

COMMITTEE SUBSTITUTE

FOR

H. B. 2919

(BY DELEGATES ENNIS, GIVENS, FERRO, FERNS,
SWARTZMILLER, STORCH, VARNER, JONES AND PETHTEL)

(Originating in the Committee on Education)
[February 1, 2011]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. GOVERNANCE.

§18B-1-2. Definitions.

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

5 (a) “Governing boards” or “boards” means the
6 institutional boards of governors created pursuant to section
7 one, article two-a of this chapter;

8 (b) “Free-standing community and technical colleges”
9 means Southern West Virginia Community and Technical
10 College, West Virginia Northern Community and Technical
11 College, and Eastern West Virginia Community and
12 Technical College, which may not be operated as branches or
13 off-campus locations of any other state institution of higher
14 education;

15 (c) “Community and technical college”, in the singular or
16 plural, means the free-standing community and technical
17 colleges and other state institutions of higher education
18 which deliver community and technical college education.
19 This definition includes ~~Southern West Virginia Community~~

20 ~~and Technical College, West Virginia Northern Community~~
21 ~~and Technical College, Eastern West Virginia Community~~
22 ~~and Technical College, New River Community and~~
23 ~~Technical College, West Virginia University at Parkersburg,~~
24 ~~The Community and Technical College at West Virginia~~
25 ~~University Institute of Technology, Blue Ridge Community~~
26 ~~and Technical College, Marshall Community and Technical~~
27 ~~College, West Virginia State Community and Technical~~
28 ~~College and Pierpont Community and Technical College~~
29 Blue Ridge Community and Technical College, Bridgemont
30 Community and Technical College, Eastern West Virginia
31 Community and Technical College, Kanawha Valley
32 Community and Technical College, Mountwest Community
33 and Technical College, New River Community and
34 Technical College, Pierpont Community and Technical
35 College, Southern West Virginia Community and Technical
36 College, West Virginia Northern Community and Technical
37 College, and West Virginia University at Parkersburg;

38 (d) “Community and technical college education” means
39 the programs, faculty, administration and funding associated
40 with the delivery of community and technical college
41 education programs;

42 (e) “Essential conditions” means those conditions which
43 shall be met by community and technical colleges as
44 provided in section three, article three-c of this chapter;

45 (f) “Higher education institution” means any institution
46 as defined by Sections 401(f), (g) and (h) of the federal
47 Higher Education Facilities Act of 1963, as amended;

48 (g) “Higher Education Policy Commission”, “Policy
49 Commission” or “Commission” means the commission
50 created pursuant to section one, article one-b of this chapter;

51 (h) “Chancellor for Higher Education” means the chief
52 executive officer of the Higher Education Policy
53 Commission employed pursuant to section five, article one-b
54 of this chapter;

55 (i) “Chancellor for Community and Technical College
56 Education” means the chief executive officer of the West

57 Virginia Council for Community and Technical College
58 Education employed pursuant to section three, article two-b
59 of this chapter;

60 (j) “Chancellor” means the Chancellor for Higher
61 Education where the context refers to a function of the
62 Higher Education Policy Commission. “Chancellor” means
63 Chancellor for Community and Technical College Education
64 where the context refers to a function of the West Virginia
65 Council for Community and Technical College Education;

66 (k) “Institutional operating budget” or “operating budget”
67 means for any fiscal year an institution’s total unrestricted
68 education and general funding from all sources in the prior
69 fiscal year, including, but not limited to, tuition and fees and
70 legislative appropriation, and any adjustments to that funding
71 as approved by the Commission or Council based on
72 comparisons with peer institutions or to reflect consistent
73 components of peer operating budgets;

74 (l) “Community and technical college education
75 program” means any college-level course or program beyond

76 the high school level provided through a public institution of
77 higher education resulting in or which may result in a two-year
78 associate degree award including an associate of arts, an
79 associate of science and an associate of applied science;
80 certificate programs and skill sets; developmental education;
81 continuing education; collegiate credit and noncredit workforce
82 development programs; and transfer and baccalaureate parallel
83 programs. All programs are under the jurisdiction of the
84 Council. Any reference to “post-secondary vocational education
85 programs” means community and technical college education
86 programs as defined in this subsection;

87 (m) “Rule” or “rules” means a regulation, standard,
88 policy or interpretation of general application and future
89 effect;

90 (n) “Vice Chancellor for Administration” means the
91 person employed in accordance with section two, article four
92 of this chapter. Any reference in this chapter or chapter
93 eighteen-c of this code to “Senior Administrator” means Vice
94 Chancellor for Administration;

95 (o) “State college” means Bluefield State College,
96 Concord University, Fairmont State University, Glenville
97 State College, Shepherd University, West Liberty State
98 ~~College~~ University or West Virginia State University;

99 (p) “State institution of higher education” means any
100 university, college or community and technical college under
101 the jurisdiction of a governing board as that term is defined
102 in this section;

103 (q) “Board of visitors” means the advisory board
104 previously appointed for the West Virginia Graduate College
105 and the advisory board previously appointed for West
106 Virginia University Institute of Technology, which provide
107 guidance to the Marshall University Graduate College and
108 West Virginia University Institute of Technology,
109 respectively;

110 (r) “Institutional compact” means the compact between
111 the Commission or Council and a state institution of higher
112 education under its jurisdiction, as described in section six,
113 article one-d of this chapter;

114 (s) “Peer institutions”, “peer group” or “peers” means
115 public institutions of higher education used for comparison
116 purposes and selected by the Commission pursuant to section
117 three, article one-a of this chapter;

118 (t) “Administratively linked community and technical
119 college” means a state institution of higher education
120 delivering community and technical college education and
121 programs which has maintained a contractual agreement to
122 receive essential services from another accredited state
123 institution of higher education prior to July 1, 2008;

124 (u) “Sponsoring institution” means a state institution of
125 higher education that maintained an administrative link to a
126 community and technical college providing essential services
127 prior to July 1, 2008. This definition includes institutions
128 whose governing boards had under their jurisdiction a
129 community and technical college, regional campus or a
130 division delivering community and technical college
131 education and programs;

132 (v) “Collaboration” means entering into an agreement
133 with one or more providers of education services in order to
134 enhance the scope, quality or efficiency of education
135 services;

136 (w) “Broker” or “brokering” means serving as an agent
137 on behalf of students, employers, communities or
138 responsibility areas to obtain education services not offered
139 at that institution. These services include courses, degree
140 programs or other services contracted through an agreement
141 with a provider of education services either in-state or out-of-
142 state;

143 (x) “Council” means the West Virginia Council for
144 Community and Technical College Education created
145 pursuant to article two-b of this chapter;

146 (y) “West Virginia Consortium for Undergraduate
147 Research and Engineering” or “West Virginia CURE” means
148 the collaborative planning group established pursuant to
149 article one-c of this chapter;

150 (z) “Advanced technology center” means a facility
151 established under the direction of an independent community
152 and technical college for the purpose of implementing and
153 delivering education and training programs for high-skill,
154 high-performance Twenty-first Century workplaces;

155 (aa) “Statewide network of independently accredited
156 community and technical colleges” or “community and
157 technical college network” means the state institutions of
158 higher education under the jurisdiction of the West Virginia
159 Council for Community and Technical College Education
160 which are independently accredited, ~~or are seeking~~
161 ~~independent accreditation by the regional accrediting agency~~
162 each governed by its own independent governing board, and
163 each having a core mission of providing affordable access to
164 and delivering high quality community and technical
165 education in every region of the state; ~~and~~

166 (bb) “Independent community and technical college”
167 means a state institution of higher education under the
168 jurisdiction of the Council which is independently accredited,

169 ~~or seeking independent accreditation~~ is governed by its own
170 independent governing board, and may not be operated as a
171 branch or off-campus location of any other state institution
172 of higher education. This definition includes Blue Ridge
173 Community and Technical College, ~~The Community and~~
174 ~~Technical College at West Virginia University Institute of~~
175 ~~Technology~~ Bridgemont Community and Technical College,
176 Eastern West Virginia Community and Technical College,
177 Kanawha Valley Community and Technical College,
178 Mountwest ~~Marshall~~ Community and Technical College,
179 New River Community and Technical College, Pierpont
180 Community and Technical College, Southern West Virginia
181 Community and Technical College, West Virginia Northern
182 Community and Technical College, ~~West Virginia State~~
183 ~~Community and Technical College~~ and West Virginia
184 University at Parkersburg; and

185 (cc) “Dual credit course” or “dual enrollment course” is
186 means a credit-bearing college-level course offered in a high
187 school by a state institution of higher education for high

188 school students in which the students are concurrently
189 enrolled and receiving credit at the secondary level.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

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

1 (a) *Findings.* --

2 The Legislature finds that the State of West Virginia is
3 served best when the membership of each governing board
4 includes the following:

5 (1) The academic expertise and institutional experience
6 of faculty members and a student of the institution governed
7 by the board;

8 (2) The technical or professional expertise and
9 institutional experience of a classified employee of the
10 institution governed by the board;

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

13 (4) The diverse perspectives that arise from a
14 membership that is balanced in terms of gender and varied in
15 terms of race and ethnic heritage.

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

17 A Board of Governors is continued at each of the
18 following institutions: Bluefield State College, Blue Ridge
19 Community and Technical College, ~~The Community and~~
20 ~~Technical College at West Virginia University Institute of~~
21 ~~Technology~~ Bridgemont Community and Technical College,
22 Concord University, Eastern West Virginia Community and
23 Technical College, Fairmont State University, Glenville State
24 College, Kanawha Valley Community and Technical
25 College, Mountwest ~~Marshall~~ Community and Technical
26 College, Marshall University, New River Community and
27 Technical College, Pierpont Community and Technical
28 College, Shepherd University, Southern West Virginia
29 Community and Technical College, West Liberty ~~State~~
30 University, West Virginia Northern Community and
31 Technical College, the West Virginia School of Osteopathic
32 Medicine, ~~West Virginia State Community and Technical~~
33 ~~College~~ West Virginia State University, West Virginia
34 University and West Virginia University at Parkersburg.

35 (c) *Board Membership.* --

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

40 (2) The board of governors for Marshall University
41 consists of sixteen persons. The board of governors for West
42 Virginia University consists of seventeen persons. The
43 boards of governors of the other state institutions of higher
44 education consist of twelve persons.

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

47 (A) A full-time member of the faculty with the rank of
48 instructor or above duly elected by the faculty of the
49 respective institution;

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

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

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

58 (5) For the board of governors at West Virginia
59 University, twelve lay members appointed by the Governor,
60 by and with the advice and consent of the Senate, pursuant to
61 this section, and additionally:

62 (A) The chairperson of the board of visitors of West
63 Virginia University Institute of Technology;

64 (B) A full-time faculty member representing the
65 extension service at the institution or a full-time faculty
66 member representing the health sciences, selected by the
67 faculty senate.

68 (6) For each board of governors of the other state
69 institutions of higher education, nine lay members appointed
70 by the Governor, by and with the advice and consent of the
71 Senate, pursuant to this section.

72 (A) Of the nine members appointed by the Governor, no
73 more than five may be of the same political party. Of the
74 thirteen members appointed by the Governor to the
75 governing board of Marshall University, no more than eight
76 may be of the same political party. Of the twelve members
77 appointed by the Governor to the governing board of West
78 Virginia University, no more than seven may be of the same
79 political party.

80 (B) Of the nine members appointed by the Governor, at
81 least five shall be residents of the state. Of the thirteen
82 members appointed by the Governor to the governing board
83 of Marshall University, at least eight shall be residents of the
84 state. Of the twelve members appointed by the Governor to
85 the governing board of West Virginia University, at least
86 seven shall be residents of the state.

87 (7) In making lay appointments, the Governor shall
88 consider the institutional mission and membership
89 characteristics including the following:

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

92 (B) The need for awareness and understanding of
93 institutional problems and priorities, including those related
94 to research, teaching and outreach;

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

96 (D) The value of achieving balance in gender and
97 diversity in the racial and ethnic characteristics of the lay
98 membership of each board.

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

100 (1) The student member serves for a term of one year.

101 Each term begins on July 1.

102 (2) The faculty member serves for a term of two years.

103 Each term begins on July 1. Faculty members are eligible to
104 succeed themselves for three additional terms, not to exceed
105 a total of eight consecutive years.

106 (3) The member representing classified employees serves
107 for a term of two years. Each term begins on July 1.

108 Members representing classified employees are eligible to
109 succeed themselves for three additional terms, not to exceed
110 a total of eight consecutive years.

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

114 (5) A vacancy in an unexpired term of a member shall be
115 filled for the unexpired term within thirty days of the
116 occurrence of the vacancy in the same manner as the original
117 appointment or election. Except in the case of a vacancy, all
118 elections are held and all appointments are made no later than
119 June 30 preceding the commencement of the term. Each
120 board of governors shall elect one of its appointed lay
121 members to be chairperson in June of each year. A member
122 may not serve as chairperson for more than four consecutive
123 years.

124 (6) The appointed members of the boards of governors
125 serve staggered terms of up to four years except that four of
126 the initial appointments to the governing boards of
127 community and technical colleges that became independent
128 July 1, 2008, are for terms of two years and five of the initial
129 appointments are for terms of four years.

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

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

134 (A) For a baccalaureate institution or university, a person
135 is ineligible for appointment who is an officer, employee or
136 member of any other board of governors; an employee of any
137 institution of higher education; an officer or member of any
138 political party executive committee; the holder of any other
139 public office or public employment under the government of
140 this state or any of its political subdivisions; an employee of
141 any affiliated research corporation created pursuant to article
142 twelve of this chapter; an employee of any affiliated
143 foundation organized and operated in support of one or more
144 state institutions of higher education; or a member of the
145 council or commission. This subsection does not prevent the
146 representative from the faculty, classified employees,
147 students or the superintendent of a county board of education
148 from being members of the governing boards.

149 (B) For a community and technical college, a person is
150 ineligible for appointment who is an officer, employee or
151 member of any other board of governors; a member of a
152 board of visitors of any public institution of higher education;
153 an employee of any institution of higher education; an officer
154 or member of any political party executive committee; the
155 holder of any other public office, other than an elected
156 county office, or public employment, other than employment
157 by the county board of education, under the government of
158 this state or any of its political subdivisions; an employee of
159 any affiliated research corporation created pursuant to article
160 twelve of this chapter; an employee of any affiliated
161 foundation organized and operated in support of one or more
162 state institutions of higher education; or a member of the
163 council or commission. This subsection does not prevent the
164 representative from the faculty, classified employees or
165 students from being members of the governing boards.

166 (2) Before exercising any authority or performing any
167 duties as a member of a governing board, each member shall

168 qualify as such by taking and subscribing to the oath of office
169 prescribed by section five, article IV of the Constitution of
170 West Virginia and the certificate thereof shall be filed with
171 the Secretary of State.

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

177 (4) The members of the board of governors serve without
178 compensation, but are reimbursed for all reasonable and
179 necessary expenses actually incurred in the performance of
180 official duties under this article upon presentation of an
181 itemized sworn statement of expenses.

182 (5) The president of the institution shall make available
183 resources of the institution for conducting the business of its
184 board of governors. All expenses incurred by the board of
185 governors and the institution under this section are paid from
186 funds allocated to the institution for that purpose.