WEST VIRGINIA CODE CHAPTER 5b ARTICLE 2C

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§5B-2C-1. Legislative purpose.

(a) The Legislature hereby finds that educational and economic development require an integrated program of support for research and development, assistance in the transfer of technological innovations and discoveries to public and private enterprises and facilitation of the commercialization of intellectual property. To that end, the state recognizes the need for:

(1) Informed analysis of the status of science and technology research, development and commercialization capabilities, infrastructure and activities within West Virginia and the development of innovative options that build upon and expand them with the goal of increasing the gross state product;

(2) Coordination of efforts to attract private and federal assistance for research, development and commercialization in those fields most likely to maximize the gross state product;

(3) Increased collaboration between all of the federal, state and private research and development and technology commercialization organizations in the state;

(4) Strengthening the leadership and support of the West Virginia experimental program to stimulate competitive research; and

(5) Leadership in science and technology policy.

(b) The Legislature therefore declares that creation of a West Virginia academy of science and technology will promote and foster the educational and economic development of the state.

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§5B-2C-2. West Virginia academy of science and technology; composition; creation of council, appointment and terms; expenses; selection of chairperson; quorum; meetings.

(a) There is hereby created, within the West Virginia Development Office, a West Virginia academy of science and technology. The academy consists of a standing council of nine members and such ad hoc working groups as may be necessary to review a particular field of study. A working group may include both members of the council and also such individuals having expertise within their profession or discipline who can be appointed fellows of the academy.

(b) Members of the academy council shall be selected for their demonstrated ability in innovative thinking, management skills, broad technical knowledge and a record of working to improve the science and technology base of the state. The objective of the process of selection shall be to create a council that, in its composition, represents a broad cross-section of those involved throughout the state's science and technology enterprises. Members of the council shall be selected and appointed as follows:

(1) The Governor shall appoint to the council, with the advice and consent of the Senate, three members experienced with, or serving in, federal agencies that promote and utilize research, development and commercialization, from a list of six persons recommended by a nominating committee. The nominating committee will be organized and lead by a representative from the national energy technology laboratory and may consist of representatives of United States government agencies, including, but not limited to, the federal departments of energy, transportation, agriculture, defense and homeland security, the national science foundation and the national aeronautics and space administration;

(2) The Governor shall appoint to the council, with the advice and consent of the Senate, three members with experience and expertise in private enterprise, research and development and commercialization from a list of six persons recommended by a nominating committee. The nominating committee will be organized and lead by a representative from the council for community and economic development and may consist of representatives from labor and industry, including, but not limited to, the economic development authority, the infrastructure council, the West Virginia high technology consortium and the West Virginia American federation of labor - congress of industrial organizations; and

(3) The Governor shall appoint to the council, with the advice and consent of the Senate, three members with experience and expertise in stimulating competitive research and development from a list of six persons recommended by a nominating committee. The nominating committee shall be organized and lead by a representative of the Higher Education Policy Commission and may consist of representatives from the state institutions of higher education.

(c) The terms of the council members taking office on or after the effective date of this legislation shall expire as designated by the Governor at the time of their appointment, with

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one term in each of the three categories in subsection (b) of this section expiring at the end of the second year, one term in each category expiring at the end of the fourth year and one term in each category expiring at the end of the sixth year. As the original appointments expire, each subsequent appointment will be for a full six-year term. Any member whose term has expired may serve until a successor has been duly appointed and qualified. For any vacancy in the office of a member occurring prior to the expiration of that term, the vacancy may be filled by the Governor from a list of three qualified persons recommended by the remaining members of the council. Any person appointed to fill a vacancy shall serve for only the unexpired term unless reappointed by the Governor for an additional term. Any member may be appointed to successive terms not to exceed two full terms.

(d) Members of the council are not entitled to compensation for service on the council but may be reimbursed by the West Virginia Development Office for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with guidelines of the travel management office of the Department of Administration or its successor.

(e) The Governor will select and appoint a member of the council to serve as chairperson for a term of two years to run concurrently with the term of office of the member designated as chair.

(f) A majority of members constitutes a quorum for the purpose of conducting business.

(g) The council shall meet at least once each quarter of the year and shall conduct all meetings in accordance with the open governmental meetings proceedings act pursuant to article nine-a, chapter six of this code.

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§5B-2C-3. Executive director; powers and duties; compensation; expenses.

(a) The Governor is authorized and directed to request and negotiate the loan of a federal executive employee, pursuant to the provisions of the federal intergovernmental personnel act, to serve as the initial executive director of the council. This person is expected to serve as executive director of the academy for a period of not less than one year. He or she must have training and experience in science, technology research, development and commercialization and demonstrable skills in managing new programs. The executive director shall serve at the will and pleasure of the academy council and is not entitled to compensation but may be reimbursed by the West Virginia Development Office for all reasonable and necessary expenses actually incurred in the performance of his or her duties in a manner consistent with guidelines of the travel management office of the Department of Administration or its successor.

(b) Subsequent executive directors may be selected by the council in consultation with the director of the West Virginia Development Office.

(c) In addition to assisting the council and its working groups in the exercise of their duties, the executive director shall:

(1) Facilitate and oversee the process for the initial nomination and appointment of council members;

(2) Provide and obtain scientific, technical, economic, programmatic information and market research to support the work of the academy;

(3) Foster and maintain relationships between agencies of this state, other states, the federal government, educational institutions, nonprofit organizations and private enterprises for the advancement of research, development and commercialization;

(4) Organize, prepare and lead presentations on science, technology research and development and commercialization for business executives, state legislative leaders and committees, and federal agencies; and

(5) Develop yearly work plans for the academy.

(d) The executive director will be available to the Governor, the Speaker of the House of Delegates and the President of the Senate to analyze and comment upon proposed legislation and rules that relate to or materially affect state scientific, technical and commercialization issues.

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§5B-2C-4. Powers and duties of the council of the academy of science and technology.

(a) The council may seek and accept public and private research grants and contracts, matching funds and procurement arrangements from the state and federal government, private industry and other agencies, in furtherance of and consistent with its mission and programs: Provided, That members of the council may not violate the West Virginia ethics act, pursuant to the provisions of chapter six-b of this code.

(b) The council may, through the West Virginia Development Office, receive and accept gifts or grants from private foundations, corporations, individuals, devises and bequests or from other lawful sources. All moneys collected shall be deposited in a special account in the state Treasury to be known as the "West Virginia academy of science and technology fund". Expenditures from the fund shall be made by the West Virginia Development Office on the request of the council for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter five-a of this code: Provided, That for the fiscal year ending June 30, 2004, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

(c) The council may select and appoint fellows of the council pursuant to the provision of section five of this article.

(d) The council may make recommendations to the Governor, the Speaker of the House of Delegates, the President of the Senate and the joint commission on economic development concerning strategic and specific policies to foster research and development within this state.

(e) The council may recommend legislation to facilitate improved coordination between state agencies, educational institutions, industries and research laboratories.

(f) The council may develop and produce written or electronic information to assist researchers in educational institutions or private enterprise in identifying, applying for and obtaining grants, stipends or other financial support for research, development, technology transfer or commercialization of intellectual property.

(g) The council may convene public meetings to gather information or receive public comments regarding the administration and coordination of research and development efforts within this state.

(h) The council may, through the West Virginia Development Office, enter into contracts or joint venture agreements with federal and state agencies, corporations, partnerships and other organizations that conduct research, make grants, improve educational programs and work for the scientific, educational or economic development of this state. The director of

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the West Virginia Development Office and the council must, by majority vote, approve all contracts and joint venture agreements.

(i) The council may enter into contractual agreements for consideration with entities that are funded from sources other than the state: Provided, That members of the council may not violate the West Virginia ethics act pursuant to the provisions of chapter six-b of this code.

(j) Members of the academy may be appointed to serve on boards of directors of any contracting private nonprofit corporation, foundation or firm: Provided, That members of the council may not violate the West Virginia ethics act pursuant to the provisions of chapter six-b of this code.

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§5B-2C-5. Fellows of the academy of science and technology.

(a) In order to address the specific opportunities and needs of any particular field of science and technology, the council may establish working groups composed of a member or members of the council with expertise in that field or discipline and additional individuals, to be known as fellows of the academy of science and technology. Any working group so created may conduct business, research and meetings by telephone, electronic mail or in person and shall not require a quorum to conduct its business. The committee or working group shall submit a report or reports of its findings and recommendations to the council for incorporation in policy recommendations and the annual report of the academy.

(b) Selection of a fellow of the academy will be made on the basis of the designated individual's experience and expertise in the field to be addressed by the working group and must be by a majority vote of the council. The term of a fellow of the academy is one year and a term may be renewed by the council as needed.

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§5B-2C-6. Periodic reports.

(a) The academy will prepare and produce an annual report on the state of science and technology in West Virginia and submit it to the Governor, the Speaker of the House of Delegates, the President of the Senate and the joint commission on economic development or before July 1, of each year. The report shall address all aspects of research, development and commercialization that the academy council deems material, including, but not limited to:

(1) Strengths, weaknesses, opportunities, and threats to West Virginia's research, development, and commercialization environment and establishments;

(2) Options for actions by the Legislature and the Governor to maximize the ability of the state to attract investment, grants, and infrastructure development to support growth of science and technology research, development, and commercialization in the state;

(3) The status of, and options to improve, scientific and technological entrepreneurship in West Virginia; and

(4) The status of, and options to improve, the collaboration of institutions of higher education in obtaining competitive research awards and grants.

(b) In preparing its annual report, the council may utilize the technical support available to it through the West Virginia Development Office, the West Virginia Experimental Program to Stimulate Competitive Research (EPSCoR), the West Virginia higher education system, federal and state agencies, and other entities that have an interest in fostering science and technology research, development, and commercialization in this state.

(c) Each month, an academy representative shall meet with legislative and executive leaders to provide updates and information concerning opportunities, issues and progress of science, technology, and commercialization in the state.

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§5B-2C-7. Confidentiality of contributed material.

Any documentary material, data or other writing made or received by the West Virginia academy of science and technology for the purpose of developing state summaries or policy options concerning the capabilities, performance or plans of individual businesses or organizations is deemed to be confidential trade secrets which are exempt from disclosure under the provisions of section four, article one, chapter twenty-nine-b of this code, and the provisions of section one, article two of this chapter.

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§5B-2C-8.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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