

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2072

BY DELEGATES J. KELLY AND ROWAN

[Introduced January 9, 2019; Referred
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18B-2B-6 of the Code of West Virginia, 1931, as amended, relating
2 to tuition and fees at community and technical colleges; setting forth guidelines therefor.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL
COLLEGE EDUCATION.**

§18B-2B-6. Powers and duties of the council.

1 (a) The council is the sole agency responsible for administration of vocational-technical-
2 occupational education and community and technical college education in the state. The council
3 has jurisdiction and authority over the community and technical colleges and the statewide
4 network of independently accredited community and technical colleges as a whole, including
5 community and technical college education programs as defined in section two, article one of this
6 chapter.

7 (b) The council shall propose rules pursuant to section six, article one of this chapter and
8 article three-a, chapter twenty-nine-a of this code to implement the provisions of this section and
9 applicable provisions of article one-d of this chapter:

10 (1) To implement the provisions of article one-d of this chapter relevant to community and
11 technical colleges, the council may propose rules jointly with the commission, or separately, and
12 may choose to address all components of the accountability system in a single rule or may
13 propose additional rules to cover specific components;

14 (2) The rules pertaining to financing policy and benchmarks and indicators required by this
15 section shall be filed with the Legislative Oversight Commission on Education Accountability by
16 October 1, 2008. Nothing in this subsection requires other rules of the council to be promulgated
17 again under the procedure set forth in §29A-3A-1 *et seq.* of this code unless such rules are
18 rescinded, revised, altered or amended; and

19 (3) The Legislature finds that an emergency exists and, therefore, the council shall

20 propose an emergency rule or rules to implement the provisions of this section relating to the
21 financing policy and benchmarks and indicators in accordance with §18B-1-6 of this ~~chapter~~ code
22 and §29A-3A-1 *et seq.* of this code by October 1, 2008. The emergency rule or rules may not be
23 implemented without prior approval of the Legislative Oversight Committee on Education
24 Accountability.

25 (c) The council has the following powers and duties relating to the authority established in
26 subsection (a) of this section:

27 (1) Develop, oversee and advance the public policy agenda for community and technical
28 college education for the purpose of accomplishing the mandates of this section, including, but
29 not limited to, the following:

30 (A) Achieving the goals and objectives established in articles one and one-d of this
31 chapter;

32 (B) Addressing the goals and objectives contained in the institutional compacts created
33 pursuant to section seven, article one-d of this chapter; and

34 (C) Developing and implementing the master plan described in section five, article one-d
35 of this chapter;

36 (2) Propose a legislative rule pursuant to subsection (b) of this section and article three-a,
37 chapter 29-a of this code to develop and implement a financing policy for community and technical
38 college education in West Virginia. The rule shall meet the following criteria:

39 (A) Provide an adequate level of education and general funding for institutions pursuant
40 to section five, article one-a of this chapter;

41 (B) Serve to maintain institutional assets, including, but not limited to, human and physical
42 resources and deferred maintenance;

43 (C) Establish a plan for strategic funding to strengthen capacity for support of community
44 and technical college education; and

45 (D) Establish a plan that measures progress and provides performance-based funding to

46 institutions which make significant progress in the following specific areas:

47 (i) Achieving the objectives and priorities established in article one-d of this chapter;

48 (ii) Serving targeted populations, especially working age adults 25 years of age and over;

49 (iii) Providing access to high-cost, high-demand technical programs in every region of the
50 state;

51 (iv) Increasing the percentage of functionally literate adults in every region of the state;

52 and

53 (v) Providing high-quality community and technical college education services to residents
54 of every region of the state.

55 (3) Create a policy leadership structure relating to community and technical college
56 education capable of the following actions:

57 (A) Developing, building public consensus around and sustaining attention to a long-range
58 public policy agenda. In developing the agenda, the council shall seek input from the Legislature
59 and the Governor and specifically from the State Board of Education and local school districts in
60 order to create the necessary linkages to assure smooth, effective and seamless movement of
61 students through the public education and post-secondary education systems and to ensure that
62 the needs of public school courses and programs can be fulfilled by the graduates produced and
63 the programs offered;

64 (B) Ensuring that the governing boards of the institutions under the council's jurisdiction
65 carry out their duty effectively to govern the individual institutions of higher education; and

66 (C) Holding each community and technical college and the statewide network of
67 independently accredited community and technical colleges as a whole accountable for
68 accomplishing their missions and achieving the goals and objectives established in articles one,
69 one-d and three-c of this chapter;

70 (4) Develop for inclusion in the statewide public agenda, a plan for raising education
71 attainment, increasing adult literacy, promoting workforce and economic development and

72 ensuring access to advanced education for the citizens of West Virginia;

73 (5) Provide statewide leadership, coordination, support, and technical assistance to the
74 community and technical colleges and to provide a focal point for visible and effective advocacy
75 for their work and for the public policy agendas approved by the commission and council;

76 (6) Review and adopt annually all institutional compacts for the community and technical
77 colleges pursuant to the provisions of section seven, article one-d of this chapter;

78 (7) Fulfill the mandates of the accountability system established in article one-d of this
79 chapter and report on progress in meeting established goals, objectives, and priorities to the
80 elected leadership of the state;

81 (8) Propose a legislative rule pursuant to subsection (b) of this section and article three-a,
82 chapter twenty-nine-a of this code to establish benchmarks and indicators in accordance with the
83 provisions of this subsection;

84 (9) Establish and implement the benchmarks and performance indicators necessary to
85 measure institutional progress:

86 (A) In meeting state goals, objectives, and priorities established in articles one and one-d
87 of this chapter;

88 (B) In carrying out institutional missions; and

89 (C) In meeting the essential conditions established in article three-c of this chapter;

90 (10) Establish a formal process for identifying needs for capital investments and for
91 determining priorities for these investments for consideration by the Governor and the Legislature
92 as part of the appropriation request process. Notwithstanding the language in subdivision eleven,
93 subsection a, section four, article one-b of this chapter, the commission is not a part of the process
94 for identifying needs for capital investments for the statewide network of independently accredited
95 community and technical colleges;

96 (11) Draw upon the expertise available within the Governor's Workforce Investment Office
97 and the West Virginia Development Office as a resource in the area of workforce development

98 and training;

99 (12) Acquire legal services that are considered necessary, including representation of the
100 council, its institutions, employees and officers before any court or administrative body,
101 notwithstanding any other provision of this code to the contrary. The counsel may be employed
102 either on a salaried basis or on a reasonable fee basis. In addition, the council may, but is not
103 required to, call upon the Attorney General for legal assistance and representation as provided
104 by law;

105 (13) Employ a chancellor for community and technical college education pursuant to
106 section three of this article;

107 (14) Employ other staff as necessary and appropriate to carry out the duties and
108 responsibilities of the council consistent with the provisions of section two, article four of this
109 chapter;

110 (15) Employ other staff as necessary and appropriate to carry out the duties and
111 responsibilities of the council who are employed solely by the council;

112 (16) Provide suitable offices in Charleston for the chancellor and other staff: *Provided,*
113 That the offices may be located outside of Charleston at a technology and research center:
114 *Provided, however,* That the current employees of WVNET shall not be moved from Monongalia
115 County without legislative approval;

116 (17) Approve the total compensation package from all sources for presidents of community
117 and technical colleges, as proposed by the governing boards. The governing boards must obtain
118 approval from the council of the total compensation package both when presidents are employed
119 initially and subsequently when any change is made in the amount of the total compensation
120 package;

121 (18) Establish and implement policies and procedures to ensure that students may transfer
122 and apply toward the requirements for a degree the maximum number of credits earned at any
123 regionally accredited in-state or out-of-state higher education institution with as few requirements

124 to repeat courses or to incur additional costs as is consistent with sound academic policy;

125 (19) Establish and implement policies and programs, jointly with the community and
126 technical colleges, through which students who have gained knowledge and skills through
127 employment, participation in education and training at vocational schools or other education
128 institutions, or Internet-based education programs, may demonstrate by competency-based
129 assessment that they have the necessary knowledge and skills to be granted academic credit or
130 advanced placement standing toward the requirements of an associate degree or a bachelor's
131 degree at a state institution of higher education;

132 (20) Seek out and attend regional and national meetings and forums on education and
133 workforce development-related topics, as council members consider critical for the performance
134 of their duties. The council shall keep abreast of national and regional community and technical
135 college education trends and policies to aid members in developing the policies for this state that
136 meet the education goals and objectives established in articles one and one-d of this chapter;

137 (21) Assess community and technical colleges for the payment of expenses of the council
138 or for the funding of statewide services, obligations or initiatives related specifically to the
139 provision of community and technical college education;

140 (22) Promulgate rules allocating reimbursement of appropriations, if made available by the
141 Legislature, to community and technical colleges for qualifying noncapital expenditures incurred
142 in the provision of services to students with physical, learning or severe sensory disabilities;

143 (23) Assume the prior authority of the commission in examining and approving tuition and
144 fee increase proposals submitted by community and technical college governing boards as
145 provided in section one, article ten of this chapter, subject to the following:

146 (A) Annual tuition and fees may not exceed \$6,000; and

147 (B) The annual increase in tuition and fees for all the institutions accumulated together
148 may not exceed five percent of such tuition and fees from the previous year; and

149 (C) Within 10 years, the tuition and fees of all community and technical colleges may not

150 vary by more than five percent but no such college may be required to lower its tuition; and

151 (D) Year-to-year changes in tuition shall be less than 10 percent.

152 (24) Develop and submit to the commission, a single budget for community and technical
153 college education that reflects recommended appropriations for community and technical colleges
154 and that meets the following conditions:

155 (A) Incorporates the provisions of the financing rule mandated by this section to measure
156 and provide performance funding to institutions which achieve or make significant progress
157 toward achieving established state objectives and priorities; and

158 (B) Considers the progress of each institution toward meeting the essential conditions set
159 forth in section three, article three-c of this chapter, including independent accreditation; and

160 (C) Considers the progress of each institution toward meeting the goals, objectives, and
161 priorities established in article one-d of this chapter and its approved institutional compact.

162 (25) Administer and distribute the independently accredited community and technical
163 college development account;

164 (26) Establish a plan of strategic funding to strengthen capacity for support and assure
165 delivery of high-quality community and technical college education in all regions of the state;

166 (27) Foster coordination among all state-level, regional and local entities providing post-
167 secondary vocational education or workforce development and coordinate all public institutions
168 and entities that have a community and technical college mission;

169 (28) Assume the principal responsibility for oversight of those community and technical
170 colleges seeking independent accreditation and for holding governing boards accountable for
171 meeting the essential conditions pursuant to article three-c of this chapter;

172 (29) Advise and consent in the appointment of the presidents of the community and
173 technical colleges pursuant to section six, article one-b of this chapter. The role of the council in
174 approving a president is to assure through personal interview that the person selected
175 understands and is committed to achieving the goals and objectives established in the institutional

176 compact and in articles one, one-d and three-c of this chapter;

177 (30) Provide a single, statewide link for current and prospective employers whose needs
178 extend beyond one locality;

179 (31) Provide a mechanism capable of serving two or more institutions to facilitate joint
180 problem-solving in areas including, but not limited to, the following:

181 (A) Defining faculty roles and personnel policies; and

182 (B) Delivering high-cost technical education programs across the state; and

183 (C) Providing one-stop service for workforce training to be delivered by multiple
184 institutions; and

185 (D) Providing opportunities for resource-sharing and collaborative ventures;

186 (32) Provide support and technical assistance to develop, coordinate, and deliver effective
187 and efficient community and technical college education programs and services in all regions of
188 the state;

189 (33) Assist the community and technical colleges in establishing and promoting links with
190 business, industry and labor in the geographic areas for which each community and technical
191 college is responsible;

192 (34) Develop alliances among the community and technical colleges for resource sharing,
193 joint development of courses and courseware, and sharing of expertise and staff development;

194 (35) Serve aggressively as an advocate for development of a seamless curriculum;

195 (36) Cooperate with all providers of education services in the state to remove barriers
196 relating to a seamless system of public and higher education and to transfer and articulate
197 between and among community and technical colleges, state colleges and universities and public
198 education, preschool through grade twelve;

199 (37) Encourage the most efficient use of available resources;

200 (38) Coordinate with the commission in informing public school students, their parents and
201 teachers of the academic preparation that students need in order to be prepared adequately to

202 succeed in their selected fields of study and career plans, including presentation of academic
203 career fairs;

204 (39) Jointly with the commission, approve and implement a uniform standard, as
205 developed by the chancellors, to determine which students shall be placed in remedial or
206 developmental courses. The standard shall be aligned with college admission tests and
207 assessment tools used in West Virginia and shall be applied uniformly by the governing boards
208 throughout the public higher education system. The chancellors shall develop a clear, concise
209 explanation of the standard which the governing boards shall communicate to the State Board of
210 Education and the State Superintendent of Schools;

211 (40) Develop and implement strategies and curriculum for providing developmental
212 education which shall be applied by any state institution of higher education providing
213 developmental education;

214 (41) Develop a statewide system of community and technical college programs and
215 services in every region of West Virginia for competency-based certification of knowledge and
216 skills, including a statewide competency-based associate degree program;

217 (42) Review and approve all institutional master plans for the community and technical
218 colleges pursuant to section four, article two-a of this chapter;

219 (43) Propose rules for promulgation pursuant to subsection (b) of this section and article
220 three-a, chapter twenty-nine-a of this code that are necessary or expedient for the effective and
221 efficient performance of community and technical colleges in the state;

222 (44) In its sole discretion, transfer any rule under its jurisdiction, other than a legislative
223 rule, to the jurisdiction of the governing boards who may rescind, revise, alter or amend any rule
224 transferred pursuant to rules adopted by the council and provide technical assistance to the
225 institutions under its jurisdiction to aid them in promulgating rules;

226 (45) Develop for inclusion in the higher education report card, as defined in section eight,
227 article one-d of this chapter, a separate section on community and technical colleges. This section

228 shall include, but is not limited to, evaluation of the institutions based upon the benchmarks and
229 indicators developed in subdivision (9) of this subsection;

230 (46) Facilitate continuation of the Advantage Valley Community College Network under
231 the leadership and direction of Marshall Community and Technical College;

232 (47) Initiate and facilitate creation of other regional networks of affiliated community and
233 technical colleges that the council finds to be appropriate and in the best interests of the citizens
234 to be served;

235 (48) Develop with the State Board of Education plans for secondary and post-secondary
236 vocational-technical-occupational and adult basic education, including, but not limited to, the
237 following:

238 (A) Policies to strengthen vocational-technical-occupational and adult basic education;
239 and

240 (B) Programs and methods to assist in the improvement, modernization and expanded
241 delivery of vocational-technical-occupational and adult basic education programs;

242 (49) Distribute federal vocational education funding provided under the Carl D. Perkins
243 Vocational and Technical Education Act of 1998, PL 105-332, with an emphasis on distributing
244 financial assistance among secondary and post-secondary vocational-technical-occupational and
245 adult basic education programs to help meet the public policy agenda.

246 In distributing funds the council shall use the following guidelines:

247 (A) The State Board of Education shall continue to be the fiscal agent for federal vocational
248 education funding;

249 (B) The percentage split between the State Board of Education and the council shall be
250 determined by rule promulgated by the council under the provisions of article three-a, chapter
251 twenty-nine-a of this code. The council shall first obtain the approval of the State Board of
252 Education before proposing a rule;

253 (50) Collaborate, cooperate and interact with all secondary and post-secondary

254 vocational-technical-occupational and adult basic education programs in the state, including the
255 programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of
256 1998, PL 105-332, and the Workforce Investment Act of 1998, to promote the development of
257 seamless curriculum and the elimination of duplicative programs;

258 (51) Coordinate the delivery of vocational-technical-occupational and adult basic
259 education in a manner designed to make the most effective use of available public funds to
260 increase accessibility for students;

261 (52) Analyze and report to the State Board of Education on the distribution of spending for
262 vocational-technical-occupational and adult basic education in the state and on the availability of
263 vocational-technical-occupational and adult basic education activities and services within the
264 state;

265 (53) Promote the delivery of vocational-technical-occupational education, adult basic
266 education and community and technical college education programs in the state which emphasize
267 the involvement of business, industry and labor organizations;

268 (54) Promote public participation in the provision of vocational-technical-occupational
269 education, adult basic education and community and technical education at the local level,
270 emphasizing programs which involve the participation of local employers and labor organizations;

271 (55) Promote equal access to quality vocational-technical-occupational education, adult
272 basic education and community and technical college education programs to handicapped and
273 disadvantaged individuals, adults in need of training and retraining, single parents, homemakers,
274 participants in programs designed to eliminate sexual bias and stereotyping and criminal
275 offenders serving in correctional institutions;

276 (56) Meet annually between the months of October and December with the Advisory
277 Committee of Community and Technical College Presidents created pursuant to section eight of
278 this article to discuss those matters relating to community and technical college education in which
279 advisory committee members or the council may have an interest;

280 (57) Accept and expend any gift, grant, contribution, bequest, endowment or other money
281 for the purposes of this article;

282 (58) Assume the powers set out in section nine of this article. The rules previously
283 promulgated by the state College System Board of Directors pursuant to that section and
284 transferred to the commission are hereby transferred to the council and shall continue in effect
285 until rescinded, revised, altered or amended by the council;

286 (59) Pursuant to the provisions of subsection (b) of this section and article three-a, chapter
287 twenty-nine-a of this code, promulgate a uniform joint legislative rule with the commission for the
288 purpose of standardizing, as much as possible, the administration of personnel matters among
289 the institutions of higher education;

290 (60) Determine when a joint rule among the governing boards of the community and
291 technical colleges is necessary or required by law and, in those instances and in consultation with
292 the governing boards, promulgate the joint rule;

293 (61) Promulgate a joint rule with the commission establishing tuition and fee policy for all
294 institutions of higher education. The rule shall include, but is not limited to, the following:

295 (A) Comparisons with peer institutions;

296 (B) Differences among institutional missions;

297 (C) Strategies for promoting student access;

298 (D) Consideration of charges to out-of-state students; and

299 (E) Any other policies the commission and council consider appropriate;

300 (62) In cooperation with the West Virginia Division of Highways, study a method for
301 increasing the signage signifying community and technical college locations along the state
302 interstate highways, and report to the Legislative Oversight Commission on Education
303 Accountability regarding any recommendations and required costs; and

304 (63) Implement a policy jointly with the commission whereby any course credit earned at
305 a community and technical college transfers for program credit at any other state institution of

306 higher education and is not limited to fulfilling a general education requirement.

307 (d) In addition to the powers and duties listed in subsections (a), (b) and (c) of this section,
308 the council has the following general powers and duties related to its role in developing,
309 articulating and overseeing the implementation of the public policy agenda for community and
310 technical colleges:

311 (1) Planning and policy leadership including a distinct and visible role in setting the state's
312 policy agenda for the delivery of community and technical college education and in serving as an
313 agent of change;

314 (2) Policy analysis and research focused on issues affecting the community and technical
315 college network as a whole or a geographical region thereof;

316 (3) Development and implementation of each community and technical college mission
317 definition including use of incentive and performance funds to influence institutional behavior in
318 ways that are consistent with achieving established state goals, objectives, and priorities;

319 (4) Academic program review and approval for the institutions under its jurisdiction,
320 including the use of institutional missions as a template to judge the appropriateness of both new
321 and existing programs and the authority to implement needed changes;

322 (5) Development of budget and allocation of resources for institutions delivering
323 community and technical college education, including reviewing and approving institutional
324 operating and capital budgets and distributing incentive and performance-based funding;

325 (6) Acting as the agent to receive and disburse public funds related to community and
326 technical college education when a governmental entity requires designation of a statewide higher
327 education agency for this purpose;

328 (7) Development, establishment and implementation of information, assessment and
329 internal accountability systems, including maintenance of statewide data systems that facilitate
330 long-term planning and accurate measurement of strategic outcomes and performance indicators
331 for community and technical colleges;

332 (8) Jointly with the commission, development, establishment and implementation of
333 policies for licensing and oversight of both public and private degree-granting and nondegree-
334 granting institutions that provide post-secondary education courses or programs;

335 (9) Development, implementation and oversight of statewide and regionwide projects and
336 initiatives related specifically to providing community and technical college education such as
337 those using funds from federal categorical programs or those using incentive and performance-
338 based funding from any source; and

339 (10) Quality assurance that intersects with all other duties of the council particularly in the
340 areas of planning, policy analysis, program review and approval, budgeting and information and
341 accountability systems.

342 (e) The council may withdraw specific powers of a governing board under its jurisdiction
343 for a period not to exceed two years if the council makes a determination that any of the following
344 conditions exist:

345 (1) The governing board has failed for two consecutive years to develop an institutional
346 compact as required in section seven, article one-d of this chapter;

347 (2) The council has received information, substantiated by independent audit, of significant
348 mismanagement or failure to carry out the powers and duties of the board of governors according
349 to state law; or

350 (3) Other circumstances which, in the view of the council, severely limit the capacity of the
351 board of governors to carry out its duties and responsibilities.

352 The period of withdrawal of specific powers may not exceed two years during which time
353 the council is authorized to take steps necessary to reestablish the conditions for restoration of
354 sound, stable and responsible institutional governance.

355 (f) In addition to the powers and duties provided for in subsections (a), (b), (c) and (d) of
356 this section and any others assigned to it by law, the council has those powers and duties
357 necessary or expedient to accomplish the purposes of this article; and

358 (g) When the council and commission, each, is required to consent, cooperate, collaborate
359 or provide input into the actions of the other the following conditions apply:

360 (1) The body acting first shall convey its decision in the matter to the other body with a
361 request for concurrence in the action;

362 (2) The commission or the council, as the receiving body, shall place the proposal on its
363 agenda and shall take final action within 60 days of the date when the request for concurrence is
364 received; and

365 (3) If the receiving body fails to take final action within 60 days, the original proposal stands
366 and is binding on both the commission and the council.

NOTE: The purpose of this bill is to set forth guidelines for increases of tuition and fees at community and technical colleges.

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