WEST VIRGINIA CODE CHAPTER 10 ARTICLE 5

WV Legislature

§10-5-1. Legislative findings; definitions.

(a) The Legislature hereby finds and declares that:

(1) It is the duty of this state to provide the best educational training possible for all its citizens;

(2) The encouragement and use of noncommercial educational radio, television, and related media operating and originating from educational broadcasting, closed circuit, or related facilities located at a site or sites within this state serving all the citizens of this state on a regional basis or as part of a coordinated statewide plan is a proper, necessary and beneficial means of providing and extending enriched educational instruction to all the citizens of this state at the preschool, elementary, secondary, and higher education and adult levels;

(3) Private nonprofit corporations have been established in this state for the sole purpose of raising funds for the financial support of the state's Public Broadcasting Network, which funds have been a vital source of private funding for the commission and enure to the benefit of all the citizens of the state; and

(4) Because of the unique educational benefit conferred upon and available to all the citizens of the state by the efforts of the commission and the private nonprofit corporations established for the sole purpose of providing support for public broadcasting in this state, authorizing the commission to allow its employees to work with, and its property and facilities to be used by, the private nonprofit corporations is a proper, necessary, and beneficial means of providing financial support for the state's Public Broadcasting Network.

(b) The following terms have the following meanings:

"Commission" means the Educational Broadcasting Commission established by the provisions of this article. References to “Educational Broadcasting Authority” or “the authority” throughout this article shall mean the Educational Broadcasting Commission unless the context in which used plainly requires a different meaning.

"Distance learning" means educational courses, seminars, programs, and teleconferences transmitted electronically and designed to instruct students who are remote from the instructor or other participants; such courses, seminars, programs, and teleconferences may constitute all or a significant portion of a class offered for college or public school credit, or they may be provided for faculty development, continuing professional education, for training employees of governmental agencies, nonprofit organizations, business, or industry;

"EdNet" means those individuals identified as an enterprise of the university of West Virginia college of graduate studies and West Virginia state college on behalf of the state college and university systems who are delegated the responsibility for developing, operating, and maintaining facilities for the production and transmission of distance learning; and

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"SatNet" means those individuals identified as an enterprise of the state college and university systems who are delegated the responsibility for developing and providing distance learning.

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§10-5-2. West Virginia Educational Broadcasting Commission; members; organization; officers; employees; meetings; expenses.

(a) The West Virginia Educational Broadcasting Commission is continued as a public benefit corporation. The commission shall consist of nine voting members, who shall be residents of the state, including:

(1) The Governor or designee;

(2) The State Superintendent of Schools;

(3) One member of the West Virginia Board of Education to be selected by it annually;

(4) One member of the West Virginia Higher Education Policy Commission to be selected by it annually; and

(5) Five members appointed by the Governor by and with the advice and consent of the Senate for overlapping terms of five years, one term expiring each year.

(b) Not less than one appointive member shall come from each congressional district. Any vacancy among the appointed members shall be filled by the Governor by appointment for the unexpired term.

(c) Employees of noncommercial broadcasting stations in West Virginia are not eligible for appointment to the commission.

(d) The commission shall annually select a member to serve as the chair. The commission shall annually select one of its public members as vice chair and shall appoint a secretary who need not be a member of the commission and who shall keep records of its proceedings.

(e) The Cabinet Secretary of the Department of Tourism shall appoint the commission section director and fix his or her salary. The commission section director is responsible for managing and administering the daily functions of the commission and for performing all other functions necessary to the effective operation of the commission. The commission may establish offices for the proper performance of its duties.

(f) The commission shall hold at least one annual meeting. The time and place of the meetings shall be established upon its own resolution or at the call of the chairperson of the commission. The members shall serve without compensation but may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

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§10-5-2a

Repealed

Acts, 2018 Reg. Sess., Ch. 105.

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§10-5-3. Powers of commission.

The commission may:

(1) Act as advisor and consultant to television and radio stations concerning noncommercial educational programs supported by federal, state, county, city, or private funds;

(2) Cooperate with and assist all local and state educational institutions in planning and development of the use of educational radio, television, and related media;

(3) Promote and coordinate the use of these media for noncommercial educational purposes;

(4), Construct, maintain, and operate educational broadcasting, closed circuit, or related facilities located at a suitable site or sites within this state including, without limitation thereby, production centers, broadcasting stations, and an audio-video microwave system for a statewide broadcasting network connecting such communities or stations as may be designated by the commission;

(5) Acquire in the name of the state for the use and benefit of the commission by purchase, lease, or agreement, any property, both real and personal, and any interest in such property necessary to carry out the provisions of this article;

(6) Apply for and receive any license from the appropriate federal agency necessary to operate any educational broadcasting, closed circuit, or related facility;

(7) Supervise and approve the origination and transmission of all noncommercial educational radio, television, and related media programs in this state which would be carried through the facilities of a state network;

(8) Employ such personnel as may be necessary to operate and maintain any facility created under the provisions of this article, and to work with private nonprofit corporations to raise funds for the financial support of the state's public broadcasting network;

(9) Lease from communications common carriers and use such transmission channels as may be necessary or, if it determines it could more economically construct and maintain such transmission channels, it may design, construct, maintain, and operate the same, including an audio-video microwave network;

(10) Sue and be sued, plead and be impleaded;

(11) Contract and be contracted with, including the power to enter into contracts with any person, firm, or corporation, including any like commission of neighboring states; and shall have the authority, within state regulations, to enter into program royalty and distribution contracts and receive moneys for these purposes: *Provided*, That any proceeds from such contracts shall be used by the commission for noncommercial purposes only;

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(12) Have and use a corporate seal;

(13) Promulgate reasonable rules to carry out the provisions of this article in accordance with §29A-3-1 *et seq*. of this code; and

(14) Perform such other services on behalf of noncommercial educational radio, television, and related media as it may consider to be in the best interest of the state, including the use of the commission's employees, property, and facilities for the purpose of raising funds for the support of public broadcasting.

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§10-5-4. Funds; right of state agencies, etc., to contribute to authority.

(a) The authority may solicit, apply for and receive appropriations, gifts, bequests or grants from any agency of the United States government, any agency of the State of West Virginia, any municipality or county within this state, any school board or college or university supported in whole or in part by this state or any other person, firm, partnership, association or corporation, within or without this state, and any agency of the State of West Virginia, any municipality or county within this state, or any school board or college or university supported in whole or in part by this state is hereby authorized and empowered to make appropriations or grants to the authority, to assist in achieving the public purpose of the authority.

(b) All such funds shall be deposited with the State Treasurer of West Virginia or with a private nonprofit corporation established for the sole purpose of providing support for public broadcasting in this state which has entered into a memorandum of understanding with the authority pursuant to the provisions of section six of this article, and used exclusively for carrying out the provisions of this article: Provided, That any appropriations, gifts, bequests or grants received by the authority with any restriction or restrictions on the use thereof shall be expended by the authority in accordance with such restriction or restrictions.

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§10-5-5. Advisory councils.

The authority may also create one or more advisory councils. Each council so created shall consist of not more than nine members to be appointed by and serve at the will and pleasure of the authority. Each council shall annually elect a chairperson, vice chairperson and secretary. Members so appointed shall serve without compensation, but may be reimbursed for actual expenses incident to the performance of their duties as provided in this article for members of the authority.

Any such council shall serve in an advisory manner to one or more facilities established under the provisions of this article as directed by the authority and shall meet at least twice a year.

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§10-5-5a. Advisory Committee on Journalistic and Editorial Integrity.

(a) The Authority shall appoint an Advisory Committee on Journalistic and Editorial Integrity, which shall consist of five qualified members to serve staggered terms of three years. The Advisory Committee shall annually elect a chair, vice chair and secretary.

(b) The Advisory Committee shall advise the Authority on issues related to the journalistic independence and editorial integrity of public education and public broadcasting stations, which have the same Constitutional protections as other journalistic enterprises in West Virginia.

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§10-5-6. Cooperation with private nonprofit corporations.

(a) In furtherance of its mission and fulfillment of its duties, the authority is expressly authorized to allow its employees to work with, and its property and facilities to be used by, private nonprofit corporations established for the sole purpose of providing support for public broadcasting in this state.

(b) To document the implementation of subsection (a) of this section, the authority shall enter into memoranda of understanding with private nonprofit corporations established for the sole purpose of providing support for public broadcasting in this state, to delineate the rights and responsibilities of the parties.

(c) Notwithstanding any provision in this code to the contrary, the names of individual donors to the authority or to a private nonprofit corporation established for the sole purpose of providing support for public broadcasting in this state are not subject to the provisions of chapter twenty-nine-b of this code.

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§10-5-7.

Repealed.

Acts, 1967 Reg. Sess., Ch. 54.

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