

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

House Bill 4622

BY DELEGATES ESPINOSA, ROHRBACH, UPSON, KELLY,

HICKS, STATLER, HIGGINBOTHAM, PYLES, EVANS,

HORNBUCKLE AND RODIGHIERO

[Passed March 6, 2018; in effect ninety days from passage.]

1 AN ACT to amend and reenact §18B-17-2 and §18B-17-3 of the Code of West Virginia, 1931, as
2 amended, all relating to authorizing legislative rules regarding higher education;
3 authorizing legislative rules for the Higher Education Policy Commission regarding Tuition
4 and Fee Policy, Human Resources Administration, and Capital Project Management; and
5 authorizing legislative rules for the Council for Community and Technical College
6 Education regarding Human Resources Administration, and Capital Project Management.

Be it enacted by the Legislature of West Virginia:

§18B-17-2. Authorizing rules of Higher Education Policy Commission.

1 (a) The legislative rule filed in the State Register on October 15, 2004, relating to the
2 Higher Education Policy Commission (Underwood-Smith Teacher Scholarship Program rule) is
3 authorized.

4 (b) The legislative rule filed in the State Register on October 15, 2004, relating to the
5 Higher Education Policy Commission (West Virginia Engineering, Science and Technology
6 Scholarship Program rule) is authorized.

7 (c) The legislative rule filed in the State Register on October 15, 2004, relating to the
8 Higher Education Policy Commission (Medical Education Fee and Medical Student Loan Program
9 rule) is authorized.

10 (d) The legislative rule filed in the State Register on October 27, 2005, relating to the
11 Higher Education Policy Commission (Authorization of degree-granting institutions) is authorized.

12 (e) The legislative rule filed in the State Register on August 23, 2006, relating to the Higher
13 Education Policy Commission (West Virginia Higher Education Grant Program) is authorized.

14 (f) The legislative rule filed in the State Register on January 4, 2008, relating to the Higher
15 Education Policy Commission (Providing Real Opportunities for Maximizing In-state Student
16 Excellence - PROMISE) is authorized.

17 (g) The legislative rule filed in the State Register on August 25, 2008, relating to the Higher
18 Education Policy Commission (Research Trust Program) is authorized.

19 (h) The legislative rule filed in the State Register on January 8, 2009, relating to the Higher
20 Education Policy Commission (Guidelines for Governing Boards in Employing and Evaluating
21 Presidents) is authorized.

22 (i) The legislative rule filed in the State Register on September 10, 2008, relating to the
23 Higher Education Policy Commission (Medical Student Loan Program) is authorized, with the
24 following amendment:

25 On page 2, subsection 5.1, following the words “financial aid office” by inserting a new
26 subdivision 5.1.3 to read as follows: “United States citizenship or legal immigrant status while
27 actively pursuing United States citizenship.”

28 (j) The legislative rule filed in the State Register on December 1, 2008, relating to the
29 Higher Education Policy Commission (West Virginia Higher Education Grant Program) is
30 authorized.

31 (k) The legislative rule filed in the State Register on January 26, 2009, relating to the
32 Higher Education Policy Commission (Accountability System) is authorized.

33 (l) The legislative rule filed in the State Register on May 20, 2009, relating to the Higher
34 Education Policy Commission (Energy and Water Savings Revolving Loan Fund Program) is
35 authorized.

36 (m) The legislative rule filed in the State Register on January 27, 2010, relating to the
37 Higher Education Policy Commission (Providing Real Opportunities for Maximizing In-state
38 Student Excellence - PROMISE) is authorized.

39 (n) The legislative rule filed in the State Register on December 8, 2010, relating to the
40 Higher Education Policy Commission (Authorization of Degree Granting Institutions) is
41 authorized.

42 On page 28, subsection 9.1.b, following the words “Good cause shall consist of” by
43 inserting the words “any one or more of the following”.

44 (o) The legislative rule filed in the State Register on December 12, 2011, relating to the
45 Higher Education Policy Commission (Tuition and Fee Policy) is authorized.

46 (p) The legislative rule filed in the State Register on August 10, 2012, relating to the Higher
47 Education Policy Commission (Authorization of Degree Granting Institutions) is authorized.

48 (q) The legislative rule filed in the State Register on August 10, 2012, relating to the Higher
49 Education Policy Commission (Annual Reauthorization of Degree Granting Institutions) is
50 authorized.

51 (r) The legislative rule filed in the State Register on March 20, 2013, relating to the Higher
52 Education Policy Commission (Human Resources Administration) is authorized.

53 (s) The legislative rule filed in the State Register on January 24, 2014, relating to the
54 Higher Education Policy Commission (Capital Project Management) is authorized.

55 (t) The legislative rule filed in the State Register on April 4, 2014, relating to the Higher
56 Education Policy Commission (Underwood-Smith Teacher Scholarship Program) is authorized.

57 (u) The legislative rule filed in the State Register on August 4, 2014, relating to the Higher
58 Education Policy Commission (Nursing Scholarship Program) is authorized.

59 (v) The legislative rule filed in the State Register on October 28, 2015, relating to the
60 Higher Education Policy Commission (Underwood-Smith Teacher Scholarship Program) is
61 authorized.

62 (w) The legislative rule filed in the State Register on October 28, 2015, relating to the
63 Higher Education Policy Commission (Nursing Scholarship Program) is authorized.

64 (x) The legislative rule filed in the State Register on December 20, 2016, relating to the
65 Higher Education Policy Commission (West Virginia Higher Education Grant Program) is
66 authorized.

67 (y) The legislative rule filed in the State Register on December 20, 2016, relating to the
68 Higher Education Policy Commission (Providing Real Opportunities for Maximizing In-state
69 Student Excellence - PROMISE) is authorized.

70 (z) The legislative rule filed in the State Register on December 20, 2016, relating to the
71 Higher Education Policy Commission (Research Trust Fund Program) is authorized.

72 (aa) The legislative rule filed in the State Register on December 20, 2016, relating to the
73 Higher Education Policy Commission (Annual Reauthorization of Degree-Granting Institutions) is
74 authorized.

75 (bb) The legislative rule filed in the State Register on January 16, 2018, relating to the
76 Higher Education Policy Commission (Tuition and Fee Policy) is authorized.

77 (cc) The legislative rule filed in the State Register on January 16, 2018, relating to the
78 Higher Education Policy Commission (Human Resources Administration) is authorized.

79 (dd) The legislative rule filed in the State Register on January 22, 2018, relating to the
80 Higher Education Policy Commission (Capital Project Management) is authorized, with the
81 following amendments:

82 On page 1, subsection 2.1, by striking out all of subdivision 2.1.d. and inserting in lieu
83 thereof a new subdivision 2.1.d., to read as follows: "Efficient use of existing classroom and other
84 space by institutions, while maintaining an appropriate deference to the value judgments of the
85 institutional governing boards.";

86 On page 7, subsection 4.2, by striking out all of subdivision 4.2.d.5. and inserting in lieu
87 thereof a new subdivision 4.2.d.5., to read as follows: "Funding will be prioritized for each
88 institution in accordance with institutional plans confirmed by the Commission or approved by the
89 Council.";

90 On page 7, subsection 4.2, by striking out all of subdivision 4.2.d.6. and inserting in lieu
91 thereof a new subdivision 4.2.d.6., to read as follows: "Facility utilization rates will be an important
92 factor in prioritizing capital projects across the systems."

93 On page 7, subsection 4.2, by striking out all of subdivision 4.2.d.7. and inserting in lieu
94 thereof a new subdivision 4.2.d.7., to read as follows: "Institutions with overall net asset values
95 and capacity utilization rates that exceed or equal thresholds set annually by the Commission and

96 Council are the presumptive priority for new facilities. If these projects do not replace an existing
97 facility, they would be included in the Program Improvement category.”; and

98 On pages 10-11, section 5, by striking out all of subdivision 5.6. and inserting in lieu thereof
99 a new subdivision 5.6., to read as follows: “A governing board may not implement a campus
100 development plan or plan update that has not been confirmed by the Commission or approved by
101 the Council, as appropriate. The purchase of any property for the construction of a facility that is
102 not included in the campus development plan creates an update to the campus development plan
103 that must be confirmed by the Commission or approved by the Council, as appropriate, prior to
104 its purchase. In the case of institutions governed by the Council, this provision applies equally to
105 property acquired by any means, whether by purchase or otherwise.”.

**§18B-17-3. Authorizing rules of the Council for Community and Technical College
Education.**

1 (a) The legislative rule filed in the State Register on September 29, 2004, relating to the
2 West Virginia Council for Community and Technical College Education (performance indicators)
3 is authorized.

4 (b) The legislative rule filed in the State Register on October 13, 2005, relating to the West
5 Virginia Council for Community and Technical College Education (Authorization of degree-
6 granting institutions) is authorized.

7 (c) The legislative rule filed in the State Register on October 30, 2006, relating to the West
8 Virginia Council for Community and Technical College Education (Workforce Development
9 Initiative Program) is authorized.

10 (d) The legislative rule filed in the State Register on December 4, 2008, relating to the
11 West Virginia Council for Community and Technical College Education (Employing and
12 Evaluating Presidents) is authorized.

13 (e) The legislative rule filed in the State Register on December 23, 2008, relating to the
14 West Virginia Council for Community and Technical College Education (Performance Indicators)
15 is authorized.

16 (f) The legislative rule filed in the State Register on February 5, 2009, relating to the West
17 Virginia Council for Community and Technical College Education (Finance) is authorized.

18 (g) The legislative rule filed in the State Register on February 5, 2009, relating to the West
19 Virginia Council for Community and Technical College Education (Accountability System) is
20 authorized.

21 (h) The legislative rule filed in the State Register on June 15, 2011, relating to the West
22 Virginia Council for Community and Technical College Education (Workforce Development
23 Initiative Program) is authorized.

24 (i) The legislative rule filed in the State Register on October 26, 2011, relating to the West
25 Virginia Council for Community and Technical College Education (Tuition and Fees) is authorized.

26 (j) The legislative rule filed in the State Register on October 17, 2012, relating to the West
27 Virginia Council for Community and Technical College Education (Authorization of Degree
28 Granting Institutions) is authorized.

29 (k) The legislative rule filed in the State Register on October 17, 2012, relating to the West
30 Virginia Council for Community and Technical College Education (Annual Reauthorization of
31 Degree Granting Institutions) is authorized.

32 (l) The legislative rule filed in the State Register on March 21, 2013, relating to the West
33 Virginia Council for Community and Technical College Education (Human Resources
34 Administration) is authorized.

35 (m) The legislative rule filed in the State Register on August 21, 2012, relating to the West
36 Virginia Council for Community and Technical College Education (West Virginia EDGE Program)
37 is authorized.

38 (n) The legislative rule filed in the State Register on January 28, 2014, relating to the West
39 Virginia Council for Community and Technical College Education (Capital Project Management)
40 is authorized.

41 (o) The legislative rule filed in the State Register on January 18, 2017, relating to the West
42 Virginia Council for Community and Technical College Education (Annual Reauthorization of
43 Degree-Granting Institutions) is authorized.

44 (p) The legislative rule filed in the State Register on January 18, 2017, relating to the West
45 Virginia Council for Community and Technical College Education (Business, Occupational and
46 Trade Schools) is authorized.

47 (q) The legislative rule filed in the State Register on January 26, 2018, relating to the West
48 Virginia Council for Community and Technical College Education (Human Resources
49 Administration) is authorized.

50 (r) The legislative rule filed in the State Register on January 26, 2018, relating to the West
51 Virginia Council for Community and Technical College Education (Capital Project Management)
52 is authorized, with the following amendments:

53 On page 1, subsection 2.1, by striking out all of subdivision 2.1.d. and inserting in lieu
54 thereof a new subdivision 2.1.d., to read as follows: "Efficient use of existing classroom and other
55 space by institutions, while maintaining an appropriate deference to the value judgments of the
56 institutional governing boards.";

57 On page 7, subsection 4.2, by striking out all of subdivision 4.2.d.5. and inserting in lieu
58 thereof a new subdivision 4.2.d.5., to read as follows: "Funding will be prioritized for each
59 institution in accordance with institutional plans confirmed by the Commission or approved by the
60 Council.";

61 On page 7, subsection 4.2, by striking out all of subdivision 4.2.d.6. and inserting in lieu
62 thereof a new subdivision 4.2.d.6., to read as follows: "Facility utilization rates will be an important
63 factor in prioritizing capital projects across the systems."

64 On page 7, subsection 4.2, by striking out all of subdivision 4.2.d.7. and inserting in lieu
65 thereof a new subdivision 4.2.d.7., to read as follows: “Institutions with overall net asset values
66 and capacity utilization rates that exceed or equal thresholds set annually by the Commission and
67 Council are the presumptive priority for new facilities. If these projects do not replace an existing
68 facility, they would be included in the Program Improvement category.”; and

69 On pages 10-11, section 5, by striking out all of subdivision 5.6. and inserting in lieu thereof
70 a new subdivision 5.6., to read as follows: “A governing board may not implement a campus
71 development plan or plan update that has not been confirmed by the Commission or approved by
72 the Council, as appropriate. The purchase of any property for the construction of a facility that is
73 not included in the campus development plan creates an update to the campus development plan
74 that must be confirmed by the Commission or approved by the Council, as appropriate, prior to
75 its purchase. In the case of institutions governed by the Council, this provision applies equally to
76 property acquired by any means, whether by purchase or otherwise.”.

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 ninety days 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

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

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Governor