WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED
Committee Substitute for
SENATE BILL NO. 127

(By Mr. Nelson)

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.

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

The chairperson and vice chairperson of the authority as of the effective date of this section shall continue in their respective offices until their successors are elected. Thereafter, at its annual meeting in each year the authority shall elect one of its members as chairperson and one as vice chairperson. The authority is authorized to select an executive director and such other personnel as may be necessary to perform its duties and to fix the compensation of such personnel to be paid out of moneys appropriated for this purpose. The executive director shall keep a record of the proceedings of the authority and shall perform such other duties as it may prescribe. The authority is authorized to establish such office or offices as may be necessary for the proper performance of its duties.
The authority shall hold an annual meeting and may meet at such other times and places as may be necessary, such meetings to be held upon its own resolution or at the call of the chairperson of the authority. The members shall serve without compensation but may be reimbursed for actual expenses incident to the performance of their duties upon presentation to the chairperson of an itemized sworn statement thereof.


The authority shall have the power:

1. To act as advisor and consultant to television and radio stations concerning noncommercial educational programs supported by federal, state, county, city or private funds.
2. To 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. To promote and coordinate the use of these media for noncommercial educational purposes.
4. To 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 authority.
5. To acquire in the name of the state for the use and benefit of the authority 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. To apply for and receive any license from the appropriate federal agency necessary to operate any educational broadcasting, closed circuit or related facility.
7. To 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. To employ such personnel as may be necessary to operate and maintain any facility created under the provisions of this article.
(9) To 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) To sue and be sued, plead and be impleaded.

(11) To contract and be contracted with, including the power to enter into contracts with any person, firm or corporation, including any like authority 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 authority for noncommercial purposes only.

(12) To have and use a corporate seal.

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

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

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

James L. Davis  
Chairman Senate Committee

[Signature]

Chairman House Committee

Originated in the Senate.

In effect July 1, 1983.

J. C. Wells  
Clerk of the Senate

W. K. Kepp  
Clerk of the House of Delegates

Walter B. Warner  
President of the Senate

Speaker House of Delegates

The within .......... in approved .......... this the ........ day of .........., 1983.

John P. Engler  
Governor