

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 605

BY SENATORS MAYNARD AND BOSO

[Introduced March 15, 2017; Referred
to the Committee on 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 all members of the State Board of Education be elected to their positions;
4 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.

1 (a) An election for the purpose of electing members of the State Board of Education on a
2 state wide basis for a term of four years shall be held on the same date as the general election,
3 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 general 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
 7 officio, none of whom is entitled to vote. The other nine members are citizens of the state,
 8 ~~appointed by the Governor, by and with the advice and consent of the Senate, for~~ elected to
 9 ~~overlapping~~ terms of ~~nine~~ four years. Terms of office begin on November 5, of the appropriate
 10 year and end on November 4, of the appropriate year. ~~At least two, but not more than three,~~
 11 ~~members are appointed from each congressional district.~~

12 (b) Effective July 1, 2017, nine members that had been appointed by the Governor
 13 pursuant to subsection (a) of this section shall be elected on a nonpartisan basis pursuant to
 14 section thirteen, article six, chapter three of this code. However, no more than three elected
 15 members may be from the same congressional district. All current members shall continue to
 16 serve until November 4, 2020, at which time all nine members shall vacate their seats to be
 17 replaced by members elected during the general election of 2020.

18 (c) No more than five ~~of the appointive~~ elected members may belong to the same political
 19 party and no person is eligible for ~~appointment~~ election to membership on the state board who is

20 a member of any political party executive committee or holds any other public office or public
21 employment under the federal government or under the government of this state or any of its
22 political subdivisions. ~~or who is an appointee or employee of the board.~~ Members are eligible for
23 ~~reappointment~~ reelection. Any vacancy on the board shall be filled by the Governor by
24 appointment for the unexpired term.

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

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

NOTE: The purpose of this bill is to require that all 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.