WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

ENROLLED

Committee Substitute for Committee Substitute for
SENATE BILL NO. 67

(By Senators Tomblin, Mr. President, and Burrakev)

PASSED ________April 4, 1997

In Effect ________July 1, 1997_________ Passage
AN ACT to repeal section four, article two, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections two and eight-b, article one of said chapter; and to amend and reenact sections two, three and four, article six of said chapter, all relating to restructuring the Marshall university graduate school and the West Virginia graduate college into the Marshall university graduate college; providing definitions; repealing the establishment of the West Virginia graduate college; providing for the adoption and review of policies, procedures, programs, standards and the appointment of a head of the graduate college; providing legislative intent with respect to impact on fund
allocations and strategic plans; and providing for election of members to advisory councils of students, faculty and classified staff and to governing body from advisory councils of faculty, students and classified staff by the graduate college and by the regional campuses of West Virginia university.

Be it enacted by the Legislature of West Virginia:

That section four, article two, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections two and eight-b, article one of said chapter be amended and reenacted; and that sections two, three and four, article six of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. GOVERNANCE.

§18B-1-2. Definitions.

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

(a) "Governing board" or "board" means the university 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) "Freestanding community colleges" means southern West Virginia community and technical college and West Virginia northern community and technical college, which shall not be operated as branches or off-campus locations of any other state institution of higher education;

(d) "Community college" or "community colleges" means community and technical college or colleges as those terms are defined in this section;

(e) "Community and technical college", in the singular or plural, means the freestanding community and technical colleges, community and technical education programs
of regional campuses of West Virginia university and
divisions of state institutions of higher education which
have a defined community and technical college district
and offer community and technical college education in
accordance with the provisions of section three-a, article
three of this chapter;

(f) "Community and technical college education" means
the programs, faculty, administration and funding associ-
atated with the mission of community and technical colleges
as provided in section three-a, article three of this chapter,
and also shall include post-secondary vocational educa-
tion programs in the state as those terms are defined in
this section. Community and technical college education
shall be delivered through a system which includes eleven
community and technical college districts assigned to state
institutions of higher education under the jurisdiction of
the board of directors and the board of trustees, respec-
tively;

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

(h) "Higher educational institution" means any institu-
tion as defined by Sections 401(f), (g) and (h) of the federal
Higher Education Facilities Act of 1963, as amended;

(i) "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;

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

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

(l) "State college" means Bluefield state college, Con-
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(cord college, Fairmont state college, Glenville state
college, Shepherd college, West Liberty state college or
West Virginia state college;
(m) “State college system” means the state colleges and
community and technical colleges, and also shall include
post-secondary vocational education programs in the state
as those terms are defined in this section;
(n) “State college system community and technical
colleges” means the freestanding community and technical
colleges and community and technical colleges operated
on the campuses of state colleges under the jurisdiction of
the board of directors of the state college system and all of
their associated branches, centers and off-campus loca-
tions;
o) “State institution of higher education” means any
university, college or community and technical college in
the state university system or the state college system as
those terms are defined in this section;
p) “Trustees” and “board of trustees” means the
university of West Virginia board of trustees created
pursuant to article two of this chapter or the members
thereof;
(q) “University”, “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, West Virginia university institute of technology
and the West Virginia university school of medicine;
Marshall university, including the Marshall university
school of medicine, and the Marshall university commu-
nity and technical college, the Marshall university gradu-
ate college; and the West Virginia school of osteopathic
medicine;
(r) “University system community and technical col-
eges” means Marshall university community and techni-
cal college, community and technical education programs
at West Virginia university at Parkersburg, community
and technical education programs at Potomac state college of West Virginia university and West Virginia university institute of technology community and technical college under the jurisdiction of the university of West Virginia board of trustees and all their associated branches, centers and off-campus locations;

(s) "Regional campus" means West Virginia university at Parkersburg, Potomac state college of West Virginia university and West Virginia university institute of technology. The chief executive officer of a regional campus shall be known as "campus president", shall serve at the will and pleasure of the president of West Virginia university, and shall report to the president of West Virginia university or his or her designee in the method specified by West Virginia university. The board of advisors for West Virginia university established pursuant to section one, article six of this chapter shall serve as the advisory board for West Virginia university and its regional campuses. The advisory boards previously appointed for each regional campus shall be known as "boards of visitors" and shall provide guidance to the regional campus presidents. Each regional campus shall adopt separate strategic plans required by section one-c of this article; and

(t) The advisory board previously appointed for the West Virginia graduate college shall be known as the "board of visitors" and shall provide guidance to the Marshall university graduate college.

§18B-1-8b. Marshall university graduate college.

(a) Notwithstanding any other provisions of this code to the contrary, the West Virginia graduate college shall cease to be an individual higher education institution, as defined by subsection (h), section two, article one of this chapter and shall be merged and consolidated with Marshall university, effective the first day of July, one thousand nine hundred ninety-seven.

(b) The graduate programs of Marshall university shall be operated under the same procedures, policies, rules and practices utilized by Marshall university and the board of
trustees in operating Marshall university. Provided, That the board of trustees shall assure that the president of Marshall university adopts policies, procedures and standards for its graduate programs that facilitate the multiple missions of the graduate college in serving traditional and nontraditional students and providing graduate instruction throughout the state. Nothing herein shall be interpreted to abrogate the power or responsibility of the board of trustees to approve and review graduate programs offered within the university system, nor to limit the statewide mission of West Virginia university or any other institution.

(c) The president of Marshall university shall appoint the head of the graduate college, who shall report directly to the president of Marshall university.

(d) Nothing contained herein shall be interpreted to authorize the provision or expansion of any four-year programs offered by Marshall university to any sites formerly offering graduate school courses by the West Virginia graduate college.

(e) It is the intent of the Legislature that the program review and approval process for campus offerings for graduate education by the graduate college of Marshall university be separate and distinct from the process for the approval of undergraduate education program offerings.

(f) It is the Legislature's intent that, through the fiscal year two thousand—two thousand one, the proportionate share of the funds which would have been generated by the board of trustees resource allocation policy for the West Virginia graduate college shall be allocated to the Marshall university graduate college. It is further the intent of the Legislature that the merger and consolidation of West Virginia graduate school and Marshall university shall not result in any financial gain or loss to the board of trustees or any institution within the university system in the appropriation decisions by the Legislature.

(g) It is the intent of the Legislature that Marshall university and the Marshall university graduate college
each receive any increase in state appropriated funds for
the fiscal year beginning the first day of July, one thou-
sand nine hundred ninety-seven, set out in section one-c,
article one of this chapter, and further, that they shall not
be denied any increases because of the need for changes in
their strategic plans necessitated by the merger and
consolidation of the two institutions: Provided, That
Marshall university shall prepare a revised strategic plan
and submit it to the board of trustees for approval by the
first day of November, one thousand nine hundred ninety-
seven.

(h) Each valid agreement, obligation or claim entered
into or incurred by the board of trustees on behalf of the
West Virginia graduate college is hereby undertaken by
the board of trustees on behalf of Marshall university.

ARTICLE 6. ADVISORY COUNCILS OF FACULTY.

§18B-6-2. Advisory councils of faculty.

1 Effective the first day of July, one thousand nine
hundred eighty-nine, each governing board shall be
assisted by an advisory council of faculty.

2 During the month of April of each even-numbered year,
each president or other administrative head of a state
institution of higher education, including Potomac state
college of West Virginia university, West Virginia univer-
sity at Parkersburg, West Virginia university institute of
technology, Robert C. Byrd health sciences Charleston
division of West Virginia university and the Marshall
university graduate college, at the direction of the councils
and in accordance with procedures established by the
councils, shall convene a meeting or otherwise institute a
balloting process to elect one faculty to serve on the
appropriate governing board's advisory council of faculty,
which shall consist of one faculty, so elected, from each
institution under the appropriate governing board. Terms
of the members of each council shall be for two years and
shall begin on the first day of July of each even-numbered
year and members of each advisory council shall be
eligible to succeed themselves.

22 The advisory councils of faculty shall meet at least once
each quarter. One of the quarterly meetings shall be
during the month of July, at which meeting each council
shall elect a chairman, who shall be by virtue of the office
a voting member of the appropriate governing board:
Provided, That the chair shall serve no more than two
consecutive terms. No member may vote by proxy at the
election. In the event of a tie in the last vote taken for
such election, a member authorized by the council shall!
select the chairman by lot from the names of those persons
tied. Immediately following the election of a chairman,
each council shall elect, in the manner prescribed by this
section for the election of a chairman, a member of that
council to preside over meetings of the council in the
chairman’s absence. Should the chairman vacate the
position, the council shall meet and elect a new chairman
to fill the unexpired term within thirty days following the
vacancy.

Each advisory council of faculty, through its chairman
and in any other appropriate manner, shall consult and
advise its governing board in matters of higher education
in which the faculty members may have an interest.

Members of each advisory council shall serve without
compensation, but shall be entitled to reimbursement for
actual and necessary expenses incurred in the perform-
ance of their official duties from funds allocated to the
state institution of higher education served.

Each governing board shall furnish secretarial services
to its advisory council of faculty, and each advisory
council shall cause to be prepared minutes of its meetings,
which minutes shall be available, upon request, to any
faculty member of a state institution of higher education
represented on the council. The minutes shall be for-
warded to the advisory council of faculty serving the other
governing board.

§18B-6-3. Advisory councils of students.

Effective the first day of July, one thousand nine
hundred eighty-nine, each governing board shall be
assisted by an advisory council of students.
The student government organization at each state institution of higher education shall elect a student, who may be the elected head or president of the organization, to serve on the appropriate governing board's advisory council of students, which are hereby created, consisting of the elected representatives of each institution under the appropriate governing board: Provided, That the student government organization at each institution in the university system, including Potomac state college of West Virginia university, West Virginia university at Parkersburg, West Virginia university institute of technology, the Robert C. Byrd health sciences Charleston division of West Virginia university and Marshall university graduate college shall elect one student per three thousand students enrolled at each institution with a minimum of one representative from each institution. The student government of each institution shall determine how its representatives shall be elected. Terms of the members of the council shall be for one year and shall begin on the first day of May of each year, and members of the advisory councils shall be eligible to succeed themselves.

Each institution shall have only one vote in all matters. The advisory councils of students shall meet at least once each quarter, and shall meet during each month of June, at which meeting each council shall elect a chairman, who prior to the elections must be entitled to vote in the state of West Virginia. By virtue of the office, the chairman shall be a voting member of the appropriate governing board. No member may vote by proxy at the election. In the event of a tie in the last vote taken for the election, a member authorized by the council shall select the chairman by lot from the names of those persons tied. Immediately following the election of a chairman, each council shall elect, in the manner prescribed by this section for the election of a chairman, a member of that council to preside over meetings of the council in the chairman's absence. Should the chairman vacate the position, the council shall meet and elect a new chairman to fill the unexpired term within thirty days following the vacancy.
Each advisory council of students, through its chairman and in any other appropriate manner, shall consult and advise its governing board in matters of higher education in which the students may have an interest.

Members of each advisory council shall serve without compensation, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties from funds allocated to the state institution of higher education served.

Each governing board shall furnish secretarial services to its advisory council of students, and each advisory council shall cause to be prepared minutes of its meetings, which minutes shall be available, upon request, to any student of a state institution of higher education represented on the council. The minutes shall be forwarded to the advisory council of students serving the other governing board.

§18B-6-4. Advisory councils of classified employees.

Effective the first day of July, one thousand nine hundred eighty-nine, each governing board shall be assisted by an advisory council of classified employees.

During the month of April of each even-numbered year, each president or other administrative head of a state institution of higher education, including Potomac state college of West Virginia university, West Virginia university at Parkersburg, West Virginia university institute of technology, the Robert C. Byrd health sciences Charleston division of West Virginia university and the Marshall university graduate college, at the direction of the councils and in accordance with procedures established by the councils, shall convene a meeting or otherwise institute a balloting process to elect one classified employee to serve on the appropriate governing board's advisory council of classified employees, which shall consist of one classified employee, so elected, from each institution under the appropriate governing board. Terms of the members of the councils shall be for two years and shall begin on the first day of July of each even-numbered year, and members of the advisory councils shall be eligible to succeed
themselves. For the purpose of this section the term "institution of higher education" includes the facilities and staff supervised by the senior administrator employed by the governing boards, which is a part of the state college system, and the West Virginia network for telecomputing, which is a part of the state university system.

Each advisory council of classified employees shall meet at least once each quarter. One of the quarterly meetings shall be during the month of July, at which meeting each council shall elect a chairman, who shall be by virtue of the office a voting member of the appropriate governing board: Provided, That the chair shall serve no more than two consecutive terms: Provided, however, That the board of directors' advisory council for classified employees' chairman shall not be a member of the staff supervised by the central administrative official. No member may vote by proxy at the election. In the event of a tie in the last vote taken for the election, a member authorized by the council shall select the chairman by lot from the names of those persons tied. Immediately following the election of a chairman, each council shall elect, in the manner prescribed by this section for the election of a chairman, a member of the council to preside over meetings of the council in the chairman's absence. Should the chairman vacate the position, the council shall meet and elect a new chairman to fill the unexpired term within thirty days following the vacancy.

Each advisory council of classified employees, through its chairman and in any other appropriate manner, shall consult and advise its governing board in matters of higher education in which the classified employees may have an interest.

Members of each advisory council shall serve without compensation, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties from funds allocated to the state institution of higher education served.

Each governing board shall furnish secretarial services
to its advisory council of classified employees, and each advisory council shall cause to be prepared minutes of its meetings, which minutes shall be available, upon request, to any classified employee of a state institution of higher education represented on the council. The minutes shall be forwarded to the advisory council of classified employees serving the other governing board.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take affect July 1, 1997.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within .................. this the .................. day of .................., 1997

Governor