

1 **Senate Bill No. 87**

2 (By Senators Sypolt and Barnes)

3

4 [Introduced January 13, 2011; referred to the Committee on Health
5 and Human Resources; and then to the Committee on the Judiciary.]

6

7

8

9

10 A BILL to amend and reenact §18B-2A-4 of the Code of West Virginia,
11 1931, as amended, relating to prohibiting abortions at state
12 college or university medical facilities except when the
13 abortion is necessary to save the life of the woman receiving
14 the abortion.

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

16 That §18B-2A-4 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

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

19 **§18B-2A-4. Powers and duties of governing boards generally.**

20 Each governing board separately has the following powers and
21 duties:

22 (a) Determine, control, supervise and manage the financial,
23 business and education policies and affairs of the state
24 institution of higher education under its jurisdiction;

1 (b) Develop a master plan for the institution under its
2 jurisdiction.

3 (1) The ultimate responsibility for developing and updating
4 each master plan at the institutional level resides with the board
5 of governors, but the ultimate responsibility for approving the
6 final version of each institutional master plan, including periodic
7 updates, resides with the commission or council, as appropriate.

8 (2) Each institutional master plan shall include, but not be
9 limited to, the following:

10 (A) A detailed demonstration of how the institutional master
11 plan will be used to meet the goals and objectives of the
12 institutional compact;

13 (B) A well-developed set of goals outlining missions, degree
14 offerings, resource requirements, physical plant needs, personnel
15 needs, enrollment levels and other planning determinates and
16 projections necessary in a plan to assure that the needs of the
17 institution's area of responsibility for a quality system of higher
18 education are addressed;

19 (C) Documentation showing how the governing board involved the
20 commission or council, as appropriate, institutional constituency
21 groups, clientele of the institution and the general public in the
22 development of all segments of the institutional master plan.

23 (3) The plan shall be established for periods of not fewer
24 than three nor more than five years and shall be revised
25 periodically as necessary, including adding or deleting degree

1 programs as the governing board in its discretion determines is
2 necessary;

3 (c) Develop a ten-year campus development plan in accordance
4 with article nineteen of this chapter;

5 (d) Prescribe for the institution, under its jurisdiction, in
6 accordance with its master plan and compact, specific functions and
7 responsibilities to achieve the goals, objectives and priorities
8 established in articles one and one-d of this chapter to meet the
9 higher education needs of its area of responsibility and to avoid
10 unnecessary duplication;

11 (e) Direct the preparation of an appropriation request for the
12 institution under its jurisdiction, which relates directly to
13 missions, goals and projections as found in the institutional
14 master plan and the institutional compact;

15 (f) Consider, revise and submit to the commission or council,
16 as appropriate, an appropriation request on behalf of the
17 institution under its jurisdiction;

18 (g) Review, at least every five years, all academic programs
19 offered at the institution under its jurisdiction. The review
20 shall address the viability, adequacy and necessity of the programs
21 in relation to established state goals, objectives and priorities,
22 the institutional master plan, the institutional compact and the
23 education and workforce needs of its responsibility district. As
24 a part of the review, each governing board shall require the
25 institution under its jurisdiction to conduct periodic studies of

1 its graduates and their employers to determine placement patterns
2 and the effectiveness of the education experience. Where
3 appropriate, these studies should coincide with the studies
4 required of many academic disciplines by their accrediting bodies;

5 (h) Ensure that the sequence and availability of academic
6 programs and courses offered by the institution under its
7 jurisdiction is such that students have the maximum opportunity to
8 complete programs in the time frame normally associated with
9 program completion. Each governing board is responsible to see
10 that the needs of nontraditional college-age students are
11 appropriately addressed and, to the extent it is possible for the
12 individual governing board to control, to assure core course work
13 completed at the institution is transferable to any other state
14 institution of higher education for credit with the grade earned;

15 (i) Subject to article one-b of this chapter, approve the
16 teacher education programs offered in the institution under its
17 control. In order to permit graduates of teacher education
18 programs to receive a degree from a nationally accredited program
19 and in order to prevent expensive duplication of program
20 accreditation, the commission may select and use one nationally
21 recognized teacher education program accreditation standard as the
22 appropriate standard for program evaluation;

23 (j) Involve faculty, students and classified employees in
24 institutional-level planning and decision making when those groups
25 are affected;

1 (k) Subject to the provisions of federal law and pursuant to
2 articles seven, eight and nine of this chapter and to rules adopted
3 by the commission and the council, administer a system for the
4 management of personnel matters, including, but not limited to,
5 personnel classification, compensation and discipline for employees
6 at the institution under its jurisdiction;

7 (l) Administer a system for hearing employee grievances and
8 appeals. Notwithstanding any other provision of this code to the
9 contrary, the procedure established in article two, chapter six-c
10 of this code is the exclusive mechanism for hearing prospective
11 employee grievances and appeals;

12 (m) Solicit and use or expend voluntary support, including
13 financial contributions and support services, for the institution
14 under its jurisdiction;

15 (n) Appoint a president for the institution under its
16 jurisdiction subject to section six, article one-b of this chapter;

17 (o) Conduct written performance evaluations of the president
18 pursuant to section six, article one-b of this chapter;

19 (p) Employ all faculty and staff at the institution under its
20 jurisdiction. The employees operate under the supervision of the
21 president, but are employees of the governing board;

22 (q) Submit to the commission or council, as appropriate, any
23 data or reports requested by the commission or council, as
24 appropriate, within the time frame set by the commission or
25 council;

1 (r) Enter into contracts or consortium agreements with the
2 public schools, private schools or private industry to provide
3 technical, vocational, college preparatory, remedial and customized
4 training courses at locations either on campuses of the state
5 institutions of higher education or at off-campus locations in the
6 institution's responsibility district. To accomplish this goal,
7 the boards may share resources among the various groups in the
8 community;

9 (s) Provide and transfer funding and property to certain
10 corporations pursuant to section ten, article twelve of this
11 chapter;

12 (t) Delegate, with prescribed standards and limitations, the
13 part of its power and control over the business affairs of the
14 institution to the president in any case where it considers the
15 delegation necessary and prudent in order to enable the institution
16 to function in a proper and expeditious manner and to meet the
17 requirements of its master plan and compact. If a governing board
18 elects to delegate any of its power and control under this
19 subsection, it shall enter the delegation in the minutes of the
20 meeting when the decision was made and shall notify the commission
21 or council, as appropriate. Any delegation of power and control
22 may be rescinded by the appropriate governing board, the commission
23 or council, as appropriate, at any time, in whole or in part,
24 except that the commission may not revoke delegations of authority
25 made by the governing boards of Marshall University or West

1 Virginia University as they relate to the state institutions of
2 higher education known as Marshall University and West Virginia
3 University;

4 (u) Unless changed by the commission or the council, as
5 appropriate, continue to abide by existing rules setting forth
6 standards for acceptance of advanced placement credit for the
7 institution under its jurisdiction. Individual departments at a
8 state institution of higher education may, upon approval of the
9 institutional faculty senate, require higher scores on the advanced
10 placement test than scores designated by the governing board when
11 the credit is to be used toward meeting a requirement of the core
12 curriculum for a major in that department;

13 (v) Consult, cooperate and work with the State Treasurer and
14 the State Auditor to update as necessary and maintain an efficient
15 and cost-effective system for the financial management and
16 expenditure of appropriated and nonappropriated revenue at the
17 institution under its jurisdiction that ensures that properly
18 submitted requests for payment be paid on or before the due date
19 but, in any event, within fifteen days of receipt in the State
20 Auditor's office;

21 (w) In consultation with the appropriate chancellor and the
22 Secretary of the Department of Administration, develop, update as
23 necessary and maintain a plan to administer a consistent method of
24 conducting personnel transactions, including, but not limited to,
25 hiring, dismissal, promotions and transfers at the institution

1 under its jurisdiction. Each personnel transaction shall be
2 accompanied by the appropriate standardized system or forms, which
3 shall be submitted to the respective governing board and the
4 Department of Finance and Administration;

5 (x) Notwithstanding any other provision of this code to the
6 contrary, transfer funds from any account specifically appropriated
7 for its use to any corresponding line item in a general revenue
8 account at any agency or institution under its jurisdiction as long
9 as the transferred funds are used for the purposes appropriated;

10 (y) Transfer funds from appropriated special revenue accounts
11 for capital improvements under its jurisdiction to special revenue
12 accounts at agencies or institutions under its jurisdiction as long
13 as the transferred funds are used for the purposes appropriated in
14 accordance with article nineteen of this chapter;

15 (z) Notwithstanding any other provision of this code to the
16 contrary, acquire legal services that are necessary, including
17 representation of the governing board, its institution, employees
18 and officers before any court or administrative body. The counsel
19 may be employed either on a salaried basis or on a reasonable fee
20 basis. In addition, the governing board may, but is not required
21 to, call upon the Attorney General for legal assistance and
22 representation as provided by law; ~~and~~

23 (aa) Contract and pay for disability insurance for a class or
24 classes of employees at a state institution of higher education
25 under its jurisdiction; and

1 (bb) The governing boards shall prohibit the performance of an
2 abortion at any institution or facility under the respective
3 jurisdiction of the governing boards, except when the performance
4 of the abortion is necessary to save the life of the woman
5 receiving the abortion.

NOTE: The purpose of this bill is to prohibit abortions at state college or university medical facilities, except when the abortion is necessary to save the life of the woman receiving the abortion.

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