

NO. 2697

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



ENROLLED

Com. Sub. for
HOUSE BILL No. 2697

(By ~~MR.~~ Del. Keis + Barkan)



Passed April 8, 1989
In Effect from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2697
(By DELEGATES KISS AND BASHAM)

[Passed April 8, 1989; in effect from passage.]

AN ACT to amend and reenact section six, article twenty-two-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend chapter eighteen of said code by adding thereto a new article, designated article twenty-two-e, all relating to higher education; providing for investment by colleges and universities which receive moneys from the Eminent Scholars Endowment Fund; providing legislative findings with respect to establishment of distinguished professors trust fund; providing definitions; establishing the distinguished professors endowment trust fund and board of directors; providing corporate powers and duties of board of regents; providing for fund administration and the creation of distinguished professorships; requiring board of regents to establish criteria for selection of distinguished professorships; authorizing solicitation of private funds; and requiring annual reports.

Be it enacted by the Legislature of West Virginia:

That section six, article twenty-two-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that chapter eighteen of said code be further amended by adding thereto

a new article, designated article twenty-two-e, all to read as follows:

ARTICLE 22A. EMINENT SCHOLARS ENDOWMENT TRUST FUND ACT.

§18-22A-6. Administration of fund.

1 (a) The board shall use any state moneys appropriated
2 to the fund solely for the purpose of establishing
3 endowed chairs at state colleges and universities.

4 The board may allocate state appropriations to an
5 account only when private moneys have also been
6 allocated to that account. The board shall endeavor,
7 whenever possible, to allocate one dollar of state
8 appropriations for every two dollars of private moneys
9 allocated. The board may also allocate only private
10 moneys to an account.

11 Unless otherwise directed by executive order, the
12 payment of state appropriations to the fund shall be
13 made in twelve equal monthly installments, beginning
14 on the last day of the first month of the fiscal year.

15 (b) The board may, for purposes of investment,
16 commingle any moneys constituting principal received
17 from whatever source to the extent allowed under the
18 terms of the granting of such moneys and shall endeavor
19 to obtain the highest possible rate of return consistent
20 with the preservation of the principal. Consistent with
21 the terms of the appropriation, grant, gift or bequest,
22 and the provisions of this section, the board may use any
23 income, principal or combination of income and princi-
24 pal as it may deem prudent to finance the establishment
25 of each endowed chair. However, the board shall notify
26 the recipient college or university of any money received
27 for donations to such institution.

28 (c) The board shall designate endowed chairs at the
29 various colleges and universities as it may deem
30 appropriate. For each chair so established it shall
31 designate a separate account administered by the board
32 to which moneys from the fund shall be deposited. Such
33 moneys may continue to be deemed principal for
34 purposes of investment and commingling pursuant to

35 subsection (b) of this section, and any income, loss or
36 gain, or increase or decrease in value may be allocated
37 by the board on such reasonable basis as is prescribed
38 by the board.

39 (d) For the purpose of encouraging the donation of
40 private moneys to the fund, the board may designate
41 specific chairs or specific areas of academic study as
42 subjects of challenge grants. A specific chair, or a chair
43 in a designated academic area, shall be established
44 whenever the total amount of principal and interest
45 dedicated to it reaches one hundred fifty thousand
46 dollars, with at least one half of the principal being from
47 private sources. On demand of the college or university
48 where such chair shall be established, the board shall
49 return to it the private funds in the chair's account to
50 be held in an account established in a federally insured
51 depository by such college or university. The private
52 funds heretofore deposited in accounts in the treasury
53 shall be returned to such college or university: *Provided,*
54 That regardless whether such moneys are held in the
55 fund established in section three of this article or in
56 accounts established by a college or university pursuant
57 to this subsection, the matching provisions in this article
58 shall apply: *Provided, however,* That these funds may
59 only be expended in accordance with this article.

60 When one hundred fifty thousand dollars has accum-
61 ulated in the account dedicated to any one chair, the
62 board shall notify the president of the appropriate
63 college or university that an appointment to that chair
64 shall be made.

65 (e) The president of the college or university shall use
66 at least two thirds of the income from moneys allocated
67 to an account to supplement the salary of the person
68 appointed to the endowed chair created by such account.
69 The sum paid from the fund to the person so appointed
70 shall be in addition to the contract salary except as
71 otherwise provided in this section. Such president may
72 allocate one third or any part thereof to provide or assist
73 in providing secretarial or other support services for the
74 endowed chair or may return one third or any part
75 thereof to the board with the direction that such amount

76 be added to the principal amount in the account of the
77 endowed chair from which such income was derived to
78 protect its future yield.

79 (f) Whenever the endowed chair's salary supplement
80 received pursuant to this subsection equals fifty percent
81 of the contract salary, the president of the college or
82 university may return all or a portion of the excess
83 amount to the fund, and the board shall designate a new
84 account for the purpose of establishing another chair at
85 the same institution or an existing account at the same
86 institution for receipt of the moneys so returned:
87 *Provided*, That when the principal amount of any chair
88 reaches the sum of one million dollars or more, no state
89 salary may be paid to the holder of the chair, but such
90 person's entire salary shall be paid from the interest
91 income.

92 (g) When the total allocations designated for a chair
93 from both public and private sources do not equal or
94 exceed one hundred fifty thousand dollars within five
95 years from the date of the establishment of the account,
96 the board may designate a new or existing chair as the
97 recipient of the moneys, regardless of the terms of the
98 appropriation, grant, gift or bequest, except where
99 return of the moneys is required by the terms of the
100 grant, gift or bequest.

101 (h) The governing body of the institution shall
102 promulgate rules and regulations to insure that any
103 money deposited in any federally insured depository
104 shall be backed by federally guaranteed securities to the
105 extent that the balance in any account in said depository
106 exceeds the amounts guaranteed by the Federal Depos-
107 itory Insurance Corporation or the Federal Savings and
108 Loan Insurance Corporation.

**ARTICLE 22E. DISTINGUISHED PROFESSORS ENDOWMENT
TRUST FUND ACT.**

§18-22E-1. Legislative findings.

1 The Legislature hereby finds that the essence of
2 excellence in higher education is the attraction and
3 retention of outstanding faculty; that however necessary
4 modern facilities and efficient and effective administra-

5 tion may be, the faculty provides the catalyst by which
 6 all the elements of higher education combine to offer a
 7 quality education. The Legislature further finds that the
 8 attraction and retention of outstanding faculty at all
 9 state colleges and universities, particularly those who
 10 have attained distinction as scholars and teachers,
 11 requires a long-term and permanent commitment from
 12 both public and private sources, that private support
 13 will help strengthen the commitment of citizens and
 14 organizations to the promotion of excellence in higher
 15 education and will provide moneys for salaries competi-
 16 tive with those paid to scholars of similar distinction
 17 working for this country's leading colleges and
 18 universities.

19 The Legislature further finds that the appropriation
 20 of public moneys to attract and retain outstanding
 21 faculty and to encourage the commitment of private
 22 moneys with a view toward the accumulation of such
 23 moneys in a trust fund for such purposes is a proper
 24 annual expense of the state, and that the establishment
 25 of a distinguished professors trust fund is a proper
 26 means of providing for the advancement of public
 27 higher education in this state.

§18-22E-2. Definitions.

1 Whenever the following terms are used in this article,
 2 they have the meanings described below:

3 (a) "Board of directors" or "board" means the
 4 members of the board of directors of the distinguished
 5 professors endowment trust fund;

6 (b) "Contract salary" means that portion of the
 7 distinguished professors's financial compensation paid
 8 from state moneys but does not include moneys from the
 9 distinguished professors endowment trust fund.

10 (c) "Distinguished professorship" means the position
 11 created pursuant to section six of this article to which
 12 a professor is appointed; and

13 (d) "Fund" means the distinguished professors endow-
 14 ment trust fund.

§18-22E-3. Establishment of fund; corporation to administer; board of directors.

1 There is hereby established the distinguished profes-
2 sors endowment trust fund, a public corporation, for the
3 purpose of administering the fund described in this
4 article. The board of directors of this corporation are
5 those persons appointed and serving as members of the
6 board of regents.

§18-22E-4. Corporate powers.

1 (a) The officers of the corporation are the officers of
2 the board of regents. The procedural rules of the board
3 of regents shall be used in conducting meetings.

4 (b) The corporation is hereby expressly authorized to
5 receive appropriations of public moneys and private or
6 public grants, gifts or bequests. It may hold, invest or
7 reinvest such moneys and expend the income therefrom
8 as hereinafter provided. The board may determine
9 which of the properties and moneys received by it, other
10 than public appropriations, grants, bequests and
11 specific gifts, are income and which are additions to
12 principal.

13 (c) The board is exempt from liability for any loss or
14 decrease in value of the assets or income of the fund,
15 except as such losses or decreases in value are shown
16 to be the result of bad faith, gross negligence or
17 intentional misconduct.

18 For the purpose of valuing assets, the board may use
19 any commonly accepted techniques of appraisal or
20 commonly accepted principles of accounting. No agency
21 of government nor any person, natural or corporate,
22 may receive any part of the principal or income from
23 any appropriation, grant, gift or bequest as a fee for the
24 acquisition or administration of the appropriation,
25 grant, gift or bequest.

26 (d) The board shall adhere at all times to the terms
27 and limitations of any appropriation, grant, gift or
28 bequest received. However, the board may refuse to
29 receive any grant, gift or bequest which incorporates
30 terms and limitations which they deem to be

31 unacceptable.

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

§18-22E-5. Duties of board of regents.

1 The board of regents shall provide to the fund all
2 necessary secretarial services, office space, staff and
3 other assistance required without charge or appropria-
4 tion therefor.

§18-22E-6. Administration of fund.

1 (a) Moneys from the general revenue of the state shall
2 be appropriated by separate line item in the budget for
3 faculty endowments to be used solely for the purposes
4 of this article and of article twenty-two-a of this chapter.
5 The board shall allocate the appropriation in accordance
6 with policies which shall be adopted for this purpose,
7 and any funds allocated and not utilized to establish
8 distinguished professorships at state colleges and
9 universities under this article may be reallocated in
10 accordance with such board policies for the sole purpose
11 of establishing endowed chairs for eminent scholars at
12 state colleges and universities pursuant to article
13 twenty-two-a.

14 The board may allocate state appropriations to an
15 account only when private moneys have also been
16 allocated to that account and shall require a minimum
17 of one private dollar for each dollar of allocation from
18 state appropriation. The board shall endeavor, whenever
19 possible, to allocate one dollar of state appropriations for
20 every two dollars of private moneys allocated. The board
21 may also allocate only private moneys to an account.

22 Unless otherwise directed by executive order, the
23 payment of state appropriations to the fund shall be
24 made in twelve equal monthly installments, beginning
25 on the last day of the first month of the fiscal year.

26 (b) The board may, for purposes of investment,

27 commingle any moneys constituting principal received
28 from whatever source to the extent allowed under the
29 terms of the granting of such moneys and shall endeavor
30 to obtain the highest possible rate of return consistent
31 with the preservation of the principal. Consistent with
32 the terms of the appropriation, grant, gift or bequest,
33 and the provisions of this section, the board may use any
34 income, principal or combination of income and princi-
35 pal as it may deem prudent to finance the establishment
36 of each distinguished professorship.

37 (c) The board shall designate distinguished professor-
38 ships at the various colleges and universities as it
39 considers appropriate. For each professorship so
40 established it shall designate a separate account
41 administered by the board to which moneys from the
42 fund shall be deposited. Such moneys may continue to
43 be considered principal for purposes of investment and
44 commingling pursuant to subsection (b) of this section,
45 and any income, loss or gain, or increase or decrease in
46 value may be allocated by the board on such reasonable
47 basis as is prescribed by the board.

48 (d) For the purpose of encouraging the donation of
49 private moneys to the fund, the board may designate or
50 specify areas as subjects of challenge grants. A specific
51 professorship in a designated academic area shall be
52 established whenever the total amount of principal and
53 interest dedicated to it reaches thirty thousand dollars,
54 with at least one half of the principal being from private
55 sources.

56 When thirty thousand dollars has accumulated in the
57 account dedicated to any one professorship, the board
58 shall notify the president of the appropriate college or
59 university that an appointment to that professorship
60 may be made.

61 (e) The president of the college or university may use
62 the income and up to ten percent of that portion of the
63 principal of moneys allocated to an account that is in
64 excess of the amount that is the sum of the total state
65 appropriation to that account plus an equal amount
66 contributed from private sources. The president of the

67 college or university may use such moneys to supple-
 68 ment the salary of the person appointed to the distin-
 69 guished professorship created by such account. The sum
 70 paid from the fund to the person so appointed shall be
 71 in addition to the contract salary except as otherwise
 72 provided in this section. Such president may allocate an
 73 additional ten percent or any part thereof of such excess
 74 principal to provide or assist in providing secretarial or
 75 other support services for the distinguished
 76 professorship.

77 (f) Whenever the account for a distinguished profes-
 78 sorship equals one hundred fifty thousand dollars, the
 79 board, on recommendation of the president of the college
 80 or university, may convert the account to an eminent
 81 scholars account pursuant to the provisions of article
 82 twenty-two-a of this chapter: *Provided*, That when the
 83 principal amount of any account reaches the sum of one
 84 million dollars or more, no state salary may be paid to
 85 the holder of the professorship, but such person's entire
 86 salary shall be paid from the interest income.

87 (g) When the total allocations designated for a
 88 distinguished professorship from both public and
 89 private sources do not equal or exceed thirty thousand
 90 dollars within five years from the date of the establish-
 91 ment of the account, the board may designate a new or
 92 existing professorship at the institution wherein the
 93 fund was established as the recipient of the moneys,
 94 regardless of the terms of the appropriation, grant, gift
 95 or bequest, except where return of the moneys is
 96 required by the terms of the grant, gift or bequest.

§18-22E-7. Selection of distinguished professors.

1 The board of regents shall establish criteria for the
 2 selection of persons to be appointed as distinguished
 3 professors established pursuant to this article. Such
 4 professorships may be filled from either within or
 5 outside the faculty of the college or university, and
 6 outstanding teaching ability shall be part of the criteria
 7 for appointment. The board may establish criteria
 8 which exceeds the provisions of this section.

§18-22E-8. Authorization to solicit private moneys; terms

**of grants; reports to board of directors;
handling of moneys.**

1 Each college and university, and each dean and
2 department chair within each college or university, is
3 hereby authorized to solicit moneys for distinguished
4 professorships pursuant to this article. In order to
5 maximize the effective use of moneys raised, persons or
6 institutions soliciting moneys shall endeavor, insofar as
7 is possible, to secure private grants, gifts or bequests
8 which are unlimited as to their use. All persons and
9 institutions engaged in soliciting moneys shall apprise
10 the board of their actions and provide periodic reports,
11 at least once each fiscal year, regarding the amounts
12 secured and, upon receipt of any moneys, shall forward
13 them forthwith to the board for deposit in accordance
14 with section six of this article.

§18-22E-9. Annual reports.

1 The board shall make an annual report to the joint
2 committee on government and finance of the West
3 Virginia Legislature no later than the first day of
4 December of each year setting forth with specificity the
5 sources of all moneys, the allocations of all moneys and
6 such other information as the joint committee may
7 require.

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

Frederick S. Kemmer

Chairman Senate Committee

F. L. Satter

Chairman House Committee

Originating in the House.

Takes effect from passage.

Todd C. Willis

Clerk of the Senate

Donald F. Hoff

Clerk of the House of Delegates

Sam R. Tucker

President of the Senate

W. H. Hall

Speaker of the House of Delegates

The within *is approved* this the *25th*
day of *april*, 1989.

Yastou Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date

4/20/89

Time

10:27