WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

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ENROLLED

HOUSE BILL No. 4596

(By Delegate Spence)

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Passed March 7, 1992

In Effect Ninety Days From 1st Passage
AN ACT to amend and reenact sections nineteen, twenty and twenty-one, article twenty-three, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section two, article one, chapter eighteen-b; to amend and reenact section four, article two of said chapter; to further amend said article one by adding thereto a new section, designated section seven; and to amend and reenact section one, article eight of said chapter, all relating to the University of West Virginia College of Graduate Studies; changing the name to West Virginia Graduate College; relating to powers and duties of governing boards of state institutions of higher education; authorizing rents, fees and charges collected in connection with the occupancy of dormitories at such institutions to be pledged for the payment of bonds issued for dormitory construction or improvement, establishing procedures for the issue and sale of such bonds; relating to Potomac State College of West Virginia University; authorizing the board of trustees to sell certain properties; and providing for the use of the proceeds therefrom.

Be it enacted by the Legislature of West Virginia:

That sections nineteen, twenty and twenty-one, article twenty-three, chapter eighteen of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section two, article one, chapter eighteen-b of said code be amended and reenacted; that section four, article two of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section seven; and that section one, article eight of said chapter be amended and reenacted, all to read as follows:

ARTICLE 23. ADDITIONAL POWERS, DUTIES AND RESPONSIBILITIES OF GOVERNING BOARDS OF STATE INSTITUTIONS OF HIGHER EDUCATION.

§18-23-19. Payment of principal and interest of construction bonds from revenues of dormitories, homes and refectories; redemption of bonds.

1 Whenever bonds are issued for the construction, erection or equipment of dormitories, homes or refectories, or for the improvement or equipment of existing dormitories, homes or refectories, or for any or all of such purposes, as joint or several projects, for which a single or several issues of bonds may be issued within the discretion of the governing boards, rents, fees and charges shall be fixed, charged and collected in connection with the use or occupancy of, or service to be thereby rendered and furnished by, dormitories, homes or refectories of the particular state educational institution as the governing board thereof shall determine, and shall be so fixed or adjusted, as to provide a fund sufficient to pay the principal and interest of each such issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing, operating and insuring such dormitories, homes or refectories. Whenever bonds are issued to finance, the construction and erection of dormitories, homes or refectories together with additions or extensions to an existing dormitory, home or refectory for students or teachers at state educational institutions, the revenues derivable from all such dormitories, homes or refectories of the particular state educational institution as the governing board thereof shall determine, may be pledged to provide a fund sufficient to pay the principal and
interest of such issue of bonds and of any other bonds
thereafter issued for the same purpose, and to provide
an additional fund to pay the cost of maintaining,
repairing, operating and insuring such dormitories,
homes or refectories. Except as may otherwise be
provided in the trust agreement authorized in section
seventeen of this article, the rents, fees and charges
from the dormitories, homes or refectories for which a
single issue of bonds is issued, except such part thereof
as may be necessary to pay such cost of maintaining,
repairing, operating and insuring during any period in
which such cost is not otherwise provided for (during
which period the rents, fees and charges may be reduced
accordingly), shall be transmitted each month to the
municipal bond commission and by it placed in a special
fund which is hereby pledged to and charged with the
payment of the principal of such bonds and the interest
thereon, and to the redemption or repurchase of such
bonds, such special fund to be a fund for all such bonds
without distinction or priority of one over another. The
moneys in such special fund, less a reserve for payment
of interest, if not used by the municipal bond commis-

Provided,

That if said revenue
bonds are sold to and purchased by the United States
of America or any federal or public agency or depart-
ment created under and by virtue of the laws of the
United States of America, then at the option of the
United States of America or such federal or public
agency or department in lieu of such moneys being
transmitted to the municipal bond commission and by
it placed in a special fund, the rents, fees and charges
from such dormitories, homes or refectories, except such
part thereof as may be necessary to pay such cost of
maintaining, repairing, operating and insuring as
provided aforesaid, may be transmitted and paid to a
trustee designated and named by the United States of
America or such federal or public agency or department
in its agreement and contract with the appropriate
governing board, for the payment of the principal of
such bonds and the interest thereon, under such terms
and conditions as may be agreed upon.

§18-23-20. When dormitories, homes or refectories become property of state.

When the particular bonds for any dormitory or
dormitories, home or homes, refectory or refectories,
and the interest on such bonds, shall have been paid, or
a sufficient amount has been provided for their payment
and shall continue to be held for that purpose, the said
dormitories, homes or refectories shall thereafter be
exclusively the property of the state of West Virginia,
and thereafter the rents, fees and charges collected for
the use or occupancy of, or service rendered and
furnished by, such dormitories, homes or refectories
shall be paid into the state board of investments as
provided by the provisions of section two, article two,
chapter twelve of this code, as amended, and used and
expended for the benefit of the institution where
collected: Provided, That nothing in this section pre-
cludes any governing board from pledging such rents,
fees and charges to pay the principal and interest on any
bonds thereafter issued to construct new, or to improve
existing dormitories, homes or refectories pursuant to
section nineteen of this article. Such rents, fees and
charges shall be paid as may be provided in a trust
agreement authorized pursuant to section seventeen of
this article, and in the absence of such trust agreement,
as provided in section nineteen of this article.

§18-23-21. State debt not to be incurred for dormitories, homes, or refectories; federal and private assistance; provisions separable.

Nothing in these sections dealing with dormitories,
homes or refectories shall be so construed or interpreted
as to authorize or permit the incurring of state debt of
any kind or nature as contemplated by the constitution
of this state in relation to the state debt. The dormito-
ries, homes or refectories herein are of the character
described as self-liquidating projects under the laws of
Any governing board authorized to issue bonds under
the provisions of this article is authorized and empow-
ered to accept loans or grants or temporary advances for
the purpose of paying part or all of the cost of construc-
tion of the dormitories, homes or refectories and the
other purposes herein authorized, from the United
States of America or such federal or public agency or
department of the United States or any private agency,
corporation or individual, which temporary advances
may be repaid out of the proceeds of the bonds autho-
rized to be issued under the provisions of this article and
to enter into the necessary contracts and agreements to
carry out the purposes hereof with the United States of
America or such federal or public agency or department
of the United States, or with any private agency,
corporation or individual. The provisions and parts of
this section are separable and are not matters of mutual
essential inducement, and it is the intention to confer the
whole or any part of the powers herein provided for, and
if any of the sections or provisions, or parts thereof, are
for any reason illegal or invalid, it is the intention that
the remaining sections and provisions or parts thereof
shall remain in full force and effect.

§18B-1-2. Definitions.

The following words when used in this chapter and
chapter eighteen-c of this code shall have the meaning
hereafter ascribed to them unless the context clearly
indicates a different meaning:

(a) “Governing board” or “board” means the univer-
sity of West Virginia board of trustees or the board of
directors of the state college system, whichever is
applicable within the context of the institution or
institutions referred to in this chapter or in other
provisions of law;

(b) “Governing boards” or “boards” means both the
board of trustees and the board of directors;

(c) “Community colleges” means Southern West
Virginia Community College, West Virginia Northern
Community College, and any institution of higher education which has been designated as a community college by the board of directors under the provisions of section four, article three of this chapter;

(d) "Directors" or "board of directors" mean the board of directors of the state college system created pursuant to article three of this chapter or the members thereof;

(e) "Higher educational institution" means any institution as defined by sections 401(f), (g), (h) of the federal higher education facilities act of 1963, as amended;

(f) "Post-secondary vocational education programs" means any college-level course or program beyond the high school level provided through an institution of higher education which results in or may result in the awarding of a two-year associate degree, under the jurisdiction of the board of directors;

(g) "Rule" or "rules" mean a regulation, standard, policy or interpretation of general application and future effect;

(h) "Senior administrator" means the person hired by the governing boards in accordance with section one, article four of this chapter, with such powers and duties as may be provided for in section two of said article four;

(i) "State college" means Bluefield State College, Concord College, Fairmont State College, Glenville State College, Shepherd College, West Liberty State College, West Virginia Institute of Technology, or West Virginia State College;

(j) "State college system" means the state colleges and community colleges, and also shall include post-secondary vocational education programs in the state, as those terms are defined in this section;

(k) "State institution of higher education" means any university, college or community college in the state university system or the state college system as those terms are defined in this section;

(l) "Trustees" and "board of trustees" mean the university of West Virginia board of trustees created
pursuant to article two of this chapter or the members thereof;

(m) "University of West Virginia" and "state university system" means the multi-campus, integrated university of the state, consisting of West Virginia University including West Virginia University at Parkersburg, Potomac State College of West Virginia University and the West Virginia University School of Medicine; Marshall University including the Marshall University School of Medicine; the West Virginia Graduate College; and the West Virginia School of Osteopathic Medicine; and

(n) "University" means the multi-campus, integrated university of the state, consisting of West Virginia University including West Virginia University at Parkersburg, Potomac State College of West Virginia University and the West Virginia University School of Medicine; Marshall University including the Marshall University School of Medicine; the West Virginia Graduate College; or the West Virginia School of Osteopathic Medicine.

§18B-2-4. Establishment and operation of graduate college; transfer of programs, etc., of Kanawha Valley Graduate Center of West Virginia University.

The power of the board of regents, effective July one, one thousand nine hundred seventy-two, to establish, name, maintain and operate a graduate college whose major administrative offices are located in Kanawha county shall be transferred to the board of trustees effective July one, one thousand nine hundred eighty-nine, and shall be known as the "University of West Virginia College of Graduate Studies".

Effective the first day of July, one thousand nine hundred ninety-two, the graduate college herein established shall henceforth be known as the "West Virginia Graduate College". Any references in this code to the University of West Virginia College of Graduate Studies, the West Virginia College of Graduate Studies or the College of Graduate Studies shall, upon said
The board of trustees shall employ a president and such staff and faculty as determined appropriate for the school, appoint an advisory board consistent with section one, article six of this chapter and shall exercise general determination, control, supervision and management of the financial, business and educational policies and affairs of the graduate college. The college shall be authorized to offer, in their entirety or in cooperation with other institutions, such curricula, programs, courses and services and confer such graduate degrees as may be approved by the board of trustees. The trustees shall fix tuition and establish and set other fees to be charged students as it deems appropriate, including the establishment of special fees for specific purposes. Special fees shall be paid into special funds and used only for the purposes for which collected. The board of trustees may allocate from the appropriations for the state university system for the operation and capital improvement of the graduate college.

All programs, activities, operations, accounts, and resources of the Kanawha Valley Graduate Center of West Virginia University which were transferred to the graduate college, and the title to all property of the Kanawha Valley Graduate Center of West Virginia University which was transferred to or later vested in the graduate college, shall be transferred to and remain vested in the trustees. The trustees are authorized to enter into contracts on behalf of the graduate college with public and private educational institutions, agencies and boards; with governmental agencies; and with corporations, partnerships and individuals for the use of physical facilities, equipment and for the performance of instructional or other services.

ARTICLE 2. UNIVERSITY OF WEST VIRGINIA BOARD OF TRUSTEES.

§18B-2-7. Authorization to sell all or part of Potomac state college of West Virginia university parcels of land located in New Creek and Keyser commonly known as the Potomac
state college farm listed on the public lands inventory as 1PSC6. PSC Parcel No. 6, 1PSC14. PSC Parcel No. 14 and 1PSC16. PSC Parcel No. 16.

(a) The board of trustees is hereby authorized and empowered to sell those parcels of land located on New Creek and Keyser Districts, Mineral County, West Virginia, commonly known as the Potomac State College Farm and listed on the Potomac State College index description of parcel use and list of parcels of lands and on the public lands inventory as: (1) 1PSC6. PSC Parcel No. 6, containing approximately 223.17 acres, (2) 1PSC14. PSC Parcel No. 14, containing approximately 8.25 acres and (3) 1PSC 16. PSC Parcel No. 16, containing approximately 180.6 acres.

(b) Each parcel may be subdivided and sold in parts, however all sales shall be accomplished through public auction, the terms of which shall be to achieve the highest price for such parcels whether in whole or in part: Provided, That prior to such action the board of trustees shall have the properties appraised separately by two licensed appraisers and shall not sell the property for less than the average of the appraisals: Provided, however, That in the event of sale of all or part to the government of the United States of America, public auction shall not be required and sale price may be negotiated at or above the average of two separate valuation by licensed appraisers.

(c) Prior to public auction, the board of trustees shall schedule a public hearing to be held at a reasonable time and place within the county to allow interested members of the public to attend the hearing without undue hardship. Members of the public may be present, submit statements and testimony and question the college's representative appointed pursuant to this subsection. The board of trustees shall cause to be published a notice of the required public hearing. The notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area shall be the county in which the affected land is located. The public
hearing shall be held no earlier than the fourteenth successive day following the first publication of the notice. The notice shall contain the time and place of the public hearing along with a brief description of the affected land. In addition thereto, the board of trustees shall cause a copy of the required notice to be posted in a conspicuous place at the affected land for members of the public to observe. Such notice shall remain posted for two successive weeks prior to the date of the public hearing. The board of trustees shall appoint a representative of the college who shall conduct the required public hearing. The college’s representative shall have full knowledge of all the facts and circumstances surrounding the proposed sale.

(d) The proceeds from the sale of the property referred to shall be deposited in a special revenue account from which the board of trustees is hereby authorized to expend the fund for horticulture, agriculture and forestry facilities and programs at Potomac State College of West Virginia University: Provided, That the prioritized recommendations of the agriculture department advisory committee shall be considered by the agriculture department faculty and president of the college in the expenditure of the proceeds: Provided, however, That the advisory committee shall include one member each representing agricultural education, animal or dairy science, forestry, horticulture, and veterinary medicine, of which three shall be alumni of the agriculture department at the college.

§18B-8-1. Definitions.

1 As used in this article:

2 (a) “Schedule” or “salary schedule” means the grid of minimum salary figures listed in section two of this article;

3 (b) “Academic rank” means the position held by a faculty member as determined by the president, consistent with policy established by the governing board, and includes the positions of professor, associate professor, assistant professor and instructor; all other ranks are excluded from the provisions of this article;
(c) “Years of experience” means the actual number of years a person has been a full-time faculty member at an institution of higher education within this state. Employment for nine months shall equal one year of experience, but no faculty member may accrue more than one year of experience during any given academic year. Employment for less than full time, or less than nine months during any fiscal year, shall be prorated. In accordance with rules established by the governing boards, a faculty member may be granted additional years of experience for actual years of work or teaching experience at institutions other than institutions of higher education within this state;

(d) “Doctoral institutions” means West Virginia University and Marshall University at Huntington. Doctoral programs at Marshall University shall be selective and nonduplicative of West Virginia University unless an exception is recommended by both institutions and approved by the board of trustees. “Master’s II institutions” means West Virginia School of Osteopathic Medicine and the West Virginia Graduate College; “baccalaureate and two-year institutions” means Bluefield State College, Concord College, Fairmont State College, Glenville State College, Shepherd College, West Liberty State College, West Virginia Institute of Technology, West Virginia State College, West Virginia University at Parkersburg, Southern West Virginia Community College, West Virginia Northern Community College and Potomac State College of West Virginia University and such other institutions as are designated community colleges by the board of directors;

(e) “Salary” means the total nine-month or ten-month salary paid from state funds to a full-time faculty member, or if other than nine or ten months, adjusted to a nine-month base salary;

(f) “Full-time faculty” means any faculty member designated as such by the president, consistent with approved policy of the appropriate governing board, and those persons with faculty rank who have research or administrative responsibilities;
(g) "Fiscal year" means twelve calendar months and begins on the first day of July and ends on the thirtieth day of June; and

(h) "Merit increases and salary adjustments" means the amount of additional salary increase allowed on a merit basis or to rectify salary inequities or accommodate competitive market conditions, in accordance with policy established by the appropriate governing board.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 1st day of April 1992.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/13/92
Time 12:00 PM