

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 4251

BY DELEGATES SHOTT, ELLINGTON AND GEARHEART

[Originating in the Committee on Education; January

31, 2018.]

1 A BILL to amend and reenact §18B-2A-1 of the Code of West Virginia, 1931, as amended, relating
2 to permitting employees of higher education institutions outside of this state to be
3 appointed to a board of governors of a state institution of higher education.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

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

1 (a) *Findings.* –

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

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

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

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

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

12 (b) *Boards of governors established.* –

13 A board of governors is continued at each of the following institutions: Bluefield State
14 College, Blue Ridge Community and Technical College, Bridgemont Community and Technical
15 College, Concord University, Eastern West Virginia Community and Technical College, Fairmont
16 State University, Glenville State College, Kanawha Valley Community and Technical College,
17 Mountwest Community and Technical College, Marshall University, New River Community and
18 Technical College, Pierpont Community and Technical College, Shepherd University, Southern
19 West Virginia Community and Technical College, West Liberty University, West Virginia Northern

20 Community and Technical College, the West Virginia School of Osteopathic Medicine, West
21 Virginia State University, West Virginia University and West Virginia University at Parkersburg.

22 (c) *Board membership.* –

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

25 (2) The Board of Governors for Marshall University consists of sixteen persons. The Board
26 of Governors for West Virginia University consists of seventeen persons. The boards of governors
27 of the other state institutions of higher education consist of twelve persons.

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

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

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

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

35 (4) For the Board of Governors at Marshall University, thirteen lay members appointed by
36 the Governor, by and with the advice and consent of the Senate, pursuant to this section;

37 (5) For the Board of Governors at West Virginia University, twelve lay members appointed
38 by the Governor, by and with the advice and consent of the Senate, pursuant to this section, and
39 additionally:

40 (A) The Chairperson of the Board of Visitors of West Virginia University Institute of
41 Technology;

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

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

47 (A) Of the nine members appointed by the Governor, no more than five may be of the
48 same political party. Of the thirteen members appointed by the Governor to the governing board
49 of Marshall University, no more than eight may be of the same political party. Of the twelve
50 members appointed by the Governor to the governing board of West Virginia University, no more
51 than seven may be of the same political party.

52 (B) Of the nine members appointed by the Governor, at least five shall be residents of the
53 state. Of the thirteen members appointed by the Governor to the governing board of Marshall
54 University, at least eight shall be residents of the state. Of the twelve members appointed by the
55 Governor to the governing board of West Virginia University, at least seven shall be residents of
56 the state.

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

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

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

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

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

66 (d) *Board member terms.* –

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

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

71 (3) The member representing classified employees serves for a term of two years. Each
72 term begins on July 1. Members representing classified employees are eligible to succeed
73 themselves for three additional terms, not to exceed a total of eight consecutive years.

74 (4) The appointed lay citizen members serve terms of four years each and are eligible to
75 succeed themselves for no more than one additional term, except that citizen members who are
76 appointed to fill unexpired terms are eligible to succeed themselves for two full terms after
77 completing an unexpired term.

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

84 (6) The appointed members of the boards of governors serve staggered terms of up to
85 four years except that four of the initial appointments to the governing boards of community and
86 technical colleges that became independent July 1, 2008, are for terms of two years and five of
87 the initial appointments are for terms of four years.

88 (e) *Board member eligibility, expenses.* –

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

91 (A) For a baccalaureate institution or university, a person is ineligible for appointment who
92 is an officer, employee or member of any other board of governors within this state; an employee
93 of any institution of higher education within this state; an officer or member of any political party
94 executive committee; the holder of any other public office or public employment under the
95 government of this state or any of its political subdivisions; an employee of any affiliated research
96 corporation created pursuant to article twelve of this chapter; an employee of any affiliated
97 foundation organized and operated in support of one or more state institutions of higher education;
98 or a member of the council or commission: Provided, That if an appointee is an employee or board
99 member of an out-of-state higher education institution, there is no apparent conflict of interest

100 caused by the individual serving in both capacities. This subsection does not prevent the
101 representative from the faculty, classified employees, students or the superintendent of a county
102 board of education from being members of the governing boards.

103 (B) For a community and technical college, a person is ineligible for appointment who is
104 an officer, employee or member of any other board of governors within this state; a member of a
105 board of visitors of any public institution of higher education; an employee of any institution of
106 higher education within this state; an officer or member of any political party executive committee;
107 the holder of any other public office, other than an elected county office, or public employment,
108 other than employment by the county board of education, under the government of this state or
109 any of its political subdivisions; an employee of any affiliated research corporation created
110 pursuant to §18B-12-1 *et seq.* of this code; an employee of any affiliated foundation organized
111 and operated in support of one or more state institutions of higher education; or a member of the
112 council or commission: Provided, That if an appointee is an employee or board member of an out-
113 of-state higher education institution, there is no apparent conflict of interest caused by the
114 individual serving in both capacities. This subsection does not prevent the representative from
115 the faculty, classified employees or students from being members of the governing boards.

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

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

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

127 (5) The president of the institution shall make available resources of the institution for
128 conducting the business of its board of governors. All expenses incurred by the board of governors
129 and the institution under this section are paid from funds allocated to the institution for that
130 purpose.

NOTE: The purpose of this bill is to permit employees of higher education institutions outside of this state to be appointed to a board of governors of a state institution of higher education.

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