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SB 459

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2008**

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**ENROLLED**

**Senate Bill No. 459**

(BY SENATORS PLYMALE, EDGELL, BAILEY, GREEN, HUNTER,  
OLIVERIO, STOLLINGS, WELLS, BOLEY, GUILLS AND HALL)

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[Passed February 11, 2008; in effect from passage.]

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## Senate Bill No. 459

(BY SENATORS PLYMALE, EDGELL, BAILEY, GREEN, HUNTER,  
OLIVERIO, STOLLINGS, WELLS, BOLEY, GUILLS AND HALL)

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[Passed February 14, 2008; in effect from passage.]

AN ACT to amend and reenact §18-9D-20 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-9D-21; and to amend and reenact §18B-17-2 of said code, all relating to education rules; authority of School Building Authority to promulgate rules; determining effective dates; waiving technical deficiencies; and authorizing rules of the School Building Authority and the Higher Education Policy Commission.

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

That §18-9D-20 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-9D-21; and that §18B-17-2 of said code be amended and reenacted, all to read as follows:

**CHAPTER 18. EDUCATION.**

**ARTICLE 9D. SCHOOL BUILDING AUTHORITY.**

**§18-9D-20. Authority to promulgate rules; legislative authorization; effective date of rules; technical deficiencies waived.**

1 (a) The authority is hereby empowered to promulgate,  
2 adopt, amend or repeal rules in accordance with the  
3 provisions of article three-a, chapter twenty-nine-a of  
4 this code.

5 (b) All rules adopted or promulgated by the authority  
6 and in effect on the eighth day of June, two thousand  
7 seven, shall be refiled pursuant to the provisions of  
8 article three-a, chapter twenty-nine-a of this code on or  
9 before the first day of September, two thousand seven.

10 (1) Any interpretive or procedural rule shall continue  
11 in effect until rescinded or appropriately refiled by the  
12 authority.

13 (2) Any legislative rule shall continue in effect until  
14 approved or rejected by the Legislature or rescinded by  
15 the authority.

16 (c) Under the provisions of article three-a, chapter  
17 twenty-nine-a of this code, the Legislature expressly  
18 authorizes the promulgation of the rules described in

19 this article, subject only to the limitations with respect  
20 to each rule set forth by law authorizing its  
21 promulgation. The Legislature further declares that all  
22 rules now or hereafter authorized in this article are  
23 within the legislative intent of the statute which the rule  
24 is intended to implement, extend, apply or interpret.

25 (d) The effective date of a legislative rule authorized  
26 in section twenty-one of this article is governed by the  
27 provisions of section fourteen, article three-a, chapter  
28 twenty-nine-a of this code under the following  
29 conditions:

30 (1) The School Building Authority, in promulgating  
31 the rule, establishes an effective date which is earlier  
32 than that provided by that section, in which case the  
33 effective date established by the authority controls; or

34 (2) The Legislature, in the bill authorizing the rule,  
35 establishes an effective date for the rule, in which case  
36 the effective date established by the Legislature  
37 controls.

38 (e) The Legislature further declares each legislative  
39 rule now or hereafter authorized under this article to  
40 have been validly promulgated, notwithstanding any  
41 failure to comply with any requirement of article  
42 three-a, chapter twenty-nine-a of this code relating to  
43 the promulgation of rules at any stage of the  
44 promulgation process prior to authorization by the  
45 Legislature in this article.

**§18-9D-21. Authorizing rules of School Building Authority.**

1 (a) The legislative rule filed in the State Register on

2 the twenty-seventh day of September, two thousand  
3 seven, relating to the School Building Authority (School  
4 Building Authority requirements for Comprehensive  
5 Educational Facility Plan rule) is authorized.

6 (b) The legislative rule filed in the State Register on  
7 the twenty-seventh day of September, two thousand  
8 seven, relating to the School Building Authority  
9 (funding School Building Authority projects rule) is  
10 authorized.

11 (c) The legislative rule filed in the State Register on  
12 the twenty-seventh day of September, two thousand  
13 seven, relating to the School Building Authority (School  
14 Building Authority school planning and design criteria  
15 rule) is authorized.

16 (d) The legislative rule filed in the State Register on  
17 the twenty-seventh day of September, two thousand  
18 seven, relating to the School Building Authority (School  
19 Building Authority project administration and review  
20 rule) is authorized.

21 (e) The legislative rule filed in the State Register on  
22 the twenty-seventh day of September, two thousand  
23 seven, and amended by the School Building Authority  
24 and refiled on the tenth day of December, two thousand  
25 seven, relating to the School Building Authority (School  
26 Building Authority contract and agreements rule) is  
27 authorized.

28 (f) The legislative rule filed in the State Register on  
29 the twenty-seventh day of September, two thousand  
30 seven, relating to the School Building Authority (School  
31 Building Authority reporting procedures rule) is

32 authorized.

33 (g) The legislative rule filed in the State Register on  
34 the twelfth day of July, two thousand seven, and  
35 amended by the School Building Authority and refiled  
36 on the twenty-eighth day of December, two thousand  
37 seven, relating to the School Building Authority (School  
38 Access Safety Act rule) is authorized.

## CHAPTER 18B. HIGHER EDUCATION.

### ARTICLE 17. LEGISLATIVE RULES.

#### §18B-17-2. Authorizing rules of Higher Education Policy Commission.

1 (a) The legislative rule filed in the State Register on  
2 the fifteenth day of October, two thousand four, relating  
3 to the Higher Education Policy Commission  
4 (Underwood-Smith Teacher Scholarship Program rule)  
5 is authorized.

6 (b) The legislative rule filed in the State Register on  
7 the fifteenth day of October, two thousand four, relating  
8 to the Higher Education Policy Commission (West  
9 Virginia Engineering, Science and Technology  
10 Scholarship Program rule) is authorized.

11 (c) The legislative rule filed in the State Register on  
12 the fifteenth day of October, two thousand four, relating  
13 to the Higher Education Policy Commission (Medical  
14 Education Fee and Medical Student Loan Program rule)  
15 is authorized.

16 (d) The legislative rule filed in the State Register on  
17 the twenty-seventh day of October, two thousand five,

18 relating to the Higher Education Policy Commission  
19 (authorization of degree-granting institutions) is  
20 authorized.

21 (e) The legislative rule filed in the State Register on  
22 the twenty-third day of August, two thousand six,  
23 relating to the Higher Education Policy Commission  
24 (West Virginia Higher Education Grant Program) is  
25 authorized.

26 (f) The legislative rule filed in the State Register on  
27 the fourth day of January, two thousand eight, relating  
28 to the Higher Education Policy Commission (Providing  
29 Real Opportunities for Maximizing In-state Student  
30 Excellence - PROMISE) is authorized.

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

*Chandy White*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*Russell Hobbes*  
.....  
Clerk of the Senate

*Gregory W. Sand*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* ..... this  
the *19<sup>th</sup>* Day of *February* ....., 2008.

*[Signature]*  
.....  
Governor



PRESENTED TO THE  
GOVERNOR

FEB 13 2008

Time 2:35pm