

VETO HB 3019

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999

ENROLLED

House Bill No. 3019

(By Delegates Mezzatesta, Williams, Stemple,
Manuel, Shelton, Ennis and Davis)

Passed March 13, 1999

In Effect from Passage

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H. B. 3019

(BY DELEGATES MEZZATESTA, WILLIAMS, STEMPLE,
MANUEL, SHELTON, ENNIS AND DAVIS)

[Passed March 13, 1999; in effect from passage.]

AN ACT to amend article three, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section six, relating to the board of directors of the state college system; establishing the freestanding eastern West Virginia community and technical college; authority, powers, and duties of the board of directors relating to operation of eastern West Virginia community and technical college; employing a president and appropriate faculty and staff; advisory board; courses, programs, services, tuition and fees; property and title; authorizing contracts for services; reports required; requiring preparation and submission of strategic plans; authorizing contractual arrangements for administration and operation prior to independent accreditation; community and technical college district; transfer of governance upon establishment of any separate governing board for state freestanding community and technical colleges; defining of freestanding community and technical college; providing certain operational parameters for freestanding community and technical colleges; requiring a study of law and practices that may hinder effective delivery of community and technical college education; and requiring a study respecting credit and non-credit courses.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three-d, to read as follows:

ARTICLE 3. BOARD OF DIRECTORS OF THE STATE COLLEGE SYSTEM.

§18B-3-6. Establishment and operation of the eastern West Virginia community and technical college; authority and duty to purchase property, expend appropriations and conduct programs.

1 (a) The board of directors shall establish, operate and
2 maintain as a state institution of higher education and as a part
3 of the state college system of West Virginia, the freestanding
4 community and technical college, known as "Eastern West
5 Virginia Community and Technical College", located in Hardy
6 County. The title to all real property, facilities and equipment
7 of eastern West Virginia community and technical college is
8 and remains vested in the board of directors.

9 The board of directors shall employ a president and such
10 staff and faculty as determined appropriate for the institution;
11 appoint an board of advisors consistent with section one, article
12 six of this chapter; and exercise general determination, control,
13 supervision and management of the financial, business and
14 educational policies and affairs of the community and technical
15 college.

16 Eastern West Virginia community and technical college
17 may offer such curricula, programs, courses and services and
18 confer such degrees as is approved by the board of directors.
19 The board of directors shall fix tuition and establish and set
20 other fees to be charged students as it considers appropriate,
21 including establishing special fees for specific purposes.
22 Special fees shall be paid into special funds and may be used
23 only for the purposes for which the fees were collected.

24 The board of directors shall expend from the appropriations
25 allocated for eastern West Virginia community and technical
26 college such funds as are necessary to operate and conduct
27 programs, to acquire clear title to any real property and to make

28 necessary capital improvements. The title to all property
29 purchased for the use of eastern West Virginia community and
30 technical college is vested in the board of directors.

31 The board of directors may enter into contracts on behalf of
32 eastern West Virginia community and technical college with
33 public and private educational institutions, agencies, boards,
34 governmental agencies, corporations, partnerships and individu-
35 als to perform instructional or other services.

36 The board of directors shall make any necessary reports to
37 the legislative oversight commission on education accountabil-
38 ity for the phased implementation of this section.

39 Eastern West Virginia community and technical college
40 shall prepare and submit strategic plans in accordance with the
41 provisions of section one-c, article one of this chapter.

42 The board of directors may provide through contractual
43 arrangement for the administration and operation of eastern
44 West Virginia community and technical college by other state
45 institutions of higher education until such time as the commu-
46 nity and technical college attains appropriate independent
47 accreditation. Any contractual arrangement shall ensure that the
48 programs offered at eastern West Virginia community and
49 technical college are accredited while independent accreditation
50 is being sought.

51 Notwithstanding the provisions of section three-a of this
52 article, the community and technical college district of eastern
53 West Virginia community and technical college, for the
54 purposes of initial implementation, is comprised as follows:
55 Grant, Hardy, Hampshire, Pendleton and Tucker counties.

56 (b) Upon the establishment of any separate governance
57 board for state freestanding community and technical colleges,
58 there is transferred from the board of directors to the freestand-
59 ing community and technical college governing board:

60 (1) All powers, duties, rights, control, supervision, manage-
61 ment, facilities and equipment vested in the board of directors
62 for the benefit of eastern West Virginia community and
63 technical college by virtue of this section;

64 (2) Jurisdiction over all administration, functions and
65 operations of eastern West Virginia community and technical
66 college;

67 (3) Authority to maintain and operate eastern West Virginia
68 community and technical college;

69 (4) Title to any property previously transferred to or vested
70 in the board of directors for the exclusive use or benefit of
71 eastern West Virginia community and technical college; and

72 (5) Any valid agreement, obligation or claim entered into
73 or incurred by the board of directors on behalf of eastern West
74 Virginia community and technical college.

75 (c) For purposes of subdivisions (c) and (d) of this section,
76 “freestanding community and technical college” means eastern
77 West Virginia community and technical college, southern West
78 Virginia community and technical college, West Virginia
79 northern community and technical college and any other
80 freestanding community and technical college so designated by
81 the Legislature. Notwithstanding any rules or procedures of the
82 state college system board of directors, the freestanding
83 community and technical colleges under the jurisdiction of the
84 board of directors shall:

85 (1) Incorporate the most effective and efficient use of
86 technology in accessing and delivering courses and programs in
87 order to make the best use of available resources and to control
88 costs;

89 (2) Incorporate a model to offer occupational program
90 curricula in smaller modules to accommodate specific student
91 and employer needs and to gain sufficient flexibility in format-
92 ting courses;

93 (3) Serve as a facilitator for education programs from
94 outside delivery sources that meet the needs of the residents and
95 employers of the district;

96 (4) Employ faculty in the most effective manner to serve
97 the two-fold core mission of community and technical educa-
98 tion which is to deliver workforce development programs to

99 meet the needs of employers in the district and to increase the
100 college participation rate of all the residents of the district. To
101 that end, and unless prohibited by a majority vote of the board
102 of directors prior to the thirty-first day of December, one
103 thousand nine hundred ninety-nine, the freestanding community
104 and technical colleges may employ faculty for an indefinite
105 period without a grant of tenure and shall work toward a
106 staffing goal of no more than twenty percent of the faculty
107 holding tenure or being tenure-track employees;

108 (5) The freestanding community and technical colleges may
109 not be required to file a request for approval with the board of
110 trustees before implementing a new program pursuant to section
111 eight, article one of this chapter; and

112 (6) The board of directors shall adopt a model of program
113 approval for the freestanding community and technical colleges
114 that permits occupational programs to be customized to meet
115 needs without requiring approval by the board of directors and
116 furthermore incorporates a post-audit review of such programs
117 on a three year cycle to determine the effectiveness of such
118 programs in meeting district needs.

119 (d) The board of directors shall conduct a study and make
120 recommendations to the legislative oversight commission on
121 education accountability by the first day of January, two
122 thousand, on the following issues:

123 (1) A review of state statutes and board rules, policies,
124 practices and procedures that may hinder effective delivery of
125 community and technical college education, including recom-
126 mendations on changes to the resource allocation model and
127 resource allocation policy established pursuant to section two,
128 article five of this chapter; and

129 (2) A method of funding reimbursement based on the
130 delivery of credit and noncredit course work, eliminating or
131 reducing the funding and regulatory differences between credit
132 and noncredit courses to facilitate students moving between the
133 two types of programs, and allowing faculty more flexibility to
134 teach in both credit and noncredit program areas.

ARTICLE 3D. EASTERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE.

§18B-3D-1. Legislative findings; statement of purpose.

1 (a) The Legislature recognizes that it is in the best interest
2 of West Virginia to have an effective and comprehensive
3 delivery system for community and technical college education
4 because of its importance to the economic and cultural well-
5 being of state residents.

6 (b) The Legislature further finds that a need exists to
7 strengthen community and technical education to respond better
8 to the economic needs of the state for a highly trained, compe-
9 tent workforce. These programs need the administrative,
10 programmatic and budgetary flexibility to respond to district
11 and community needs, and the Legislature finds that there is a
12 need to restructure and refocus community and technical
13 college education for the purpose of establishing programs that
14 function well with the public schools and four year colleges,
15 that make maximum use of resources, that encourage students
16 to pursue a life-time of learning, that serve as instruments of
17 economic development, and that have the independence and
18 flexibility to respond quickly to changing needs.

19 (c) The Legislature finds that, although progress has been
20 made on reaching some of the goals established by statute over
21 the past six years, not all the purposes for which community
22 and technical college education was created have been fulfilled
23 and not all the goals have been met. It is the responsibility of
24 the Legislature to make the best use of available resources and
25 to provide a blueprint that will meet goals established for
26 community and technical college education by the citizens of
27 West Virginia.

28 (d) While certain advantages accrue to community and
29 technical colleges that are part of four-year institutions, there
30 also are disadvantages that might limit flexibility, discourage
31 entrepreneurialship, impede the establishment of a community
32 college culture and divert resources from the two-fold core
33 mission of community and technical education which is to
34 deliver workforce development programs to meet the needs of

35 employers in the district and to increase the college participa-
36 tion rate of all the residents of the district.

37 (e) Shepherd College, situated in the eastern panhandle of
38 the state, is located in an area of West Virginia which is
39 experiencing economic and population growth. Shepherd
40 College has great potential to expand its role as a liberal arts
41 institution. The eastern panhandle also is an area of the state
42 which needs an aggressive community college to meet ever-
43 growing workforce development needs and the need for open
44 access college-level courses.

45 (f) The south branch valley is an area of the state which is
46 underserved for higher education and which deserves more
47 convenient access to higher education opportunities, including
48 workforce development opportunities.

49 (g) The south branch valley area may not currently have the
50 population base to support the establishment of a free-standing
51 community and technical college but does have the population
52 base to support a branch campus of an existing community
53 college.

54 (h) It would be in the best interests of the state if there
55 could be established one free-standing community and technical
56 college which would serve the area of the eastern panhandle
57 and the south branch valley. Creation of such a college would
58 have the following advantages:

59 (1) It would enhance the role of a community and technical
60 college in the eastern panhandle;

61 (2) It would strengthen the alliance which has developed
62 between The James Rumsey Technical Institute and community
63 and technical college education in the region of the eastern
64 panhandle and the south branch valley;

65 (3) It would provide quality community and technical
66 college education in the south branch valley; and

67 (4) It would be an efficient use of scarce state resources and
68 would avoid the duplication of administrative and other costs
69 which the creation of a new community and technical college
70 alone would cause.

71 (i) It is the intent of the Legislature in establishing the
72 eastern West Virginia community and technical college, to
73 focus on the advantages available to a freestanding college and
74 to enhance the ability of the community and technical college
75 to carry out its core mission. Establishment of this college
76 provides an opportunity to implement more effective delivery
77 systems, organization structure, and management in order to
78 find the best possible match between the needs of students and
79 employers and the best interests of the state.

§18B-3D-2. Definitions.

1 For purposes of this article only:

2 (a) "Board" or "governing board" means the board of
3 directors of the state college system established pursuant to
4 section one, article three of this chapter;

5 (b) "College" or "community and technical college" means
6 eastern West Virginia community and technical college
7 established in section three of this article; and

8 (c) "Freestanding community and technical college" means
9 a college that is not operated as a branch or off-campus location
10 of any other state institution of higher education.

**§18B-3D-3. Establishment and operation of the eastern West
Virginia community and technical college; author-
ity and duty to purchase property, expend appro-
priations and conduct programs.**

1 (a) Subject to approval of rules submitted by the board as
2 required in section four of this article and subject to approval by
3 the institutional board of advisors of Shepherd College pursuant
4 to section five of this article, the board shall establish, operate
5 and maintain as a state institution of higher education and as a
6 part of the state college system of West Virginia, the freestand-
7 ing community and technical college, known as "Eastern West
8 Virginia Community and Technical College" with its main
9 campus located in Berkeley county and a branch campus
10 located in Hardy County. The college shall incorporate the
11 community and technical college component of Shepherd

12 College including any community and technical college branch
13 campuses operated by Shepherd College. Title to all real
14 property, facilities and equipment of eastern West Virginia
15 community and technical college is and remains vested in the
16 board.

17 (b) The board shall employ a president and such staff and
18 faculty as determined appropriate for the institution: *Provided*,
19 that at the end of five years, no more than twenty percent of the
20 community and technical college faculty will hold tenure or be
21 tenure-track employees.

22 (c) The board shall appoint an institutional board of
23 advisors consistent with section one, article six of this chapter
24 and exercise general determination, control, supervision and
25 management of the financial, business and education policies
26 and affairs of the college.

27 (d) Subject to provisions outlined in this article, the
28 community and technical college may offer such curricula,
29 programs, courses and services and confer such degrees as are
30 approved by the board. The board shall fix tuition and establish
31 and set other fees to be charged students as it considers appro-
32 priate, including establishing special fees for specific purposes.
33 Special fees shall be paid into special funds and may be used
34 only for the purposes for which the fees were collected.

35 (e) The board shall expend from the appropriations allo-
36 cated for the community and technical college such funds as are
37 necessary to operate and conduct programs, to acquire clear title
38 to any real property and to make necessary capital improve-
39 ments. The title to all property purchased for the use of the
40 community and technical college is vested in the board.

41 (f) The board may enter into contracts on behalf of the
42 community and technical college with public and private
43 education institutions, agencies and boards, with government
44 agencies and with corporations, partnerships and individuals to
45 perform instruction or other services.

46 (g) The board may provide through contractual arrangement
47 for the administration and operation of the college by other

48 state institutions of higher education until such time as the
49 college attains appropriate independent accreditation. Any
50 contractual arrangement shall ensure that the programs offered
51 at the community and technical college are accredited while
52 independent accreditation is being sought.

53 (h) Notwithstanding the provisions of section three-a of this
54 article, the community and technical college district of the
55 college, for the purposes of initial implementation, is comprised
56 as follows: Berkeley, Grant, Hardy, Hampshire, Jefferson,
57 Morgan, Pendleton and Tucker counties.

§18B-3D-4. Requirements for legislative rules promulgated by the board.

1 The governing board shall promulgate legislative rules in
2 accordance with the provisions of article three-a, chapter
3 twenty-nine-a of this code to effectuate the purposes of this
4 article: *Provided*, That the board shall not promulgate emer-
5 gency rules. The rules shall be filed with the legislative
6 oversight commission on education accountability no later than
7 the first day of December, one thousand nine hundred ninety-
8 nine: *Provided*, That the board shall first obtain an affirmative
9 vote of the institutional board of advisors of Shepherd College
10 pursuant to section five of this article before filing the proposed
11 rules.

12 The rules shall include, but are not limited to, the follow-
13 ing:

14 (a) A determination of the costs to be reimbursed to
15 Shepherd College in exchange for its community and technical
16 college component and a recommendation on a methods to
17 reimburse costs and to phase the implementation over a period
18 of time;

19 (b) Recommendations for an effective and efficient way to
20 facilitate the operation of the college during the pre-accredita-
21 tion period and a determination of the time necessary for the
22 college to attain appropriate regional accreditation;

23 (c) A determination of the most effective and efficient
24 method to incorporate the use of technology in accessing and

25 delivering courses and programs in order to make the best use
26 of available resources and to control costs;

27 (d) Recommendations on methods to encourage the college
28 to serve as a broker for education programs from outside
29 delivery sources that meet the needs of the residents and
30 employers of the district;

31 (e) Recommendations on the best way to implement a
32 system for faculty appointment and reappointment that utilizes
33 alternative policies and procedures such as periodic perfor-
34 mance reviews and limits tenure to twenty percent of the
35 faculty;

36 (f) A review of state statutes and board rules, policies,
37 practices and procedures that may hinder effective delivery of
38 community and technical college education including recom-
39 mendations on changes to the resource allocation model and
40 resource allocation policies established pursuant to section two,
41 article five of this chapter. The recommendations should
42 provide for the following:

43 (1) Funding reimbursement based on the delivery of credit
44 and non-credit course work with mainstream faculty delivering
45 both through a market-driven approach to education;

46 (2) Eliminating or reducing the funding and regulatory
47 differences between credit and non-credit courses to facilitate
48 students moving between the two types of programs;

49 (3) Allowing faculty more flexibility to teach in both credit
50 and non-credit program areas; and

51 (4) Removing the necessity to put priority on credit classes
52 solely because of funding;

53 (g) A curriculum model for the college that provides, in
54 addition to the same academic authority granted to other
55 freestanding community and technical colleges, the following:

56 (1) A model to offer occupational curricula in smaller
57 modules to accommodate specific student and employer needs
58 and to gain sufficient flexibility in formatting courses; and

59 (2) A model that allows program approval of cluster areas
60 that allows individual program curriculum to be customized to
61 meet needs without requiring additional board approval and
62 incorporates a post-audit review of programs on a three to five
63 year cycle to determine the effectiveness of the programs in
64 meeting district needs.

§18B-3D-5. Vote by the institutional board of advisors.

1 After the board has developed a proposal for legislative
2 rules as required in section four of this article and before the
3 rules are submitted to the legislative oversight commission on
4 education accountability, the board shall request the institu-
5 tional board of advisors of Shepherd College to meet for the
6 purpose of reviewing the provisions of the proposed rules that
7 have a monetary impact on Shepherd College. The institutional
8 board of advisors shall vote to accept or reject the provisions.
9 Acceptance requires an affirmative vote by a majority of
10 members present at the meeting. If the institutional board of
11 advisors of Shepherd College does not accept the rule, the board
12 cannot file the rule.

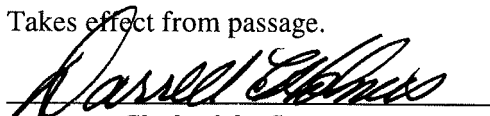
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

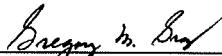

Chairman Senate Committee

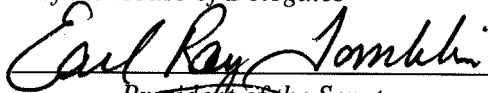

Chairman House Committee

Originating in the House.

Takes effect from passage.

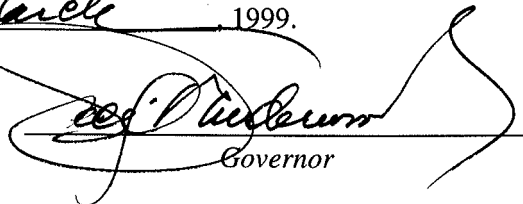

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within disapproved this the 20th
day of March, 1999.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/19/99

Time 2:58 pm