

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 438**

5 (SENATORS PLYMALE, WELLS AND MCCABE, *original sponsors*)

6 _____
7 [Passed April 13, 2013; in effect from passage.]
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11
12 AN ACT to amend the Code of West Virginia, 1931, as amended, by
13 adding thereto a new article, designated §18B-3F-1, §18B-3F-2,
14 §18B-3F-3, §18B-3F-4, §18B-3F-5, §18B-3F-6, §18B-3F-7,
15 §18B-3F-8, §18B-3F-9 and §18B-3F-10, all relating to
16 reorganization and consolidation of Bridgemont Community and
17 Technical College and Kanawha Valley Community and Technical
18 College; creating an independent, multi-campus community and
19 technical college on June 30, 2013; abolishing certain boards
20 of governors and providing for appointment of a new board of
21 governors; setting forth legislative findings; providing
22 definitions; requiring development of a strategic
23 reorganization plan; establishing an administrative planning
24 committee; providing for committee membership, powers, duties

1 and termination date; appointing president and other officers;
2 specifying certain duties; providing for transfer of assets
3 and liabilities, operating budgets, orders, rules and
4 procedures; providing for the transfer of faculty, classified
5 employees and nonclassified employees; providing for employee
6 rights and benefits when positions are abolished; requiring
7 notification of employment status by certain date under
8 certain circumstances; and providing for the transfer of
9 students.

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

11 That the Code of West Virginia, 1931, as amended, be amended
12 by adding thereto a new article, designated §18B-3F-1, §18B-3F-2,
13 §18B-3F-3, §18B-3F-4, §18B-3F-5, §18B-3F-6, §18B-3F-7, §18B-3F-8,
14 §18B-3F-9 and §18B-3F-10, all to read as follows:

15 **ARTICLE 3F. REORGANIZATION OF COMMUNITY AND TECHNICAL COLLEGES.**

16 **§18B-3F-1. Legislative findings.**

17 (a) The Legislature finds that while certain areas of the
18 state currently lack a sufficient population or employer base to
19 support an independent community and technical college, it is vital
20 to the citizens and businesses of these areas to have access to
21 comprehensive, high-quality community and technical education
22 programs and services that are well articulated with the public
23 schools, baccalaureate institutions and other community and
24 technical colleges; that make the most efficient and effective use

1 of facilities, faculty, staff, equipment and other available
2 resources; that encourage students of all ages, ability levels and
3 economic circumstances to pursue a lifetime of learning; that serve
4 as engines of economic development; and that have the ability to
5 adapt quickly to changing needs for workforce training.

6 (b) The Legislature further finds that a critical need exists
7 to enhance the role of technical education in every area of the
8 state; to encourage and strengthen collaborative and cooperative
9 relationships between and among institutions in order to provide
10 the highest quality programs and services most effectively; and to
11 make the most efficient use of scarce resources while avoiding, to
12 the extent practicable, duplication of administrative and
13 programmatic costs. Establishment of multicampus institutions
14 provides an excellent opportunity to implement more effective and
15 efficient systems of program delivery and to explore alternative
16 organizational and management structures best suited to serving the
17 needs of students, employers and the citizens of a geographic
18 region. Reorganization offers an efficient and effective method to
19 provide high-quality, comprehensive community and technical
20 education in an area where two institutions serve the same
21 community and technical college district or population center.
22 Creating a consolidated multicampus institution will enhance the
23 delivery of comprehensive community and technical college education
24 to that entire geographical region.

1 **§18B-3F-2. Definitions.**

2 (a) *General.* - For the purposes of this article, terms have
3 the meaning ascribed to them in section two, article one of this
4 chapter, unless the context in which the term is used clearly
5 requires a different meaning or a specific definition is provided
6 in this section.

7 (b) *Definitions.* -

8 (1) "Administrative planning committee" or "planning
9 committee" means the advisory group established pursuant to section
10 seven of this article to advise the governing board of the
11 reorganized multicampus community and technical college and to
12 serve as liaison to the council.

13 (2) "Affected institution" means a community and technical
14 college which is included in a reorganization.

15 (3) "Chancellor" means the chief executive officer of the
16 council appointed pursuant to section three, article two-b of this
17 chapter.

18 (4) "Consolidated institution" means a community and technical
19 college formed by joining together one or more institutions to
20 create a new multicampus college or integrating two or more
21 institutions into an existing institution to form one multicampus
22 college. An institution that is included in a consolidation or
23 integrated into an existing institution ceases to exist as an
24 independent institution of higher education.

1 (5) "Institution" means any community and technical college
2 under the jurisdiction of the council.

3 (6) "Multicampus institution" means a college that has more
4 than one campus as defined and approved by the Higher Learning
5 Commission of the North Central Association of Schools and
6 Colleges. In the case of the consolidation of Bridgemont Community
7 and Technical College and Kanawha Valley Community and Technical
8 College, "multicampus institution" means the consolidated
9 institution comprised of existing campuses in Montgomery and South
10 Charleston and any other campuses that may be established in the
11 future, in accordance with the Higher Learning Commission standards
12 of accreditation.

13 (7) "Institutional reorganization" or "reorganization" means
14 the process of combining institutions to form a consolidated
15 community and technical college or integrating one institution into
16 another.

17 (8) "Strategic reorganization plan" or "plan" means the
18 document developed in accordance with section eight of this article
19 consisting of strategies, procedures and guidelines to be used in
20 implementing an institutional reorganization.

21 **§18B-3F-3. Appointment of institutional board of governors.**

22 (a) Effective June 30, 2013, Bridgemont Community and
23 Technical College and Kanawha Valley Community and Technical
24 College become one independent, multicampus community and technical

1 college administered by its own governing board under the
2 jurisdiction and authority of the council and subject to all
3 applicable provisions of this chapter and chapter eighteen-c of
4 this code, and to continued fulfillment of institutional
5 accreditation requirements. The boards of governors of Bridgemont
6 Community and Technical College and Kanawha Valley Community and
7 Technical College are abolished on June 30, 2013.

8 (1) The consolidated institution is comprised of existing
9 campuses in Montgomery and South Charleston and any other campuses
10 that may be established in the future, in accordance with the
11 Higher Learning Commission standards of accreditation.

12 (2) The board of governors of the consolidated institution
13 shall develop, implement and complete the reorganization by July 1,
14 2014.

15 (3) Beginning on July 1, 2013, and thereafter, any reference
16 in this code to Bridgemont Community and Technical College or
17 Kanawha Valley Community and Technical College means the
18 multicampus institution created pursuant to this article.

19 (b) Initial appointments to the board of governors of the
20 reorganized institution are made pursuant to the provisions of
21 section one, article two-a of this chapter, except as follows:

22 (1) As soon after the effective date of this article as
23 practicable, but before July 1, 2013, the Governor shall select lay
24 citizen members of the board of governors for the consolidated

1 institution from the former lay citizen members of each of the
2 boards of governors of the affected institutions. The Governor
3 shall appoint an equal number of lay citizen members from each of
4 the boards of the affected institutions. One such member serves a
5 one-year term only, after which that membership position is not
6 reappointed.

7 (2) One of the initial appointments is for a term of one year,
8 four of the initial appointments are for terms of four years and
9 five of the initial appointments are for terms of three years.

10 (3) Until June 30, 2014, all of the constituent members of the
11 boards of governors of the affected institutions representing
12 faculty, classified employees and students serve as members on the
13 board of governors of the reorganized institution. Beginning July
14 1, 2014, the constituent members of the reorganized institution are
15 appointed according to the provisions of section one, article two-a
16 of this chapter.

17 (c) At the end of each initial term, and thereafter, an
18 appointment to the board of governors of the consolidated
19 institution, either to fill a vacancy or to reappoint a member who
20 is eligible to serve an additional term, shall be made in
21 accordance with section one, article two-a of this chapter.

22 (d) The chancellor shall call the first meeting of the board
23 of governors as soon after June 30, 2013, as feasible, at which
24 time the members shall elect a chairperson and other officers

1 pursuant to article two-a of this chapter. Thereafter, the board
2 shall hold an annual meeting in June of each year for the purpose
3 of electing officers.

4 **§18B-3F-4. Powers and duties of board of governors.**

5 (a) The actions of the board of governors appointed pursuant
6 to section three of this article are subject to the terms and
7 conditions prescribed in article two-a of this chapter. The board
8 has all the powers and duties provided in section four, article
9 two-a of this chapter.

10 (b) The programs of the consolidated institution are operated
11 under the rules and procedures of the institution's board of
12 governors, which, initially, shall adopt rules from one or both of
13 the affected institutions until the time when new or revised rules
14 are proposed and approved pursuant to section six, article one of
15 this chapter.

16 (1) The administrative planning committee shall make
17 recommendations to the board of governors regarding which of the
18 rules of the affected institutions should be adopted.

19 (2) Nothing in this section requires the initial rules of the
20 board of governors to be promulgated again under the rule adopted
21 by the Council for Community and Technical College Education
22 pursuant to section six, article one of this chapter unless the
23 rules are rescinded, revised, amended or otherwise altered.

24 (c) It is the duty of the board of governors of the

1 consolidated institution to adopt rules and procedures that
2 authorize, support and encourage the consolidated institution to
3 fulfill its core mission. It is further the specific duty of the
4 board of governors to facilitate delivery of a comprehensive
5 program of community and technical college education in all the
6 counties that are served by the multicampus consolidated
7 institution. To that end, the board shall expend from the
8 appropriations allocated to the affected institutions such funds as
9 are necessary or expedient to operate and conduct programs, to
10 acquire clear title to any real property and to make necessary
11 capital improvements.

12 (d) In addition to the powers and duties set forth in this
13 section and in article two-a of this chapter, the board of
14 governors shall perform the following duties:

15 (1) Choose a name for the consolidated multicampus institution
16 from the recommendations submitted by the administrative planning
17 committee pursuant to section seven of this article.

18 (2) Choose the president of one of the affected institutions
19 to serve as president of the consolidated institution pursuant to
20 section five of this article;

21 (3) Determine which positions of the affected institutions are
22 to be abolished and notify employees as required by section nine of
23 this article; and

24 (4) Serve as the designated board of advisors for the

1 Advantage Valley Advanced Technology Center created by section
2 fourteen, article three-c of this chapter.

3 **§18B-3F-5. Appointment of institutional president; other officers.**

4 (a) The board of governors shall designate the president of
5 one of the affected institutions to serve as president of the
6 consolidated multicampus institution. The other president shall
7 serve as provost or chief executive officer of his or her
8 respective campus. The salary and benefits of an individual who is
9 serving as an institutional president at the time of a
10 reorganization may not be reduced solely as a result of the
11 reorganization. Provosts and chief executive officers report
12 directly to the president of the consolidated institution.

13 (b) After the initial contract period ends or at the
14 expiration of a president's current contract, the board of
15 governors of the consolidated multicampus institution shall appoint
16 and evaluate the president in accordance with section six, article
17 one-b of this chapter.

18 **§18B-3F-6. Budget; transfer of financial assets, property,**
19 **liability, orders, policies, procedures, etc.**

20 When a consolidated institution is formed:

21 (1) The operating budget of each affected institution is
22 integrated under the authority and jurisdiction of the board of
23 governors of the consolidated institution.

24 (2) All financial assets, including state fund balances, and

1 liabilities are transferred from the authority of the board of
2 governors of each affected institution to the authority of the
3 board of governors of the consolidated institution.

4 (3) Any capital debt service payment formerly the
5 responsibility of an affected institution or the affected
6 institution's share of any capital debt service payment of its
7 former sponsoring institution continues in the required amount and
8 is the responsibility of the board of governors of the consolidated
9 institution.

10 (4) The titles to all real property, facilities and equipment
11 of, as well as each valid agreement and obligation undertaken by,
12 the affected institutions are transferred to the board of governors
13 of the consolidated institution, which shall exercise general
14 determination, control, supervision and management of the
15 financial, business and education policies and affairs of the
16 consolidated multicampus institution.

17 (5) The title to all property purchased for the use of an
18 affected institution is vested in the board of governors of the
19 consolidated multicampus institution.

20 **§18B-3F-7. Administrative planning committee; purpose; membership;**
21 **duties; termination.**

22 (a) On the effective date of this article, or as soon
23 thereafter as practicable, the council shall establish an
24 administrative planning committee to advise in the reorganization

1 of Bridgemont and Kanawha Valley Community and Technical Colleges.

2 (b) *Membership.* - The administrative planning committee
3 consists of the following members:

4 (1) The president of each affected institution;

5 (2) The chair of the board of governors of each affected
6 institution;

7 (3) The chair of the council;

8 (4) The vice chancellor for administration, appointed pursuant
9 to section two, article four of this chapter, or a designee; and

10 (5) The chancellor, who chairs the planning committee.

11 (c) The administrative planning committee serves in an
12 advisory capacity to the board of governors in developing the
13 strategic reorganization plan and serves as liaison to the council
14 during the reorganization period.

15 (d) The administrative planning committee shall submit to the
16 board of governors a list of at least three names from which the
17 board shall choose a name for the consolidated, multicampus
18 community and technical college at their first meeting as soon
19 after June 30, 2013, as feasible.

20 (e) The planning committee shall report to the council at
21 least quarterly, or more often if requested, on development of the
22 strategic reorganization plan and the progress of the board of
23 governors in implementing the reorganization.

24 (f) The administrative planning committee is created

1 specifically to assist in the reorganization of Bridgemont and
2 Kanawha Valley Community and Technical Colleges and ceases to exist
3 on July 1, 2014, or on the date when the council determines the
4 reorganization has been completed, whichever occurs first.

5 **§18B-3F-8. Strategic reorganization plan.**

6 (a) The board of governors, with the advice of the
7 administrative planning committee, shall develop a strategic
8 reorganization plan for Bridgemont and Kanawha Valley Community and
9 Technical Colleges, including all campuses and instruction sites of
10 each institution. The board of governors shall develop, implement
11 and complete the reorganization by July 1, 2014.

12 (b) The reorganization plan includes, but is not limited to,
13 the following elements:

14 (1) A timeline showing specific steps for completing the
15 reorganization by July 1, 2014;

16 (2) A procedure to assure that all employees of the affected
17 institutions are notified of their employment status pursuant to
18 section nine of this article;

19 (3) A statement of assurance showing specific steps to be
20 taken to safeguard the rights, privileges and benefits of faculty,
21 classified employees and nonclassified employees of the affected
22 institutions including provisions for fulfilling contracts and
23 protecting earned benefits;

24 (4) A description of the instructional benefits expected from

1 the reorganization including a detailed explanation of enhancements
2 to academic program offerings, workforce development programs for
3 employers and services to students;

4 (5) A description of the fiscal benefits expected from the
5 reorganization including a detailed explanation of management
6 efficiencies, enhanced leadership skills, better coordination of
7 instruction and student support services and efficiencies in
8 expenditures per full-time equivalent student;

9 (6) A statement of assurance that student access to high-
10 quality education programming will be enhanced and/or maintained;
11 and

12 (7) A strategy to secure regional accreditation of the
13 reorganized institution by July 1, 2014.

14 **§18B-3F-9. Rights and benefits of employees of affected**
15 **institutions; positions to be abolished; notice of employment**
16 **status by certain date required.**

17 (a) When a consolidated institution is formed, the faculty,
18 classified employees and nonclassified employees of the affected
19 institutions become the faculty, classified employees and
20 nonclassified employees of the consolidated institution, subject to
21 the provisions of this article.

22 (b) By December 31, 2013, the board of governors of the
23 consolidated institution, in consultation with the president, shall
24 determine which, if any, positions existing at the affected

1 institutions on the effective date of this article are to be
2 abolished.

3 (1) In the case of positions which the board chooses to
4 retain, but which exist at both affected institutions, when there
5 is an overlap of duties and responsibilities of employees who
6 occupy those positions, the board of governors, in consultation
7 with the president, shall determine which position or positions
8 shall be abolished.

9 (2) A classified employee who holds a position scheduled to be
10 abolished is afforded all rights and benefits provided by this
11 article and by section three, article seven of this chapter.

12 (c) *Official notification to employees.* -

13 (1) The president shall provide official notice of employment
14 status to each classified employee, faculty member and
15 nonclassified employee of the affected institutions not later than
16 thirty days after the board's decision. For an employee whose
17 position is to be abolished, the official notice shall specify his
18 or her date of termination. The termination date shall be within
19 three to six months following the date of official notification.

20 (2) Any person who was employed full time by an affected
21 institution on the effective date of this article and whose
22 employment continues in any capacity with the board of governors of
23 the consolidated institution is considered to have no break in
24 service for calculation of years of service, seniority,

1 participation in health and retirement plans or continued
2 employment by the state.

3 (3) The board of governors, created pursuant to this article,
4 is an organization as defined in section two, article nine-a of
5 this chapter and is subject to all the terms and conditions that
6 apply to higher education organizations as provided in this chapter
7 and chapter eighteen-c of this code. Specifically, the board is
8 subject to section three, article seven of this chapter when making
9 reductions in force of classified employees.

10 **§18B-3F-10. Transfer of students.**

11 When a consolidated institution is formed, the students of the
12 affected institutions become the students of the consolidated
13 institution, subject to the provisions of section eight, article
14 one of this chapter.