

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2200**

BY DELEGATE KESSINGER AND BALDWIN

[Introduced February 8, 2017; Referred  
to the Committee on Education then the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §3-6-13; and to amend and reenact §18-2-1 of said code, all relating to  
 3 requiring that four members of the State Board of Education be elected on a nonpartisan  
 4 basis; decreasing the term lengths to four years; and establishing an election procedure.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §3-6-13; and that §18-2-1 of said code be amended and reenacted, all to  
 3 read as follows:

**CHAPTER 3. ELECTIONS.**

**ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.**

**§3-6-13. Election of State Board of Education members at primary elections.**

1 (a) An election for the purpose of electing four members of the State Board of Education  
 2 on a state wide basis for a term of four years shall be held on the same date as the primary  
 3 elections, as provided by law, but upon a nonpartisan ballot printed for the purpose.

4 (b) In each nonpartisan election for the State Board of Education the board of canvassers  
 5 shall:

6 (1) Declare and certify the election of the required number of eligible candidates receiving  
 7 the highest numbers of votes to fill any full terms;

8 (2) Declare and certify the election of the required number of eligible candidates receiving  
 9 the next highest numbers of votes, after all full terms are filled, to fill any unexpired terms.

10 (c) It is the intent of this section that any person declared to be elected pursuant to this  
 11 section shall take office as a duly elected member or members, even though the person may not  
 12 have received a majority or plurality of all votes cast at the election.

13 (d) In case of a tie vote for a seat on a State Board of Education in any primary election,  
 14 section twelve, article six of this chapter shall control in breaking the tie.

15 (e) Present members of the State Board of Education who were appointed by the Governor  
16 pursuant to section one, article two, chapter eighteen of this code may continue to serve until his  
17 or her term has been completed.

## CHAPTER 18. EDUCATION.

### ARTICLE 2. STATE BOARD OF EDUCATION.

#### §18-2-1. Creation; composition; appointment, qualifications, terms and removal of members; offices.

1 (a) There is a State Board of Education, to be known as the West Virginia Board of  
2 Education, which is a corporation and as such may contract and be contracted with, plead and be  
3 impleaded, sue and be sued, and have and use a common seal. The state board consists of  
4 twelve members, of whom one is the state superintendent of Schools, ex officio; one of whom is  
5 the chancellor of the Higher Education Policy Commission, ex officio; and one of whom is the  
6 chancellor of the West Virginia council for community and technical college education, ex officio,  
7 none of whom is entitled to vote. The other nine members are citizens of the state, appointed by  
8 the Governor, by and with the advice and consent of the Senate, for overlapping terms of ~~nine~~  
9 four years. Terms of office begin on November 5, of the appropriate year and end on November  
10 4, of the appropriate year. At least two, but not more than three, members are appointed from  
11 each congressional district. However, effective July 1, 2017, of the five Governor appointed  
12 members, at least one, but not more than two, members may be appointed from each  
13 congressional district.

14 (b) Effective July 1, 2017, four of the nine members that had been appointed by the  
15 Governor pursuant to subsection (a) of this section shall be elected on a nonpartisan basis  
16 pursuant to section thirteen, article six, chapter three of this code. However, no more than two  
17 elected members may be from the same congressional district. Current members are permitted  
18 to complete their terms. However, the board seats of the first four members whose terms expire

19 are the seats that are to be filled by election. The terms shall be for four years.

20 (c) No more than five of the appointive members may belong to the same political party  
21 and no person is eligible for appointment to membership on the state board who is a member of  
22 any political party executive committee or holds any other public office or public employment  
23 under the federal government or under the government of this state or any of its political  
24 subdivisions, or who is an appointee or employee of the board. Members are eligible for  
25 reappointment. Any vacancy on the board shall be filled by the Governor by appointment for the  
26 unexpired term.

27 (d) Notwithstanding the provisions of section four, article six, chapter six of this code, a  
28 member of the state board may not be removed from office by the Governor except for official  
29 misconduct, incompetence, neglect of duty or gross immorality and then only in the manner  
30 prescribed by law for the removal by the Governor of state elective officers.

31 (e) Before exercising any authority or performing any duties as a member of the state  
32 board, each member shall qualify as such by taking and subscribing to the oath of office  
33 prescribed by section five, article IV of the Constitution of West Virginia, the certificate whereof  
34 shall be filed with the Secretary of State. A suitable office in the State Department of Education  
35 at the State Capitol shall be provided for use by the state board.

NOTE: The purpose of this bill is to require that four members of the State Board of Education be elected on a nonpartisan basis. The bill establishes an election procedure.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.