

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4251**

BY DELEGATES SHOTT, ELLINGTON AND GEARHEART

[Passed March 10, 2018; in effect from passage.]



1 AN ACT to amend and reenact §18B-2A-1 of the Code of West Virginia, 1931, as amended,  
2 relating to certain higher education institution boards of governors membership; permitting  
3 officers, employees, or members of any other board of governors outside of this state and  
4 employees of any institution of higher education outside of this state to be appointed to a  
5 board of governors; and including, for institutions that have no classified employees, a  
6 member from the nonclassified employees.

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

**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 served best when the membership  
3 of each governing board includes the following:

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

6 (2) The technical or professional expertise and institutional experience of a classified  
7 employee or, as appropriate, nonclassified employee of the institution governed by the board;

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

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

12 (b) *Boards of governors established.* –

13 A board of governors is continued at each of the following institutions: Bluefield State  
14 College, Blue Ridge Community and Technical College, Bridgemont Community and Technical  
15 College, Concord University, Eastern West Virginia Community and Technical College, Fairmont  
16 State University, Glenville State College, Kanawha Valley Community and Technical College,

17 Mountwest Community and Technical College, Marshall University, New River Community and  
18 Technical College, Pierpont Community and Technical College, Shepherd University, Southern  
19 West Virginia Community and Technical College, West Liberty University, West Virginia Northern  
20 Community and Technical College, the West Virginia School of Osteopathic Medicine, West  
21 Virginia State University, West Virginia University and West Virginia University at Parkersburg.

22 (c) *Board membership.* –

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

25 (2) The Board of Governors for Marshall University consists of sixteen persons. The Board  
26 of Governors for West Virginia University consists of seventeen persons. The boards of governors  
27 of the other state institutions of higher education consist of twelve persons.

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

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

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

33 (C) A member from the institutional classified employees duly elected by the classified  
34 employees of the respective institution or, if the respective institution does not have classified  
35 employees, a member from the institutional nonclassified employees duly elected by the  
36 nonclassified employees of the respective institution.

37 (4) For the Board of Governors at Marshall University, thirteen lay members appointed by  
38 the Governor, by and with the advice and consent of the Senate, pursuant to this section;

39 (5) For the Board of Governors at West Virginia University, twelve lay members appointed  
40 by the Governor, by and with the advice and consent of the Senate, pursuant to this section, and  
41 additionally:

42 (A) The Chairperson of the Board of Visitors of West Virginia University Institute of  
43 Technology;

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

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

49 (A) Of the nine members appointed by the Governor, no more than five may be of the  
50 same political party. Of the thirteen members appointed by the Governor to the governing board  
51 of Marshall University, no more than eight may be of the same political party. Of the twelve  
52 members appointed by the Governor to the governing board of West Virginia University, no more  
53 than seven may be of the same political party.

54 (B) Of the nine members appointed by the Governor, at least five shall be residents of the  
55 state. Of the thirteen members appointed by the Governor to the governing board of Marshall  
56 University, at least eight shall be residents of the state. Of the twelve members appointed by the  
57 Governor to the governing board of West Virginia University, at least seven shall be residents of  
58 the state.

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

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

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

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

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

68 (d) *Board member terms.* –

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

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

73 (3) The member representing classified employees or, as appropriate, nonclassified  
74 employees serves for a term of two years. Each term begins on July 1. Members representing  
75 classified employees or, as appropriate, nonclassified employees are eligible to succeed  
76 themselves for three additional terms, not to exceed a total of eight consecutive years.

77 (4) The appointed lay citizen members serve terms of four years each and are eligible to  
78 succeed themselves for no more than one additional term, except that citizen members who are  
79 appointed to fill unexpired terms are eligible to succeed themselves for two full terms after  
80 completing an unexpired term.

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

87 (6) The appointed members of the boards of governors serve staggered terms of up to  
88 four years except that four of the initial appointments to the governing boards of community and  
89 technical colleges that became independent July 1, 2008, are for terms of two years and five of  
90 the initial appointments are for terms of four years.

91 (e) *Board member eligibility, expenses.* –

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

94           (A) For a baccalaureate institution or university, a person is ineligible for appointment who  
95 is an officer, employee or member of any other board of governors within this state; an employee  
96 of any institution of higher education within this state; an officer or member of any political party  
97 executive committee; the holder of any other public office or public employment under the  
98 government of this state or any of its political subdivisions; an employee of any affiliated research  
99 corporation created pursuant to article twelve of this chapter; an employee of any affiliated  
100 foundation organized and operated in support of one or more state institutions of higher education;  
101 or a member of the council or commission: *Provided*, That if an appointee is an employee or board  
102 member of an out-of-state higher education institution, there is no apparent conflict of interest  
103 caused by the individual serving in both capacities. This subsection does not prevent the  
104 representative from the faculty, classified employees or, as appropriate, nonclassified employees,  
105 students or the superintendent of a county board of education from being members of the  
106 governing boards.

107           (B) For a community and technical college, a person is ineligible for appointment who is  
108 an officer, employee or member of any other board of governors within this state; a member of a  
109 board of visitors of any public institution of higher education; an employee of any institution of  
110 higher education within this state; an officer or member of any political party executive committee;  
111 the holder of any other public office, other than an elected county office, or public employment,  
112 other than employment by the county board of education, under the government of this state or  
113 any of its political subdivisions; an employee of any affiliated research corporation created  
114 pursuant to §18B-12-1 *et seq.* of this code; an employee of any affiliated foundation organized  
115 and operated in support of one or more state institutions of higher education; or a member of the  
116 council or commission: *Provided*, That if an appointee is an employee or board member of an out-  
117 of-state higher education institution, there is no apparent conflict of interest caused by the  
118 individual serving in both capacities. This subsection does not prevent the representative from

119 the faculty, classified employees or, as appropriate, nonclassified employees or students from  
120 being members of the governing boards.

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

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

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2018.

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*Governor*