WEST VIRGINIA CODE: §18B-1-3

§18B-1-3. Transfer of powers, duties, property, obligations, etc.

(a) All powers, duties and authorities transferred to the board of Regents pursuant to former provisions of chapter eighteen of this code and transferred to the board of Trustees and Board of Directors which were created as the governing boards pursuant to the former provisions of this chapter and all powers, duties and authorities of the board of Trustees and Board of Directors, to the extent they are in effect on June 17, 2000, are hereby transferred to the Interim Governing Board created in article one-c of this chapter and shall be exercised and performed by the Interim Governing Board until July 1, 2001, as such powers, duties and authorities may apply to the institutions under its jurisdiction.

(b) Title to all property previously transferred to or vested in the board of Trustees and the board of Directors and property vested in either of the boards separately, formerly existing under the provisions of this chapter, are hereby transferred to the Interim Governing Board created in article one-c of this chapter until July 1, 2001. Property transferred to or vested in the board of Trustees and Board of Directors shall include:

(1) All property vested in the board of Governors of West Virginia University and transferred to and vested in the West Virginia Board of Regents;

(2) All property acquired in the name of the state Board of Control or the West Virginia Board of Education and used by or for the state colleges and universities and transferred to and vested in the West Virginia Board of Regents;

(3) All property acquired in the name of the state Commission on Higher Education and transferred to and vested in the West Virginia Board of Regents; and

(4) All property acquired in the name of the board of Regents and transferred to and vested in the respective Board of Trustees and Board of Directors.

(c) Each valid agreement and obligation previously transferred to or vested in the board of Trustees and Board of Directors formerly existing under the provisions of this chapter is hereby transferred to the Interim Governing Board until July 1, 2001, as those agreements and obligations may apply to the institutions under its jurisdiction. Valid agreements and obligations transferred to the board of Trustees and Board of Directors shall include:

(1) Each valid agreement and obligation of the board of Governors of West Virginia University transferred to and deemed the agreement and obligation of the West Virginia Board of Regents;

(2) Each valid agreement and obligation of the state Board of Education with respect to the state colleges and universities transferred to and deemed the agreement and obligation of

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the West Virginia Board of Regents;

(3) Each valid agreement and obligation of the state Commission on Higher Education transferred to and deemed the agreement and obligation of the West Virginia Board of Regents; and

(4) Each valid agreement and obligation of the board of Regents transferred to and deemed the agreement and obligation of the respective Board of Trustees and Board of Directors.

(d) All orders, resolutions and rules adopted or promulgated by the respective Board of Trustees and Board of Directors and in effect immediately prior to July 1, 2000, are hereby transferred to the Interim Governing Board until July 1, 2001, and shall continue in effect and shall be deemed the orders, resolutions and rules of the Interim Governing Board until rescinded, revised, altered or amended by the Commission or the governing boards in the manner and to the extent authorized and permitted by law. Such orders, resolutions and rules shall include:

(1) Those adopted or promulgated by the board of Governors of West Virginia University and in effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered or amended by the board of Regents in the manner and to the extent authorized and permitted by law;

(2) Those respecting state colleges and universities adopted or promulgated by the West Virginia Board of Education and in effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered or amended by the board of Regents in the manner and to the extent authorized and permitted by law;

(3) Those adopted or promulgated by the state Commission on Higher Education and in effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered or amended by the board of Regents in the manner and to the extent authorized and permitted by law; and

(4) Those adopted or promulgated by the board of Regents prior to July 1, 1989, unless and until rescinded, revised, altered or amended by the respective Board of Trustees or Board of Directors in the manner and to the extent authorized and permitted by law.

(e) Title to all real property transferred to or vested in the Interim Governing Board pursuant to this section of the code is hereby transferred to the Commission effective July 1, 2001. The board of Governors for each institution may request that the Commission transfer title to the board of Governors of any real property specifically identifiable with that institution or the Commission may initiate the transfer. Any such request must be made within two years of the effective date of this section and be accompanied by an adequate legal description of the property. In the case of real property that is specifically identifiable with Marshall University or West Virginia University, the Commission shall transfer title to all real property, except real property that is used jointly by institutions or for statewide programs

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under the jurisdiction of the Commission or the Council, to the board of Governors of Marshall University or West Virginia University, as appropriate, upon receipt of a request from the appropriate governing board accompanied by an adequate legal description of the property.

The title to any real property that is jointly utilized by institutions or for statewide programs under the jurisdiction of the Commission or the Council shall be retained by the Commission.

(f) Ownership of or title to any other property, materials, equipment or supplies obtained or purchased by the Interim Governing Board or the previous governing boards on behalf of an institution is hereby transferred to the board of Governors of that institution effective July 1, 2001.

(g) Each valid agreement and obligation previously transferred or vested in the Interim Governing Board and which was undertaken or agreed to on behalf of an institution or institutions is hereby transferred to the board of Governors of the institution or institutions for whose benefit the agreement was entered into or the obligation undertaken effective July 1, 2001.

(1) The obligations contained in revenue bonds issued by the previous governing boards under the provisions of section eight, article ten of this chapter and article twelve-b, chapter eighteen of this code are hereby transferred to the Commission and each institution shall transfer to the Commission those funds the Commission determines are necessary to pay that institution's share of bonded indebtedness.

(2) The obligations contained in revenue bonds issued on behalf of a state institution of higher education pursuant to any other section of this code is hereby transferred to the board of Governors of the institution on whose behalf the bonds were issued.

(h) All orders, resolutions, policies and rules:

(1) Adopted or promulgated by the respective Board of Trustees, Board of Directors or Interim Governing Board and in effect immediately prior to July 1, 2001, are hereby transferred to the Commission effective July 1, 2001, and continue in effect until rescinded, revised, altered, amended or transferred to the governing boards by the Commission as provided in this section and in section six of this article.

(2) Adopted or promulgated by the Commission relating solely to community and technical colleges or community and technical college education, or rules which the Council finds necessary for the exercise of its lawful powers and duties pursuant to the provisions of this chapter, may be adopted by the Council and continue in effect until rescinded, revised, altered, amended or transferred to the governing boards under the jurisdiction of the Council pursuant to section six of this article. Nothing in this section requires the initial rules of the Commission that are adopted by the Council to be promulgated again under the procedure set forth in article three-a, chapter twenty-nine-a of this code unless such rules

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are rescinded, revised, altered or amended.

(3) Adopted or promulgated by the Commission relating to multiple types of public institutions of higher education or community and technical college education as well as baccalaureate and post-baccalaureate education are transferred to the Council in part as follows:

(A) That portion of the rule relating solely to community and technical colleges or community and technical college education is transferred to the Council and continues in effect until rescinded, revised, altered, amended or transferred to the governing boards by the Council as provided in this section and in section six of this article;

(B) That portion of the rule relating to institutions or education other than community and technical colleges is retained by the Commission and continues in effect until rescinded, revised, altered, amended or transferred to the governing boards by the Commission as provided in this section and in section six of this article.

(i) The Commission may, in its sole discretion, transfer any rule, other than a legislative rule, to the jurisdiction of the governing boards of the institutions under its jurisdiction who may rescind, revise, alter or amend any rule so transferred pursuant to rules adopted by the Commission pursuant to section six of this article.

The Council may, in its sole discretion, transfer any rule, other than a legislative rule, to the jurisdiction of the governing boards of the institutions under its jurisdiction who may rescind, revise, alter or amend any rule so transferred pursuant to rules adopted by the Council pursuant to section six of this article.

(j) As to any title, agreement, obligation, order, resolution, rule or any other matter about which there is some uncertainty, misunderstanding or question, the matter shall be summarized in writing and sent to the Commission which shall make a determination regarding such matter within thirty days of receipt thereof.

(k) Rules or provisions of law which refer to other provisions of law which were repealed, rendered inoperative or superseded by the provisions of this section shall remain in full force and effect to such extent as may still be applicable to higher education and may be so interpreted. Such references include, but are not limited to, references to sections and prior enactments of article twenty-six, chapter eighteen of this code and code provisions relating to retirement, health insurance, grievance procedures, purchasing, student loans and savings plans. Any determination which needs to be made regarding applicability of any provision of law shall first be made by the Commission.

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