitors" means the advisory board previously  
7 appointed for the West Virginia Graduate College and the advisory  
8 board previously appointed for West Virginia University Institute  
9 of Technology, which provide guidance to the Marshall University  
10 Graduate College and West Virginia University Institute of  
11 Technology, respectively;

12 (r) "Institutional compact" means the compact between the  
13 Commission or Council and a state institution of higher education  
14 under its jurisdiction, as described in section six, article one-d  
15 of this chapter;

16 (s) "Peer institutions", "peer group" or "peers" means public  
17 institutions of higher education used for comparison purposes and  
18 selected by the Commission pursuant to section three, article one-a  
19 of this chapter;

20 (t) "Administratively linked community and technical college"  
21 means a state institution of higher education delivering community  
22 and technical college education and programs which has maintained  
23 a contractual agreement to receive essential services from another  
24 accredited state institution of higher education prior to July 1,  
25 2008;

26 (u) "Sponsoring institution" means a state institution of

1 higher education that maintained an administrative link to a  
2 community and technical college providing essential services prior  
3 to July 1, 2008. This definition includes institutions whose  
4 governing boards had under their jurisdiction a community and  
5 technical college, regional campus or a division delivering  
6 community and technical college education and programs;

7 (v) "Collaboration" means entering into an agreement with one  
8 or more providers of education services in order to enhance the  
9 scope, quality or efficiency of education services;

10 (w) "Broker" or "brokering" means serving as an agent on  
11 behalf of students, employers, communities or responsibility areas  
12 to obtain education services not offered at that institution.  
13 These services include courses, degree programs or other services  
14 contracted through an agreement with a provider of education  
15 services either in-state or out-of-state;

16 (x) "Council" means the West Virginia Council for Community  
17 and Technical College Education created pursuant to article two-b  
18 of this chapter;

19 (y) "West Virginia Consortium for Undergraduate Research and  
20 Engineering" or "West Virginia CURE" means the collaborative  
21 planning group established pursuant to article one-c of this  
22 chapter;

23 (z) "Advanced technology center" means a facility established  
24 under the direction of an independent community and technical  
25 college for the purpose of implementing and delivering education  
26 and training programs for high-skill, high-performance Twenty-first

1 Century workplaces;

2 (aa) "Statewide network of independently accredited community  
3 and technical colleges" or "community and technical college  
4 network" means the state institutions of higher education under the  
5 jurisdiction of the West Virginia Council for Community and  
6 Technical College Education which are independently accredited, ~~or~~  
7 ~~are seeking independent accreditation by the regional accrediting~~  
8 ~~agency~~ each governed by its own independent governing board, and  
9 each having a core mission of providing affordable access to and  
10 delivering high quality community and technical education in every  
11 region of the state; ~~and~~

12 (bb) "Independent community and technical college" means a  
13 state institution of higher education under the jurisdiction of the  
14 Council which is independently accredited, ~~or seeking independent~~  
15 ~~accreditation~~ is governed by its own independent governing board,  
16 and may not be operated as a branch or off-campus location of any  
17 other state institution of higher education. This definition  
18 includes Blue Ridge Community and Technical College, ~~The Community~~  
19 ~~and Technical College at West Virginia University Institute of~~  
20 ~~Technology~~ Bridgemont Community and Technical College, Eastern West  
21 Virginia Community and Technical College, Kanawha Valley Community  
22 and Technical College, Mountwest ~~Marshall~~ Community and Technical  
23 College, New River Community and Technical College, Pierpont  
24 Community and Technical College, Southern West Virginia Community  
25 and Technical College, West Virginia Northern Community and  
26 Technical College, ~~West Virginia State Community and Technical~~

1 ~~College~~ and West Virginia University at Parkersburg; and

2 (cc) "Dual credit course" or "dual enrollment course" ~~is~~ means  
3 a credit-bearing college-level course offered in a high school by  
4 a state institution of higher education for high school students in  
5 which the students are concurrently enrolled and receiving credit  
6 at the secondary level.

7 **ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.**

8 **§18B-2A-1. Findings; composition of boards; terms and**  
9 **qualifications of members; vacancies; eligibility**  
10 **for reappointment.**

11 (a) *Findings.* --

12 The Legislature finds that the State of West Virginia is  
13 served best when the membership of each governing board includes  
14 the following:

15 (1) The academic expertise and institutional experience of  
16 faculty members and a student of the institution governed by the  
17 board;

18 (2) The technical or professional expertise and institutional  
19 experience of a classified employee of the institution governed by  
20 the board;

21 (3) An awareness and understanding of the issues facing the  
22 institution governed by the board; and

23 (4) The diverse perspectives that arise from a membership that  
24 is balanced in terms of gender and varied in terms of race and  
25 ethnic heritage.



1 (b) *Boards of Governors established.* --

2 A Board of Governors is continued at each of the following  
3 institutions: Bluefield State College, Blue Ridge Community and  
4 Technical College, ~~The Community and Technical College at West~~  
5 ~~Virginia University Institute of Technology~~ Bridgemont Community  
6 and Technical College, Concord University, Eastern West Virginia  
7 Community and Technical College, Fairmont State University,  
8 Glenville State College, Kanawha Valley Community and Technical  
9 College, Mountwest ~~Marshall~~ Community and Technical College,  
10 Marshall University, New River Community and Technical College,  
11 Pierpont Community and Technical College, Shepherd University,  
12 Southern West Virginia Community and Technical College, West  
13 Liberty ~~State~~ University, West Virginia Northern Community and  
14 Technical College, the West Virginia School of Osteopathic  
15 Medicine, ~~West Virginia State Community and Technical College~~ West  
16 Virginia State University, West Virginia University and West  
17 Virginia University at Parkersburg.

18 (c) *Board Membership.* --

19 (1) An appointment to fill a vacancy on the board or  
20 reappointment of a member who is eligible to serve an additional  
21 term is made in accordance with the provisions of this section.

22 (2) The board of governors for Marshall University consists of  
23 sixteen persons. The board of governors for West Virginia  
24 University consists of seventeen persons. The boards of governors  
25 of the other state institutions of higher education consist of  
26 twelve persons.

1 (3) Each board of governors includes the following members:

2 (A) A full-time member of the faculty with the rank of  
3 instructor or above duly elected by the faculty of the respective  
4 institution;

5 (B) A member of the student body in good academic standing,  
6 enrolled for college credit work and duly elected by the student  
7 body of the respective institution; and

8 (C) A member from the institutional classified employees duly  
9 elected by the classified employees of the respective institution;

10 (4) For the board of governors at Marshall University,  
11 thirteen lay members appointed by the Governor, by and with the  
12 advice and consent of the Senate, pursuant to this section;

13 (5) For the board of governors at West Virginia University,  
14 twelve lay members appointed by the Governor, by and with the  
15 advice and consent of the Senate, pursuant to this section, and  
16 additionally:

17 (A) The chairperson of the board of visitors of West Virginia  
18 University Institute of Technology;

19 (B) A full-time faculty member representing the extension  
20 service at the institution or a full-time faculty member  
21 representing the health sciences, selected by the faculty senate.

22 (6) For each board of governors of the other state  
23 institutions of higher education, nine lay members appointed by the  
24 Governor, by and with the advice and consent of the Senate,  
25 pursuant to this section.

26 (A) Of the nine members appointed by the Governor, no more

1 than five may be of the same political party. Of the thirteen  
2 members appointed by the Governor to the governing board of  
3 Marshall University, no more than eight may be of the same  
4 political party. Of the twelve members appointed by the Governor  
5 to the governing board of West Virginia University, no more than  
6 seven may be of the same political party.

7 (B) Of the nine members appointed by the Governor, at least  
8 five shall be residents of the state. Of the thirteen members  
9 appointed by the Governor to the governing board of Marshall  
10 University, at least eight shall be residents of the state. Of the  
11 twelve members appointed by the Governor to the governing board of  
12 West Virginia University, at least seven shall be residents of the  
13 state.

14 (7) In making lay appointments, the Governor shall consider  
15 the institutional mission and membership characteristics including  
16 the following:

17 (A) The need for individual skills, knowledge and experience  
18 relevant to governing the institution;

19 (B) The need for awareness and understanding of institutional  
20 problems and priorities, including those related to research,  
21 teaching and outreach;

22 (C) The value of gender, racial and ethnic diversity; and

23 (D) The value of achieving balance in gender and diversity in  
24 the racial and ethnic characteristics of the lay membership of each  
25 board.

26 (d) *Board member terms.* --

1           (1) The student member serves for a term of one year. Each  
2 term begins on July 1.

3           (2) The faculty member serves for a term of two years. Each  
4 term begins on July 1. Faculty members are eligible to succeed  
5 themselves for three additional terms, not to exceed a total of  
6 eight consecutive years.

7           (3) The member representing classified employees serves for a  
8 term of two years. Each term begins on July 1. Members  
9 representing classified employees are eligible to succeed  
10 themselves for three additional terms, not to exceed a total of  
11 eight consecutive years.

12          (4) The appointed lay citizen members serve terms of up to  
13 four years each and are eligible to succeed themselves for no more  
14 than one additional term.

15          (5) A vacancy in an unexpired term of a member shall be filled  
16 for the unexpired term within thirty days of the occurrence of the  
17 vacancy in the same manner as the original appointment or election.  
18 Except in the case of a vacancy, all elections are held and all  
19 appointments are made no later than June 30 preceding the  
20 commencement of the term. Each board of governors shall elect one  
21 of its appointed lay members to be chairperson in June of each  
22 year. A member may not serve as chairperson for more than four  
23 consecutive years.

24          (6) The appointed members of the boards of governors serve  
25 staggered terms of up to four years except that four of the initial  
26 appointments to the governing boards of community and technical

1 colleges that became independent July 1, 2008, are for terms of two  
2 years and five of the initial appointments are for terms of four  
3 years.

4 (e) *Board member eligibility, expenses.* --

5 (1) A person is ineligible for appointment to membership on a  
6 board of governors of a state institution of higher education under  
7 the following conditions:

8 (A) For a baccalaureate institution or university, a person is  
9 ineligible for appointment who is an officer, employee or member of  
10 any other board of governors; an employee of any institution of  
11 higher education; an officer or member of any political party  
12 executive committee; the holder of any other public office or  
13 public employment under the government of this state or any of its  
14 political subdivisions; an employee of any affiliated research  
15 corporation created pursuant to article twelve of this chapter; an  
16 employee of any affiliated foundation organized and operated in  
17 support of one or more state institutions of higher education; or  
18 a member of the council or commission. This subsection does not  
19 prevent the representative from the faculty, classified employees,  
20 students or the superintendent of a county board of education from  
21 being members of the governing boards.

22 (B) For a community and technical college, a person is  
23 ineligible for appointment who is an officer, employee or member of  
24 any other board of governors; a member of a board of visitors of  
25 any public institution of higher education; an employee of any  
26 institution of higher education; an officer or member of any

1 political party executive committee; the holder of any other public  
2 office, other than an elected county office, or public employment,  
3 other than employment by the county board of education, under the  
4 government of this state or any of its political subdivisions; an  
5 employee of any affiliated research corporation created pursuant to  
6 article twelve of this chapter; an employee of any affiliated  
7 foundation organized and operated in support of one or more state  
8 institutions of higher education; or a member of the council or  
9 commission. This subsection does not prevent the representative  
10 from the faculty, classified employees or students from being  
11 members of the governing boards.

12 (2) Before exercising any authority or performing any duties  
13 as a member of a governing board, each member shall qualify as such  
14 by taking and subscribing to the oath of office prescribed by  
15 section five, article IV of the Constitution of West Virginia and  
16 the certificate thereof shall be filed with the Secretary of State.

17 (3) A member of a governing board appointed by the Governor  
18 may not be removed from office by the Governor except for official  
19 misconduct, incompetence, neglect of duty or gross immorality and  
20 then only in the manner prescribed by law for the removal of the  
21 state elective officers by the Governor.

22 (4) The members of the board of governors serve without  
23 compensation, but are reimbursed for all reasonable and necessary  
24 expenses actually incurred in the performance of official duties  
25 under this article upon presentation of an itemized sworn statement  
26 of expenses.

1           (5) The president of the institution shall make available  
2 resources of the institution for conducting the business of its  
3 board of governors. All expenses incurred by the board of  
4 governors and the institution under this section are paid from  
5 funds allocated to the institution for that purpose.