

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 2595

By Delegates, Riley, Ellington, Maynor, J. Cannon,

Fehrenbacher, McCormick, Rohrbach, Chiarelli,

Statler, Browning, and Lucas

[Originating in the Committee on the Judiciary;

Reported on March 27, 2025]

1 A BILL to amend and reenact §18B-12-2, §18B-12-3, and §18B-12-4 of the Code of West Virginia,
2 1931, as amended, and to repeal §18B-12-10 of said code, all relating to agreements for
3 institutions of higher education with private corporations established to benefit institutions
4 of higher education; providing legislative findings and purposes; authorizing institutions of
5 higher education to contract with one or more private corporations authorized to conduct
6 operational, economic, fiscal, and educational development activities and services related
7 to intercollegiate athletics; limiting the voting corporate directors of private corporations
8 who have entered into agreements to conduct operational, economic, fiscal, and
9 educational development activities and services related to intercollegiate athletics on
10 behalf of an institution of higher education; authorizing institutions of higher education to
11 transfer real and personal property to qualifying private corporations; clarifying that the
12 activities of private corporations who have entered into agreements to conduct operational,
13 economic, fiscal, and educational development activities and services related to
14 intercollegiate athletics are exempt from state requirements and procedures; authorizing
15 private corporations who have entered into agreements to conduct operational, economic,
16 fiscal, and educational development activities and services related to intercollegiate
17 athletics to undertake activities authorized by the West Virginia Nonprofit Corporation Act.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 12. RESEARCH AND DEVELOPMENT AND ATHLETICS AGREEMENTS
FOR STATE INSTITUTIONS OF HIGHER EDUCATION.**

§18B-12-2. Legislative findings and purpose.

1 (a) The Legislature finds and determines that the future economic development in the state
2 will depend in part upon research developed at the state institutions of higher education, and
3 enhanced research opportunities for state institutions of higher education will promote the general
4 economic welfare of the citizens of the state. In order to enhance the competitive position of state

institutions of higher education in the current environment for research and development, expenditures for equipment and material for research projects must be handled in an expeditious fashion, and the acquisition and utilization of research grants can be simplified and expedited through the utilization of private corporations.

(b) The interest of the citizens of the state will be best met by agreements entered into and carried out by the governing boards and corporations to provide research assistance for state institutions of higher education. Therefore, in order to facilitate research and development grants and opportunities for state institutions of higher education, it is appropriate to authorize the governing boards to contract with private corporations organized for the purpose of providing such services to state institutions of higher education.

(c) The Legislature further finds and determines that in order to foster and enhance the operational success and competitive nature of intercollegiate athletics in the current environment, the state institutions of higher education will benefit from utilization of private corporations to conduct operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics' programs.

§18B-12-3. Boards authorized to contract with corporations; characteristics of corporations.

Each governing board for a state institution of higher education may enter into agreements and any other contractual relationships with one or more corporations formed with respect to such state institution of higher education, but only if each such corporation meets the following descriptions:

(1) The president and the president's appointees from the institution shall constitute a majority of the voting corporate directors: Provided, That the voting corporate directors of any entity established to conduct operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics shall consist solely of employees of the institution of higher education or an employee of an affiliate of the institution of higher education.

(2) The corporation shall be organized as a nonprofit, nonstock corporation under the general corporation laws of the state exclusively for charitable, educational or scientific purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to engage in one or more of the following: (a) to foster and support research and economic development efforts at the respective state institution of higher education; and (b) to provide evaluation, development, patenting, management and marketing services for inventions of the faculty, staff and students of such state institution of higher education; and (c) to conduct operational economic, fiscal, and educational development activities and services related to intercollegiate athletics' programs at state institutions of higher education.

(3) The meetings of the corporate directors shall be subject to §6-9A-3 of this code: Provided, however, that matters relating to the conduct of operational, economic, fiscal and educational development activities and services related to intercollegiate athletics' programs are exempt from § 6-9A-3 and § 29B-1-1, et seq. of this code.

(4) Notwithstanding any other provision of this code to the contrary, institutional boards of governors may assign rights and delegate obligations and provide and transfer funding and property, both real and personal, to corporations as defined in section one of this article, and with which the institution under its jurisdiction has contracted pursuant to the provisions of this article, and any such transfers shall be exempt from the provisions of §18B-19-1 et seq. of this code.

(5) Upon dissolution of the corporation, the assets of the corporation shall be transferred to such entity as the appropriate governing board shall designate for the benefit of the state institution of higher education: Provided, That such recipient shall be an organization operated exclusively for charitable, educational, or scientific purposes as shall at such time qualify as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

§18B-12-4. Agreement; required provisions.

(a) With respect to entities engaged in activities contemplated by the provisions of §18B-12-3(2)(a) and (b) of this code and notwithstanding §12-3-10 of this code or any other provision of

law to the contrary, each governing board is hereby authorized to enter into an agreement with one or more private corporations, which agreement shall be for the benefit of the state institution of higher education and contain the following provisions, subject to further specification as is mutually agreed upon by the governing board and the corporation:

(1) On the effective date of the agreement, the corporation is charged with the responsibility of serving as fiscal agent for sponsored projects conducted by the faculty, staff and students of the state institution of higher education, and grants shall be accepted by the corporation on behalf of the institution and assigned to the corporation for fiscal management.

(2) The corporation shall provide evaluation, development, patenting, licensing, management, and marketing services for inventions, processes, trademarks, except institutional trademarks an institution's governing board elects to retain, copyrights or any other intellectual property developed by faculty, staff, and students of any state institution of higher education.

(3) The corporation may determine the application of the proceeds from any invention, process, trademark, except institutional trademarks an institution's governing board elects to retain, copyright or any other intellectual property developed by the faculty, staff, or students of an institution among the corporation, the inventor or developer, and the institution.

(4) The corporation may receive, purchase, hold, lease, use, sell, and dispose of real and personal property of all classes subject to the provisions of section ten of this article.

(5) The corporation has such additional responsibilities related to the administration of research and development at the institution or the fostering of economic development as are necessary or desirable.

(b) With respect to entities engaged in activities contemplated by the provisions of §18B-12-3(2)(c) of this code: Notwithstanding §12-3-10 of this code or any other provision of law to the contrary, each governing board is hereby authorized to enter into an agreement with one or more private corporations, which agreement shall be for the benefit of the state institution of higher education, to conduct operational, economic, fiscal, and educational development activities and

services related to intercollegiate athletics' programs and shall contain the following provisions,
subject to further specification as is mutually agreed upon by the governing board and the
corporation:

(1) On the effective date of the agreement, the corporation is charged with the
responsibility of serving as the operational and fiscal agent for the athletics-related endeavors or
other educational development activities as specified by the state institution of higher education.

(2) The corporation shall provide services for the benefit of the state institution of higher
education as outlined in the agreement.

(3) The corporation may receive, purchase, hold, lease, use, sell, and dispose of real and
personal property of all classes; may own membership or ownership interests in legal entities; and
has all powers and authorities to undertake any activities allowable by corporations organized
pursuant to §31E-1-101 et seq. of this code.

(4) The corporation has such additional responsibilities related to conducting operational,
economic, fiscal, and educational development activities and services related to intercollegiate
athletics' programs of the state institution of higher education, as are necessary or desirable.

~~(b)~~(c) Upon termination of the agreement, the funds or grants paid or held by the
corporation, and all other property held by the corporation, shall be transferred to the institution or
its designee as the governing board directs.

~~(e)~~(d) A corporation may utilize both corporation employees and personnel of the
institution. The corporation may pay the costs incurred by the institution including personnel
funded on grants and contracts, fringe benefits of personnel funded on grants and contracts,
administrative support costs and other costs which may require reimbursement. The corporation
may include as costs any applicable overhead and fringe benefit assessments necessary to
recover the costs expended by the institution, pursuant to the terms of the agreement, and that a
board may be reimbursed for expenses incurred by it pursuant to the agreement.

§18B-12-10. Assignment or transfer of property to certain corporations.

1 [Repealed.]

NOTE: The purpose of this bill is to authorize institutions of higher education to contract with a private corporation to operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics' programs of the 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.