

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 200**

5 (SENATORS KESSLER (ACTING PRESIDENT), McCABE, STOLLINGS, PLYMALE, PREZIOSO,
6 YOST AND KLEMPA, *original sponsors*)

7 _____
8 [Passed February 8, 2011; in effect from passage.]
9 _____

10
11 AN ACT to amend and reenact §18B-1-2 of the Code of West Virginia,
12 1931, as amended; and to amend and reenact §18B-2A-1 of said
13 code, all relating to correcting names of certain state
14 institutions of higher education.

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

16 That §18B-1-2 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted; and that §18B-2A-1 of said code be
18 amended and reenacted, all to read as follows:

19 **ARTICLE 1. GOVERNANCE.**

20 **§18B-1-2. Definitions.**

21 The following words when used in this chapter and chapter
22 eighteen-c of this code have the meanings ascribed to them unless
23 the context clearly indicates a different meaning:

24 (a) "Governing boards" or "boards" means the institutional
25 boards of governors created pursuant to section one, article two-a

1 of this chapter;

2 (b) "Free-standing community and technical colleges" means
3 Southern West Virginia Community and Technical College, West
4 Virginia Northern Community and Technical College, and Eastern West
5 Virginia Community and Technical College, which may not be operated
6 as branches or off-campus locations of any other state institution
7 of higher education;

8 (c) "Community and technical college", in the singular or
9 plural, means the free-standing community and technical colleges
10 and other state institutions of higher education which deliver
11 community and technical college education. This definition
12 includes Blue Ridge Community and Technical College, Bridgemont
13 Community and Technical College, Eastern West Virginia Community
14 and Technical College, Kanawha Valley Community and Technical
15 College, Mountwest Community and Technical College, New River
16 Community and Technical College, Pierpont Community and Technical
17 College, Southern West Virginia Community and Technical College,
18 West Virginia Northern Community and Technical College, and West
19 Virginia University at Parkersburg;

20 (d) "Community and technical college education" means the
21 programs, faculty, administration and funding associated with the
22 delivery of community and technical college education programs;

23 (e) "Essential conditions" means those conditions which shall
24 be met by community and technical colleges as provided in section
25 three, article three-c of this chapter;

26 (f) "Higher education institution" means any institution as

1 defined by Sections 401(f), (g) and (h) of the federal Higher
2 Education Facilities Act of 1963, as amended;

3 (g) "Higher Education Policy Commission", "Policy Commission"
4 or "Commission" means the commission created pursuant to section
5 one, article one-b of this chapter;

6 (h) "Chancellor for Higher Education" means the chief
7 executive officer of the Higher Education Policy Commission
8 employed pursuant to section five, article one-b of this chapter;

9 (i) "Chancellor for Community and Technical College Education"
10 means the chief executive officer of the West Virginia Council for
11 Community and Technical College Education employed pursuant to
12 section three, article two-b of this chapter;

13 (j) "Chancellor" means the Chancellor for Higher Education
14 where the context refers to a function of the Higher Education
15 Policy Commission. "Chancellor" means Chancellor for Community and
16 Technical College Education where the context refers to a function
17 of the West Virginia Council for Community and Technical College
18 Education;

19 (k) "Institutional operating budget" or "operating budget"
20 means for any fiscal year an institution's total unrestricted
21 education and general funding from all sources in the prior fiscal
22 year, including, but not limited to, tuition and fees and
23 legislative appropriation, and any adjustments to that funding as
24 approved by the Commission or Council based on comparisons with
25 peer institutions or to reflect consistent components of peer
26 operating budgets;

1 (1) "Community and technical college education program" means
2 any college-level course or program beyond the high school level
3 provided through a public institution of higher education resulting
4 in or which may result in a two-year associate degree award
5 including an associate of arts, an associate of science and an
6 associate of applied science; certificate programs and skill sets;
7 developmental education; continuing education; collegiate credit
8 and noncredit workforce development programs; and transfer and
9 baccalaureate parallel programs. All programs are under the
10 jurisdiction of the Council. Any reference to "post-secondary
11 vocational education programs" means community and technical
12 college education programs as defined in this subsection;

13 (m) "Rule" or "rules" means a regulation, standard, policy or
14 interpretation of general application and future effect;

15 (n) "Vice Chancellor for Administration" means the person
16 employed in accordance with section two, article four of this
17 chapter. Any reference in this chapter or chapter eighteen-c of
18 this code to "Senior Administrator" means Vice Chancellor for
19 Administration;

20 (o) "State college" means Bluefield State College, Concord
21 University, Fairmont State University, Glenville State College,
22 Shepherd University, West Liberty University or West Virginia State
23 University;

24 (p) "State institution of higher education" means any
25 university, college or community and technical college under the
26 jurisdiction of a governing board as that term is defined in this

1 section;

2 (q) "Board of visitors" means the advisory board previously
3 appointed for the West Virginia Graduate College and the advisory
4 board previously appointed for West Virginia University Institute
5 of Technology, which provide guidance to the Marshall University
6 Graduate College and West Virginia University Institute of
7 Technology, respectively;

8 (r) "Institutional compact" means the compact between the
9 Commission or Council and a state institution of higher education
10 under its jurisdiction, as described in section six, article one-d
11 of this chapter;

12 (s) "Peer institutions", "peer group" or "peers" means public
13 institutions of higher education used for comparison purposes and
14 selected by the Commission pursuant to section three, article one-a
15 of this chapter;

16 (t) "Administratively linked community and technical college"
17 means a state institution of higher education delivering community
18 and technical college education and programs which has maintained
19 a contractual agreement to receive essential services from another
20 accredited state institution of higher education prior to July 1,
21 2008;

22 (u) "Sponsoring institution" means a state institution of
23 higher education that maintained an administrative link to a
24 community and technical college providing essential services prior
25 to July 1, 2008. This definition includes institutions whose
26 governing boards had under their jurisdiction a community and

1 technical college, regional campus or a division delivering
2 community and technical college education and programs;

3 (v) "Collaboration" means entering into an agreement with one
4 or more providers of education services in order to enhance the
5 scope, quality or efficiency of education services;

6 (w) "Broker" or "brokering" means serving as an agent on
7 behalf of students, employers, communities or responsibility areas
8 to obtain education services not offered at that institution.

9 These services include courses, degree programs or other services
10 contracted through an agreement with a provider of education
11 services either in-state or out-of-state;

12 (x) "Council" means the West Virginia Council for Community
13 and Technical College Education created pursuant to article two-b
14 of this chapter;

15 (y) "West Virginia Consortium for Undergraduate Research and
16 Engineering" or "West Virginia CURE" means the collaborative
17 planning group established pursuant to article one-c of this
18 chapter;

19 (z) "Advanced technology center" means a facility established
20 under the direction of an independent community and technical
21 college for the purpose of implementing and delivering education
22 and training programs for high-skill, high-performance Twenty-first
23 Century workplaces;

24 (aa) "Statewide network of independently accredited community
25 and technical colleges" or "community and technical college
26 network" means the state institutions of higher education under the

1 jurisdiction of the West Virginia Council for Community and
2 Technical College Education which are independently accredited,
3 each governed by its own independent governing board, and each
4 having a core mission of providing affordable access to and
5 delivering high quality community and technical education in every
6 region of the state;

7 (bb) "Independent community and technical college" means a
8 state institution of higher education under the jurisdiction of the
9 Council which is independently accredited, is governed by its own
10 independent governing board, and may not be operated as a branch or
11 off-campus location of any other state institution of higher
12 education. This definition includes Blue Ridge Community and
13 Technical College, Bridgemont Community and Technical College,
14 Eastern West Virginia Community and Technical College, Kanawha
15 Valley Community and Technical College, Mountwest Community and
16 Technical College, New River Community and Technical College,
17 Pierpont Community and Technical College, Southern West Virginia
18 Community and Technical College, West Virginia Northern Community
19 and Technical College, and West Virginia University at Parkersburg;
20 and

21 (cc) "Dual credit course" or "dual enrollment course" means a
22 credit-bearing college-level course offered in a high school by a
23 state institution of higher education for high school students in
24 which the students are concurrently enrolled and receiving credit
25 at the secondary level.

26 **ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.**

1 **§18B-2A-1. Findings; composition of boards; terms and**
2 **qualifications of members; vacancies; eligibility**
3 **for reappointment.**

4 (a) *Findings.* --

5 The Legislature finds that the State of West Virginia is
6 served best when the membership of each governing board includes
7 the following:

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

11 (2) The technical or professional expertise and institutional
12 experience of a classified employee of the institution governed by
13 the board;

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

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

19 (b) *Boards of Governors established.* --

20 A Board of Governors is continued at each of the following
21 institutions: Bluefield State College, Blue Ridge Community and
22 Technical College, Bridgemont Community and Technical College,
23 Concord University, Eastern West Virginia Community and Technical
24 College, Fairmont State University, Glenville State College,
25 Kanawha Valley Community and Technical College, Mountwest Community

1 and Technical College, Marshall University, New River Community and
2 Technical College, Pierpont Community and Technical College,
3 Shepherd University, Southern West Virginia Community and Technical
4 College, West Liberty University, West Virginia Northern Community
5 and Technical College, the West Virginia School of Osteopathic
6 Medicine, West Virginia State University, West Virginia University
7 and West Virginia University at Parkersburg.

8 (c) *Board Membership.* --

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

12 (2) The board of governors for Marshall University consists of
13 sixteen persons. The board of governors for West Virginia
14 University consists of seventeen persons. The boards of governors
15 of the other state institutions of higher education consist of
16 twelve persons.

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

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

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

24 (C) A member from the institutional classified employees duly
25 elected by the classified employees of the respective institution;

26 (4) For the board of governors at Marshall University,

1 thirteen lay members appointed by the Governor, by and with the
2 advice and consent of the Senate, pursuant to this section;

3 (5) For the board of governors at West Virginia University,
4 twelve lay members appointed by the Governor, by and with the
5 advice and consent of the Senate, pursuant to this section, and
6 additionally:

7 (A) The chairperson of the board of visitors of West Virginia
8 University Institute of Technology;

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

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

16 (A) Of the nine members appointed by the Governor, no more
17 than five may be of the same political party. Of the thirteen
18 members appointed by the Governor to the governing board of
19 Marshall University, no more than eight may be of the same
20 political party. Of the twelve members appointed by the Governor
21 to the governing board of West Virginia University, no more than
22 seven may be of the same political party.

23 (B) Of the nine members appointed by the Governor, at least
24 five shall be residents of the state. Of the thirteen members
25 appointed by the Governor to the governing board of Marshall
26 University, at least eight shall be residents of the state. Of the

1 twelve members appointed by the Governor to the governing board of
2 West Virginia University, at least seven shall be residents of the
3 state.

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

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

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

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

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

16 (d) *Board member terms.* --

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

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

23 (3) The member representing classified employees serves for a
24 term of two years. Each term begins on July 1. Members
25 representing classified employees are eligible to succeed
26 themselves for three additional terms, not to exceed a total of

1 eight consecutive years.

2 (4) The appointed lay citizen members serve terms of up to
3 four years each and are eligible to succeed themselves for no more
4 than one additional term.

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

14 (6) The appointed members of the boards of governors serve
15 staggered terms of up to four years except that four of the initial
16 appointments to the governing boards of community and technical
17 colleges that became independent July 1, 2008, are for terms of two
18 years and five of the initial appointments are for terms of four
19 years.

20 (e) *Board member eligibility, expenses.* --

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

24 (A) For a baccalaureate institution or university, a person is
25 ineligible for appointment who is an officer, employee or member of
26 any other board of governors; an employee of any institution of

1 higher education; an officer or member of any political party
2 executive committee; the holder of any other public office or
3 public employment under the government of this state or any of its
4 political subdivisions; an employee of any affiliated research
5 corporation created pursuant to article twelve of this chapter; an
6 employee of any affiliated foundation organized and operated in
7 support of one or more state institutions of higher education; or
8 a member of the council or commission. This subsection does not
9 prevent the representative from the faculty, classified employees,
10 students or the superintendent of a county board of education from
11 being members of the governing boards.

12 (B) For a community and technical college, a person is
13 ineligible for appointment who is an officer, employee or member of
14 any other board of governors; a member of a board of visitors of
15 any public institution of higher education; an employee of any
16 institution of higher education; an officer or member of any
17 political party executive committee; the holder of any other public
18 office, other than an elected county office, or public employment,
19 other than employment by the county board of education, under the
20 government of this state or any of its political subdivisions; an
21 employee of any affiliated research corporation created pursuant to
22 article twelve of this chapter; an employee of any affiliated
23 foundation organized and operated in support of one or more state
24 institutions of higher education; or a member of the council or
25 commission. This subsection does not prevent the representative
26 from the faculty, classified employees or students from being

1 members of the governing boards.

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

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

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

17 (5) The president of the institution shall make available
18 resources of the institution for conducting the business of its
19 board of governors. All expenses incurred by the board of
20 governors and the institution under this section are paid from
21 funds allocated to the institution for that purpose.