

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 438**

4 (By Senators Plymale, Wells and McCabe)

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6 [Originating in the Committee on Education;
7 reported March 21, 2013.]
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12 A BILL to amend the Code of West Virginia, 1931, as amended, by
13 adding thereto a new article, designated §18B-3F-1, §18B-3F-2,
14 §18B-3F-3, §18B-3F-4, §18B-3F-5, §18B-3F-6, §18B-3F-7, §18B-
15 3F-8 and §18B-3F-9, all relating to reorganization and
16 consolidation of Bridgemont Community and Technical College
17 and Kanawha Valley Community and Technical College; creating
18 an independent, multi-campus community and technical college
19 on June 30, 2013; abolishing certain boards of governors and
20 providing for appointment of a new board of governors on June
21 30, 2013; setting forth legislative findings; providing
22 definitions; requiring development of a strategic
23 reorganization plan; establishing an administrative planning
24 committee; committee membership, powers and duties;

1 termination date; appointing president and other officers;
2 specifying certain duties; providing for transfer of assets
3 and liabilities, operating budgets, orders, rules and
4 procedures; clarifying employee rights and benefits when
5 positions are abolished; and requiring notification of
6 employment status by certain date under certain circumstances.

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

8 That the Code of West Virginia, 1931, as amended, be amended
9 by adding thereto a new article, designated §18B-3F-1, §18B-3F-2,
10 §18B-3F-3, §18B-3F-4, §18B-3F-5, §18B-3F-6, §18B-3F-7, §18B-3F-8
11 and §18B-3F-9, all to read as follows:

12 **ARTICLE 3F. REORGANIZATION OF COMMUNITY AND TECHNICAL COLLEGES.**

13 **§18B-3F-1. Legislative findings.**

14 (a) The Legislature finds that while certain areas of the
15 state currently lack a sufficient population or employer base to
16 support an independent community and technical college, it is vital
17 to the citizens and businesses of these areas to have access to
18 comprehensive, high-quality community and technical education
19 programs and services that are well articulated with the public
20 schools, baccalaureate institutions and other community and
21 technical colleges; that make the most efficient and effective use
22 of facilities, faculty, staff, equipment and other available
23 resources; that encourage students of all ages, ability levels and
24 economic circumstances to pursue a lifetime of learning; that serve

1 as engines of economic development; and that have the ability to
2 adapt quickly to changing needs for workforce training.

3 (b) The Legislature further finds that a critical need exists
4 to enhance the role of technical education in every area of the
5 state; to encourage and strengthen collaborative and cooperative
6 relationships between and among institutions in order to provide
7 the highest quality programs and services most effectively; and to
8 make the most efficient use of scarce resources while avoiding, to
9 the extent practicable, duplication of administrative and
10 programmatic costs. Establishment of multicampus institutions
11 provides an excellent opportunity to implement more effective and
12 efficient systems of program delivery and to explore alternative
13 organizational and management structures best suited to serving the
14 needs of students, employers and the citizens of a geographic
15 region. Reorganization offers an efficient and effective method to
16 provide high-quality, comprehensive community and technical
17 education in an area where two institutions serve the same
18 community and technical college district or population center.
19 Creating a consolidated multicampus institution will enhance the
20 delivery of comprehensive community and technical college education
21 to that entire geographical region.

22 **§18B-3F-2. Definitions.**

23 (a) *General.* - For the purposes of this article, terms have
24 the meaning ascribed to them in section two, article one of this

1 chapter, unless the context in which the term is used clearly
2 requires a different meaning or a specific definition is provided
3 in this section.

4 (b) *Definitions.* -

5 (1) "Administrative planning committee" or "planning
6 committee" means the advisory group established pursuant to section
7 seven of this article to advise the governing board of the
8 reorganized multicampus community and technical college and to
9 serve as liaison to the council.

10 (2) "Affected institution" means a community and technical
11 college which is included in a reorganization.

12 (3) "Chancellor" means the chief executive officer of the
13 council appointed pursuant to section three, article two-b of this
14 chapter.

15 (4) "Consolidated institution" means a community and technical
16 college formed by joining together one or more institutions to
17 create a new multicampus college or integrating one or more
18 institutions into an existing institution to form one multicampus
19 college. An institution that is included in a consolidation or
20 integrated into an existing institution ceases to exist as an
21 independent institution of higher education.

22 (5) "Institution" means any community and technical college
23 under the jurisdiction of the council.

24 (6) "Multicampus institution" means a college that has more

1 than one campus as defined and approved by the Higher Learning
2 Commission of the North Central Association of Schools and
3 Colleges.

4 (7) "Institutional reorganization" or "reorganization" means
5 the process of combining institutions to form a consolidated
6 community and technical college or integrating one institution into
7 another.

8 (8) "Strategic reorganization plan" or "plan" means the
9 document developed in accordance with section eight of this article
10 consisting of strategies, procedures and guidelines to be used in
11 implementing an institutional reorganization.

12 **§18B-3F-3. Appointment of institutional board of governors.**

13 (a) Effective June 30, 2013, Bridgemont Community and
14 Technical College and Kanawha Valley Community and Technical
15 College become one independent, multicampus community and technical
16 college administered by its own governing board under the
17 jurisdiction and authority of the council and subject to all
18 applicable provisions of this chapter and chapter eighteen-c of
19 this code. The boards of governors of Bridgemont Community and
20 Technical College and Kanawha Valley Community and Technical
21 College are abolished on June 30, 2013.

22 (1) The consolidated institution is comprised of existing
23 campuses in Montgomery and South Charleston and any other campuses
24 that may be established in the future, in accordance with the

1 Higher Learning Commission standards of accreditation.

2 (2) The board of governors of the consolidated institution
3 shall develop, implement and complete the reorganization by July 1,
4 2014.

5 (3) Beginning on July 1, 2013, and thereafter, any reference in
6 this code to Bridgmont Community and Technical College or Kanawha
7 Valley Community and Technical College means the multicampus
8 institution created pursuant to this article.

9 (b) Initial appointments to the board of governors of the
10 reorganized institution are made pursuant to the provisions of
11 section one, article two-a of this chapter, except as follows:

12 (1) As soon after the effective date of this article as
13 practicable, but before July 1, 2013, the Governor shall select lay
14 citizen members of the board of governors for the consolidated
15 institution from the former lay citizen members of each of the
16 boards of governors of the affected institutions. The Governor
17 shall apportion the appointments as equally as possible among the
18 lay citizen members of the boards of the affected institutions.

19 (2) Four of the initial appointments are for terms of four
20 years and five of the initial appointments are for terms of three
21 years.

22 (c) At the end of each initial term, and thereafter, an
23 appointment to the board of governors of the consolidated
24 institution, either to fill a vacancy or to reappoint a member who

1 is eligible to serve an additional term, shall be made in
2 accordance with section one, article two-a of this chapter.

3 (d) As soon after the effective date of this article as
4 practicable, but before July 1, 2013, the presidents of the
5 affected institutions shall facilitate separate meetings of their
6 combined faculty members, their combined student bodies and their
7 combined classified employees. The purpose of these meetings is to
8 elect a representative from each group to serve on the consolidated
9 board of governors as required by section one, article two-a of
10 this chapter.

11 (e) The chancellor shall call the first meeting of the board
12 of governors as soon after June 30, 2013, as feasible, at which
13 time the members shall elect a chairperson and other officers
14 pursuant to article two-a of this chapter. Thereafter, the board
15 shall hold an annual meeting in June of each year for the purpose
16 of electing officers.

17 **§18B-3F-4. Powers and duties of board of governors.**

18 (a) The actions of the board of governors appointed pursuant
19 to section three of this article are subject to the terms and
20 conditions prescribed in article two-a of this chapter. The board
21 has all the powers and duties provided in section four, article
22 two-a of this chapter.

23 (b) The programs of the consolidated institution are operated
24 under the rules and procedures of the institution's board of

1 governors, which, initially, shall adopt rules from one or both of
2 the affected institutions until the time when new or revised rules
3 are proposed and approved pursuant to section six, article one of
4 this chapter.

5 (1) The administrative planning committee shall make
6 recommendations to the board of governors regarding which of the
7 rules of the affected institutions should be adopted.

8 (2) Nothing in this section requires the initial rules of the
9 board of governors to be promulgated again under the rule adopted
10 by the council for community and technical college education
11 pursuant to section six, article one of this chapter unless the
12 rules are rescinded, revised, amended or otherwise altered.

13 (c) It is the duty of the board of governors of the
14 consolidated institution to adopt rules and procedures that
15 authorize, support and encourage the consolidated institution to
16 fulfill its core mission. It is further the specific duty of the
17 board of governors to facilitate delivery of a comprehensive
18 program of community and technical college education in all the
19 counties that are served by the multicampus consolidated
20 institution. To that end, the board shall expend from the
21 appropriations allocated to the affected institutions such funds as
22 are necessary or expedient to operate and conduct programs, to
23 acquire clear title to any real property and to make necessary
24 capital improvements.

1 (d) In addition to the powers and duties set forth in this
2 section and in article two-a of this chapter, the board of
3 governors shall perform the following duties:

4 (1) Choose a name for the consolidated multicampus institution
5 from the recommendations submitted by the Administrative Planning
6 Committee pursuant to section seven of this article.

7 (2) Choose the president of one of the affected institutions
8 to serve as president of the consolidated institution pursuant to
9 section five of this article;

10 (3) Determine which positions of the affected institutions are
11 to be abolished and notify employees as required by section nine of
12 this article; and

13 (4) Serve as the designated board of advisors for the
14 Advantage Valley Advanced Technology Center created by section
15 fourteen, article three-c of this chapter.

16 **§18B-3F-5. Appointment of institutional president; other officers.**

17 (a) The board of governors shall designate the president of
18 one of the affected institutions to serve as president of the
19 consolidated multicampus institution. The other president shall
20 serve as provost or chief executive officer of his or her
21 respective campus. The salary and benefits of an individual who is
22 serving as an institutional president at the time of a
23 reorganization may not be reduced solely as a result of the
24 reorganization. Provosts and chief executive officers report

1 directly to the president of the consolidated institution.

2 (b) After the initial contract period ends or at the
3 expiration of a president's current contract, the board of
4 governors of the consolidated multicampus institution shall appoint
5 and evaluate the president in accordance with section six, article
6 one-b of this chapter.

7 **§18B-3F-6. Budget; transfer of financial assets, property,**
8 **liability, orders, policies, procedures, etc.**

9 (a) When a reorganized institution is created, the operating
10 budget of each affected institution is integrated under the
11 authority and jurisdiction of the board of governors of the
12 consolidated institution.

13 (b) All financial assets, including state fund balances, and
14 liabilities are transferred from the authority of the board of
15 governors of each affected institution to the authority of the
16 board of governors of the consolidated institution.

17 (c) Any capital debt service payment formerly the
18 responsibility of an affected institution or the affected
19 institution's share of any capital debt service payment of its
20 former sponsoring institution continues in the required amount and
21 is the responsibility of the board of governors of the consolidated
22 institution.

23 (d) The titles to all real property, facilities and equipment
24 of, as well as each valid agreement and obligation undertaken by,

1 the affected institutions are transferred to the board of governors
2 of the consolidated institution, which shall exercise general
3 determination, control, supervision and management of the
4 financial, business and education policies and affairs of the
5 consolidated multicampus institution.

6 (e) The title to all property purchased for the use of an
7 affected institution is vested in the board of governors of the
8 consolidated multicampus institution.

9 **§18B-3F-7. Administrative planning committee; purpose; membership;**
10 **duties; termination.**

11 (a) On the effective date of this article, or as soon
12 thereafter as practicable, the council shall establish an
13 administrative planning committee to advise in the reorganization
14 of Bridgemont and Kanawha Valley Community and Technical Colleges.

15 (b) *Membership.* - The administrative planning committee
16 consists of the following members:

17 (1) The president of each affected institution;

18 (2) The chair of the board of governors of each affected
19 institution;

20 (3) The chair of the council;

21 (4) The vice chancellor for administration, appointed pursuant
22 to section two, article four of this chapter, or a designee; and

23 (5) The chancellor, who chairs the planning committee.

24 (c) The administrative planning committee serves in an

1 advisory capacity to the board of governors in developing the
2 strategic reorganization plan and serves as liaison to the council
3 during the reorganization period.

4 (d) The administrative planning committee shall submit to the
5 board of governors a list of at least three names from which the
6 board shall choose a name for the consolidated, multicampus
7 community and technical college at their first meeting as soon
8 after June 30, 2013, as feasible.

9 (e) The planning committee shall report to the council at
10 least quarterly, or more often if requested, on development of the
11 strategic reorganization plan and the progress of the board of
12 governors in implementing the reorganization.

13 (f) The administrative planning committee is created
14 specifically to assist in the reorganization of Bridgemont and
15 Kanawha Valley Community and Technical Colleges and ceases to exist
16 on July 1, 2014, or on the date when the council determines the
17 reorganization has been completed, whichever occurs first.

18 **§18B-3F-8. Strategic reorganization plan.**

19 (a) The board of governors, with the advice of the
20 administrative planning committee, shall develop a strategic
21 reorganization plan for Bridgemont and Kanawha Valley Community and
22 Technical Colleges, including all campuses and instruction sites of
23 each institution. The board of governors shall develop, implement
24 and complete the reorganization by July 1, 2014.

1 (b) The reorganization plan includes, but is not limited to,
2 the following elements:

3 (1) A time line showing specific steps for completing the
4 reorganization by July 1, 2014;

5 (2) A procedure to assure that all employees of the affected
6 institutions are notified of their employment status pursuant to
7 section nine of this article;

8 (3) A statement of assurance showing specific steps to be
9 taken to safeguard the rights, privileges and benefits of faculty,
10 classified employees and nonclassified employees of the affected
11 institutions including provisions for fulfilling contracts and
12 protecting earned benefits;

13 (4) A description of the instructional benefits expected from
14 the reorganization including a detailed explanation of enhancements
15 to academic program offerings, workforce development programs for
16 employers and services to students;

17 (5) A description of the fiscal benefits expected from the
18 reorganization including a detailed explanation of management
19 efficiencies, enhanced leadership skills, better coordination of
20 instruction and student support services and efficiencies in
21 expenditures per full-time equivalent student;

22 (6) A statement of assurance that student access to high-
23 quality education programming will be enhanced and/or maintained;
24 and

1 (7) A strategy to secure regional accreditation of the
2 reorganized institution by July 1, 2014.

3 **§18B-3F-9. Rights and benefits of employees of affected**
4 **institutions; positions to be abolished; notice of employment**
5 **status by certain date required.**

6 (a) By December 31, 2013, the board of governors of the
7 consolidated institution, in consultation with the president, shall
8 determine which, if any, positions existing at the affected
9 institutions on the effective date of this article are to be
10 abolished.

11 (1) In the case of positions which the board chooses to
12 retain, but which exist at both affected institutions, when there
13 is an overlap of duties and responsibilities of employees who
14 occupy those positions, the board of governors, in consultation
15 with the president, shall determine which position or positions
16 shall be abolished.

17 (2) A classified employee who holds a position scheduled to be
18 abolished is afforded all rights and benefits provided by this
19 article and by section three, article seven of this chapter.

20 (b) *Official notification to employees.* -

21 (1) The president shall provide official notice of employment
22 status to each classified employee, faculty member and
23 nonclassified employee of the affected institutions not later than
24 thirty days after the board's decision. For an employee whose

1 position is to be abolished, the official notice shall specify his
2 or her date of termination. The termination date shall be within
3 three to six months following the date of official notification.

4 (2) Any person who was employed full time by an affected
5 institution on the effective date of this article and whose
6 employment continues in any capacity with the board of governors of
7 the consolidated institution is considered to have no break in
8 service for calculation of years of service, seniority,
9 participation in health and retirement plans or continued
10 employment by the state.

11 (3) The board of governors, created pursuant to this article,
12 is an organization as defined in section two, article nine-a of
13 this chapter and is subject to all the terms and conditions that
14 apply to higher education organizations as provided in this chapter
15 and chapter eighteen-c of this code. Specifically, the board is
16 subject to section three, article seven, of this chapter when
17 making reductions in force of classified employees.