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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

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ENROLLED

Committee Substitute for
SENATE BILL NO. 127

(By Mr. Nelson)

—•—

PASSED February 17, 1983

In Effect July 1, 1983 ~~Damage~~



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 127
(MR. NELSON, *original sponsor*)

[Passed February 17, 1983; in effect July 1, 1983.]

AN ACT to amend and reenact sections two, three and five, article five, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia educational broadcasting authority; increasing the number of members; staggering the terms of appointees; prohibiting appointment of noncommercial broadcasting employees; requiring that at least one appointee be chosen from each congressional district; allowing annual meeting to be held other than in July and deleting requirement for additional meetings; changing "executive secretary" to "executive director" and "chairman" to "chairperson"; allowing the chairperson to request resignation of member absent under certain circumstances; providing for use of audio-video microwave network; and allowing proceeds from contracts with commercial entities to be used for noncommercial purposes.

Be it enacted by the Legislature of West Virginia:

That sections two, three and five, article five, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. EDUCATIONAL BROADCASTING AUTHORITY.

§10-5-2. West Virginia educational broadcasting authority; members; organization; officers; employees; meetings; expenses.

1 The West Virginia educational broadcasting authority,
2 heretofore created, is hereby continued as a public benefit
3 corporation. It shall consist of eleven voting members, who
4 shall be residents of the state, of whom one shall be the state
5 superintendent of schools, one shall be a member of the
6 West Virginia board of education to be selected by it
7 annually, one shall be the chancellor of the West Virginia
8 board of regents and one shall be a member of the West
9 Virginia board of regents to be selected by it annually. The
10 other seven members shall be appointed by the governor by
11 and with the advice and consent of the Senate for
12 overlapping terms of seven years, one term expiring each
13 year, except that the appointment to fill the membership
14 position for the term expiring in the year one thousand nine
15 hundred eighty-three shall be for a term of six years. Not
16 less than one appointive member shall come from each
17 congressional district. Employees of noncommercial
18 broadcasting stations in West Virginia are not eligible for
19 appointment to the authority. The present members of the
20 authority shall continue to serve out the terms to which they
21 were appointed. Any vacancy among the appointive
22 members shall be filled by the governor by appointment for
23 the unexpired term.

24 The chairperson and vice chairperson of the authority as
25 of the effective date of this section shall continue in their
26 respective offices until their successors are elected.
27 Thereafter, at its annual meeting in each year the authority
28 shall elect one of its members as chairperson and one as vice
29 chairperson. The authority is authorized to select an
30 executive director and such other personnel as may be
31 necessary to perform its duties and to fix the compensation
32 of such personnel to be paid out of moneys appropriated for
33 this purpose. The executive director shall keep a record of
34 the proceedings of the authority and shall perform such
35 other duties as it may prescribe. The authority is authorized
36 to establish such office or offices as may be necessary for the
37 proper performance of its duties.

38 The authority shall hold an annual meeting and may meet
 39 at such other times and places as may be necessary, such
 40 meetings to be held upon its own resolution or at the call of
 41 the chairperson of the authority. The members shall serve
 42 without compensation but may be reimbursed for actual
 43 expenses incident to the performance of their duties upon
 44 presentation to the chairperson of an itemized sworn
 45 statement thereof.

§10-5-3. Powers of authority.

The authority shall have the power:

- 1 (1) To act as advisor and consultant to television and
 2 radio stations concerning noncommercial educational
 3 programs supported by federal, state, county, city or
 4 private funds.
- 5 (2) To cooperate with and assist all local and state
 6 educational institutions in planning and development of
 7 the use of educational radio, television and related media.
- 8 (3) To promote and coordinate the use of these media for
 9 noncommercial educational purposes.
- 10 (4) To construct, maintain and operate educational
 11 broadcasting, closed circuit or related facilities located at a
 12 suitable site or sites within this state including, without
 13 limitation thereby, production centers, broadcasting
 14 stations and an audio-video microwave system for a
 15 statewide broadcasting network connecting such
 16 communities or stations as may be designated by the
 17 authority.
- 18 (5) To acquire in the name of the state for the use and
 19 benefit of the authority by purchase, lease or agreement,
 20 any property, both real and personal, and any interest in
 21 such property necessary to carry out the provisions of this
 22 article.
- 23 (6) To apply for and receive any license from the
 24 appropriate federal agency necessary to operate any
 25 educational broadcasting, closed circuit or related facility.
- 26 (7) To supervise and approve the origination and
 27 transmission of all noncommercial educational radio,
 28 television and related media programs in this state which
 29 would be carried through the facilities of a state network.
- 30 (8) To employ such personnel as may be necessary to
 31 operate and maintain any facility created under the
 32 provisions of this article.

33 (9) To lease from communications common carriers and
34 use such transmission channels as may be necessary or, if it
35 determines it could more economically construct and
36 maintain such transmission channels, it may design,
37 construct, maintain and operate the same, including an
38 audio-video microwave network.

39 (10) To sue and be sued, plead and be impleaded.

40 (11) To contract and be contracted with, including the
41 power to enter into contracts with any person, firm or
42 corporation, including any like authority of neighboring
43 states; and shall have the authority, within state
44 regulations, to enter into program royalty and distribution
45 contracts and receive moneys for these purposes: *Provided*,
46 That any proceeds from such contracts shall be used by the
47 authority for noncommercial purposes only.

48 (12) To have and use a corporate seal.

49 (13) To promulgate reasonable rules and regulations to
50 carry out the provisions of this article in accordance with
51 the provisions of article three, chapter twenty-nine-a of the
52 code.

53 (14) To perform such other services in behalf of
54 noncommercial educational radio, television and related
55 media as it may consider to be in the best interest of the
56 state.

§10-5-5. Advisory councils.

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

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

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

James L. Davis
.....
Chairman Senate Committee

James L. Davis
.....
Chairman House Committee

Originated in the Senate.

In effect July 1, 1983.

Todd C. Wick
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Warren R. McInnis
.....
President of the Senate

W. M. Seid, Jr.
.....
Speaker House of Delegates

The within... *is approved* this the *20*

day of *Feb.*, 1983.

..... *John D. Rhymer*
Governor

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SECY. OF