WEST VIRGINIA CODE CHAPTER 18B ARTICLE 18

WV Legislature

§18B-18-1. Legislative findings.

(a) The Legislature hereby finds that the essence of excellence in education is the attraction and retention of outstanding faculty; and that, however necessary modern facilities and efficient and effective administration may be, the faculty provides the catalyst by which all the elements of higher education combine to offer a quality education. The Legislature further finds that the attraction and retention of outstanding faculty at all state colleges and universities, particularly those who have attained distinction as scholars, teachers and researchers, requires a long-term and permanent commitment from both public and private sources. Private support will help strengthen the commitment of citizens and organizations to the promotion of excellence in higher education and will provide moneys for salaries competitive with those paid to faculty of similar eminence working for this country's leading colleges and universities.

(b) The Legislature further finds that the appropriation of public moneys to attract and retain outstanding faculty and to encourage the commitment of private moneys with a view toward the accumulation of moneys in trust funds for these purposes is a proper annual expense of the state. Therefore, the establishment of an eminent scholars endowment trust fund at each state institution of higher education is a proper means of providing for the advancement of public higher education in this state.

WV Legislature

§18B-18-2. Definition.

Whenever the following term is used in this article, it has the meaning described below:

"Board of Governors" or "board" means the institutional boards of Governors, individually or collectively, created pursuant to subsection (b), section one, article two-a of this chapter.

WV Legislature

§18B-18-3. Establishment of funds.

There is hereby established at each state institution of higher education an eminent scholars endowment trust fund.

WV Legislature

§18B-18-4. Powers and duties of governing boards.

(a) Each board of Governors is hereby expressly authorized to receive private or public grants, gifts or bequests restricted by the donor to the programs set out in this article. The board may hold, invest or reinvest such moneys and expend the income from the moneys as provided in section five of this article.

(b) Each board is exempt from liability for any loss or decrease in value of the assets or income of the fund, except as losses or decreases in value are shown to be the result of bad faith, gross negligence or intentional misconduct.

(c) For the purpose of valuing assets, a board may use any commonly accepted techniques of appraisal or commonly accepted principles of accounting. No agency of government nor any person, natural or corporate, may charge or collect any fee or receive any part of the principal or income from any appropriation, grant, gift or bequest as a fee for the acquisition or administration of the appropriation, grant, gift or bequest.

(d) A board shall at all times adhere to the terms and limitations of any appropriation, grant, gift or bequest received. However, a board may refuse to receive any grant, gift or bequest which incorporates terms and limitations which it considers to be unacceptable.

(e) A board may, in its sole discretion, borrow money when necessary in order to avoid the untimely sale of assets. At no time, however, may the board incur any debt obligation for such purpose which exceeds twelve months in duration.

WV Legislature

§18B-18-5. Administration of fund.

(a) Each eminent scholars endowment trust fund established at a state institution of higher education pursuant to section three of this article is to be administered by the appropriate board of Governors. The fund at each institution shall consist of new gifts or bequests of private moneys specifically restricted and designated for the uses set out in this article.

(b) Gifts and bequests received after July 1, 2002, and restricted by the donor for use consistent with the purposes of this article constitute the principal in these accounts. The principal in each account may not be expended for any purpose. Each board of Governors shall adopt a spending policy to protect the principal and the purchasing power of the original gift.

(c) Investment earnings accruing in each account during the previous fiscal year may be expended for the purposes set out in this article.

(d) The investment earnings accrued and any matching funds appropriated by the Legislature shall be used solely to supplement the base salaries of faculty who are appointed as eminent scholars after July 1, 2002, and who are selected as set out in this article.

(e) Gifts and bequests constituting the principal in these accounts may not consist of institutional funds or funds or assets received from the institution's affiliated foundation.

(f) For the purpose of encouraging the donation of private moneys to the fund, each board may designate specific chairs or specific areas of academic study or research as subjects of challenge grants. A specific chair, or a chair in a designated academic or research area, shall be established whenever the total amount of principal and accumulated investment earnings dedicated to it reaches an amount considered sufficient by the board to support the anticipated salary supplement for the chair.

(g) Salary supplements awarded under this article shall be in addition to the base contract salary of the faculty member. The base contract salary of the faculty member shall be consistent with that of other similarly situated faculty at the institution with the same rank, experience and field of study and shall be paid from funds other than those constituting the endowment accounts established pursuant to this article, investment earnings authorized for expenditure by the institutions spending policy, or the state appropriation to match the eligible investment earnings.

(h) Nothing in this article may be construed to require any specific level of funding by the Legislature.

WV Legislature

§18B-18-6. Duties of Higher Education Policy Commission.

The Higher Education Policy Commission shall:

(a) Establish documentation standards and review procedures to determine the eligibility of donor gifts to participate in the eminent scholars program when the gift is initially received or whenever the terms are significantly changed;

(b) Require that each participating institution report on total gifts received, investment earnings realized and anticipated expenditures in its annual operating budget request;

(c) Annually develop and submit a consolidated budget request for the eminent scholars program to the Governor for the fiscal year beginning on July 1, 2003. The budget request shall include a request for an appropriation by the Legislature to each institutional account each fiscal year in an amount equal to the investment earnings in the previous fiscal year which are intended for use in the fiscal year to supplement the salaries of eminent scholars;

(d) Allocate any funds appropriated by the Legislature among the participating institutions in equal installments at the beginning of each quarter.

WV Legislature

§18B-18-7. Process for preparation of executive budget.

(a) The Governor shall consider for inclusion in the appropriate account the budget request of the policy commission for the eminent scholars program.

(b) Whether or not the Governor includes the budget request of the policy commission as described in subsection (a) of this section, the Legislature may include an appropriation in the appropriate account.

(c) Nothing in this section shall be construed to require any specific level of funding by the Legislature.

WV Legislature

§18B-18-8. Selection of eminent scholars.

(a) Each institution shall establish criteria for the selection of persons to be appointed as eminent scholars pursuant to this article. The criteria shall include, but not be limited to:

(1) The prospective appointees' record of distinguished academic or professional work in an appropriate field as judged in national terms and verified by the department or college benefitting from the salary supplement;

(2) The prospective appointees' record of increasing the quality and reputation of academic programs and economic development through new research centers; and

(3) The relevance of prospective appointees' academic or professional work to the economic development goals of the state as defined by the West Virginia council for community and economic development.

(b) Appointees shall submit to peer review at the department or college and any other review procedures that are established by the institution.

WV Legislature

§18B-18-9. Authorization to solicit private moneys; terms of grants; reports; handling of moneys.

Each institution, and each dean and department chair within each institution, may solicit moneys for the endowment of eminent scholars pursuant to this article. All persons and institutions engaged in soliciting moneys shall apprise the board of their actions and provide periodic reports, at least once each fiscal year, regarding the amounts secured and, upon receipt of any moneys, shall forward them immediately to the board for deposit.

WV Legislature

§18B-18-10. Other funds.

Effective July 1, 2002, all funds existing in accounts established in the eminent scholars endowment trust fund act and the distinguished professors endowment trust fund act as previously set out in articles twenty-two-a and twenty-two-e, respectively, of chapter eighteen of this code are hereby transferred to the institution for which they were previously designated. Moneys used to fund chairs or professorships established under these two articles shall continue to be used for the purposes and in the manner previously designated. Funds accrued under these two articles may not be transferred to the trust funds established by this article.

WV Legislature