WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

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ENROLLED

House Bill No. 3019
(By Delegates Mezzatesta, Williams, Stemple, Manuel, Shelton, Ennis and Davis)

Passed March 13, 1999

in Effect from Passage
ENROLLED

H. B. 3019

(BY DELEGATES MEZZATESTA, WILLIAMS, STEMPLE, MANUEL, SHELTON, ENNIS AND DAVIS)

[Passed March 13, 1999; in effect from passage.]

AN ACT to amend article three, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section six, relating to the board of directors of the state college system; establishing the freestanding eastern West Virginia community and technical college; authority, powers, and duties of the board of directors relating to operation of eastern West Virginia community and technical college; employing a president and appropriate faculty and staff; advisory board; courses, programs, services, tuition and fees; property and title; authorizing contracts for services; reports required; requiring preparation and submission of strategic plans; authorizing contractual arrangements for administration and operation prior to independent accreditation; community and technical college district; transfer of governance upon establishment of any separate governing board for state freestanding community and technical colleges; defining of freestanding community and technical college; providing certain operational parameters for freestanding community and technical colleges; requiring a study of law and practices that may hinder effective delivery of community and technical college education; and requiring a study respecting credit and non-credit courses.
Be it enacted by the Legislature of West Virginia:

That chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three-d, to read as follows:

ARTICLE 3. BOARD OF DIRECTORS OF THE STATE COLLEGE SYSTEM.

§18B-3-6. Establishment and operation of the eastern West Virginia community and technical college; authority and duty to purchase property, expend appropriations and conduct programs.

(a) The board of directors shall establish, operate and maintain as a state institution of higher education and as a part of the state college system of West Virginia, the freestanding community and technical college, known as "Eastern West Virginia Community and Technical College", located in Hardy County. The title to all real property, facilities and equipment of eastern West Virginia community and technical college is and remains vested in the board of directors.

The board of directors shall employ a president and such staff and faculty as determined appropriate for the institution; appoint an board of advisors consistent with section one, article six of this chapter; and exercise general determination, control, supervision and management of the financial, business and educational policies and affairs of the community and technical college.

Eastern West Virginia community and technical college may offer such curricula, programs, courses and services and confer such degrees as is approved by the board of directors. The board of directors shall fix tuition and establish and set other fees to be charged students as it considers appropriate, including establishing special fees for specific purposes. Special fees shall be paid into special funds and may be used only for the purposes for which the fees were collected.

The board of directors shall expend from the appropriations allocated for eastern West Virginia community and technical college such funds as are necessary to operate and conduct programs, to acquire clear title to any real property and to make
necessary capital improvements. The title to all property purchased for the use of eastern West Virginia community and technical college is vested in the board of directors.

The board of directors may enter into contracts on behalf of eastern West Virginia community and technical college with public and private educational institutions, agencies, boards, governmental agencies, corporations, partnerships and individuals to perform instructional or other services.

The board of directors shall make any necessary reports to the legislative oversight commission on education accountability for the phased implementation of this section.

Eastern West Virginia community and technical college shall prepare and submit strategic plans in accordance with the provisions of section one-c, article one of this chapter.

The board of directors may provide through contractual arrangement for the administration and operation of eastern West Virginia community and technical college by other state institutions of higher education until such time as the community and technical college attains appropriate independent accreditation. Any contractual arrangement shall ensure that the programs offered at eastern West Virginia community and technical college are accredited while independent accreditation is being sought.

Notwithstanding the provisions of section three-a of this article, the community and technical college district of eastern West Virginia community and technical college, for the purposes of initial implementation, is comprised as follows: Grant, Hardy, Hampshire, Pendleton and Tucker counties.

(b) Upon the establishment of any separate governance board for state freestanding community and technical colleges, there is transferred from the board of directors to the freestanding community and technical college governing board:

(1) All powers, duties, rights, control, supervision, management, facilities and equipment vested in the board of directors for the benefit of eastern West Virginia community and technical college by virtue of this section;
(2) Jurisdiction over all administration, functions and 
operations of eastern West Virginia community and technical 
college;

(3) Authority to maintain and operate eastern West Virginia 
community and technical college;

(4) Title to any property previously transferred to or vested 
in the board of directors for the exclusive use or benefit of 
eastern West Virginia community and technical college; and

(5) Any valid agreement, obligation or claim entered into 
or incurred by the board of directors on behalf of eastern West 
Virginia community and technical college.

(c) For purposes of subdivisions (c) and (d) of this section, 
"freestanding community and technical college" means eastern 
West Virginia community and technical college, southern West 
Virginia community and technical college, West Virginia 
northern community and technical college and any other 
freestanding community and technical college so designated by 
the Legislature. Notwithstanding any rules or procedures of the 
state college system board of directors, the freestanding 
community and technical colleges under the jurisdiction of the 
board of directors shall:

(1) Incorporate the most effective and efficient use of 
technology in accessing and delivering courses and programs in 
order to make the best use of available resources and to control 
costs;

(2) Incorporate a model to offer occupational program 
curricula in smaller modules to accommodate specific student 
and employer needs and to gain sufficient flexibility in format-
ting courses;

(3) Serve as a facilitator for education programs from 
outside delivery sources that meet the needs of the residents and 
employers of the district;

(4) Employ faculty in the most effective manner to serve 
the two-fold core mission of community and technical educa-
tion which is to deliver workforce development programs to
meet the needs of employers in the district and to increase the
99 college participation rate of all the residents of the district. To
100 that end, and unless prohibited by a majority vote of the board
101 of directors prior to the thirty-first day of December, one
102 thousand nine hundred ninety-nine, the freestanding community
103 and technical colleges may employ faculty for an indefinite
104 period without a grant of tenure and shall work toward a
105 staffing goal of no more than twenty percent of the faculty
106 holding tenure or being tenure-track employees;
107
(5) The freestanding community and technical colleges may
108 not be required to file a request for approval with the board of
109 trustees before implementing a new program pursuant to section
110 eight, article one of this chapter; and
111
(6) The board of directors shall adopt a model of program
112 approval for the freestanding community and technical colleges
113 that permits occupational programs to be customized to meet
114 needs without requiring approval by the board of directors and
115 furthermore incorporates a post-audit review of such programs
116 on a three year cycle to determine the effectiveness of such
117 programs in meeting district needs.
118
(d) The board of directors shall conduct a study and make
119 recommendations to the legislative oversight commission on
120 education accountability by the first day of January, two
121 thousand, on the following issues:
122
(1) A review of state statutes and board rules, policies,
123 practices and procedures that may hinder effective delivery of
124 community and technical college education, including recom-
125 mendations on changes to the resource allocation model and
126 resource allocation policy established pursuant to section two,
127 article five of this chapter; and
128
(2) A method of funding reimbursement based on the
129 delivery of credit and noncredit course work, eliminating or
130 reducing the funding and regulatory differences between credit
131 and noncredit courses to facilitate students moving between the
132 two types of programs, and allowing faculty more flexibility to
133 teach in both credit and noncredit program areas.
ARTICLE 3D. EASTERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE.

§18B-3D-1. Legislative findings; statement of purpose.

(a) The Legislature recognizes that it is in the best interest of West Virginia to have an effective and comprehensive delivery system for community and technical college education because of its importance to the economic and cultural well-being of state residents.

(b) The Legislature further finds that a need exists to strengthen community and technical education to respond better to the economic needs of the state for a highly trained, competent workforce. These programs need the administrative, programmatic and budgetary flexibility to respond to district and community needs, and the Legislature finds that there is a need to restructure and refocus community and technical college education for the purpose of establishing programs that function well with the public schools and four year colleges, that make maximum use of resources, that encourage students to pursue a life-time of learning, that serve as instruments of economic development, and that have the independence and flexibility to respond quickly to changing needs.

(c) The Legislature finds that, although progress has been made on reaching some of the goals established by statute over the past six years, not all the purposes for which community and technical college education was created have been fulfilled and not all the goals have been met. It is the responsibility of the Legislature to make the best use of available resources and to provide a blueprint that will meet goals established for community and technical college education by the citizens of West Virginia.

(d) While certain advantages accrue to community and technical colleges that are part of four-year institutions, there also are disadvantages that might limit flexibility, discourage entrepreneurialship, impede the establishment of a community college culture and divert resources from the two-fold core mission of community and technical education which is to deliver workforce development programs to meet the needs of
employers in the district and to increase the college participation rate of all the residents of the district.

(e) Shepherd College, situated in the eastern panhandle of the state, is located in an area of West Virginia which is experiencing economic and population growth. Shepherd College has great potential to expand its role as a liberal arts institution. The eastern panhandle also is an area of the state which needs an aggressive community college to meet ever-growing workforce development needs and the need for open access college-level courses.

(f) The south branch valley is an area of the state which is underserved for higher education and which deserves more convenient access to higher education opportunities, including workforce development opportunities.

(g) The south branch valley area may not currently have the population base to support the establishment of a free-standing community and technical college but does have the population base to support a branch campus of an existing community college.

(h) It would be in the best interests of the state if there could be established one free-standing community and technical college which would serve the area of the eastern panhandle and the south branch valley. Creation of such a college would have the following advantages:

(1) It would enhance the role of a community and technical college in the eastern panhandle;

(2) It would strengthen the alliance which has developed between The James Rumsey Technical Institute and community and technical college education in the region of the eastern panhandle and the south branch valley;

(3) It would provide quality community and technical college education in the south branch valley; and

(4) It would be an efficient use of scarce state resources and would avoid the duplication of administrative and other costs which the creation of a new community and technical college alone would cause.
It is the intent of the Legislature in establishing the eastern West Virginia community and technical college, to focus on the advantages available to a freestanding college and to enhance the ability of the community and technical college to carry out its core mission. Establishment of this college provides an opportunity to implement more effective delivery systems, organization structure, and management in order to find the best possible match between the needs of students and employers and the best interests of the state.

§18B-3D-2. Definitions.

1 For purposes of this article only:

(a) "Board" or "governing board" means the board of directors of the state college system established pursuant to section one, article three of this chapter;

(b) "College" or "community and technical college" means eastern West Virginia community and technical college established in section three of this article; and

(c) "Freestanding community and technical college" means a college that is not operated as a branch or off-campus location of any other state institution of higher education.

§18B-3D-3. Establishment and operation of the eastern West Virginia community and technical college; authority and duty to purchase property, expend appropriations and conduct programs.

(a) Subject to approval of rules submitted by the board as required in section four of this article and subject to approval by the institutional board of advisors of Shepherd College pursuant to section five of this article, the board shall establish, operate and maintain as a state institution of higher education and as a part of the state college system of West Virginia, the freestanding community and technical college, known as "Eastern West Virginia Community and Technical College" with its main campus located in Berkeley county and a branch campus located in Hardy County. The college shall incorporate the community and technical college component of Shepherd
College including any community and technical college branch campuses operated by Shepherd College. Title to all real property, facilities and equipment of eastern West Virginia community and technical college is and remains vested in the board.

(b) The board shall employ a president and such staff and faculty as determined appropriate for the institution: Provided, that at the end of five years, no more than twenty percent of the community and technical college faculty will hold tenure or be tenure-track employees.

(c) The board shall appoint an institutional board of advisors consistent with section one, article six of this chapter and exercise general determination, control, supervision and management of the financial, business and education policies and affairs of the college.

(d) Subject to provisions outlined in this article, the community and technical college may offer such curricula, programs, courses and services and confer such degrees as are approved by the board. The board shall fix tuition and establish and set other fees to be charged students as it considers appropriate, including establishing special fees for specific purposes. Special fees shall be paid into special funds and may be used only for the purposes for which the fees were collected.

(e) The board shall expend from the appropriations allocated for the community and technical college such funds as are necessary to operate and conduct programs, to acquire clear title to any real property and to make necessary capital improvements. The title to all property purchased for the use of the community and technical college is vested in the board.

(f) The board may enter into contracts on behalf of the community and technical college with public and private education institutions, agencies and boards, with government agencies and with corporations, partnerships and individuals to perform instruction or other services.

(g) The board may provide through contractual arrangement for the administration and operation of the college by other
state institutions of higher education until such time as the
college attains appropriate independent accreditation. Any
contractual arrangement shall ensure that the programs offered
at the community and technical college are accredited while
independent accreditation is being sought.

(h) Notwithstanding the provisions of section three-a of this
article, the community and technical college district of the
college, for the purposes of initial implementation, is comprised
as follows: Berkeley, Grant, Hardy, Hampshire, Jefferson,
Morgan, Pendleton and Tucker counties.

§18B-3D-4. Requirements for legislative rules promulgated by the
board.

The governing board shall promulgate legislative rules in
accordance with the provisions of article three-a, chapter
twenty-nine-a of this code to effectuate the purposes of this
article: Provided, That the board shall not promulgate emer-
gency rules. The rules shall be filed with the legislative
oversight commission on education accountability no later than
the first day of December, one thousand nine hundred ninety-
ine: Provided, That the board shall first obtain an affirmative
vote of the institutional board of advisors of Shepherd College
pursuant to section five of this article before filing the proposed
rules.

The rules shall include, but are not limited to, the follow-
ing:

(a) A determination of the costs to be reimbursed to
Shepherd College in exchange for its community and technical
college component and a recommendation on a methods to
reimburse costs and to phase the implementation over a period
of time;

(b) Recommendations for an effective and efficient way to
facilitate the operation of the college during the pre-accredita-
tion period and a determination of the time necessary for the
college to attain appropriate regional accreditation;

(c) A determination of the most effective and efficient
method to incorporate the use of technology in accessing and
delivering courses and programs in order to make the best use of available resources and to control costs;

(d) Recommendations on methods to encourage the college to serve as a broker for education programs from outside delivery sources that meet the needs of the residents and employers of the district;

(e) Recommendations on the best way to implement a system for faculty appointment and reappointment that utilizes alternative policies and procedures such as periodic performance reviews and limits tenure to twenty percent of the faculty;

(f) A review of state statutes and board rules, policies, practices and procedures that may hinder effective delivery of community and technical college education including recommendations on changes to the resource allocation model and resource allocation policies established pursuant to section two, article five of this chapter. The recommendations should provide for the following:

(1) Funding reimbursement based on the delivery of credit and non-credit course work with mainstream faculty delivering both through a market-driven approach to education;

(2) Eliminating or reducing the funding and regulatory differences between credit and non-credit courses to facilitate students moving between the two types of programs;

(3) Allowing faculty more flexibility to teach in both credit and non-credit program areas; and

(4) Removing the necessity to put priority on credit classes solely because of funding;

(g) A curriculum model for the college that provides, in addition to the same academic authority granted to other freestanding community and technical colleges, the following:

(1) A model to offer occupational curricula in smaller modules to accommodate specific student and employer needs and to gain sufficient flexibility in formatting courses; and
(2) A model that allows program approval of cluster areas that allows individual program curriculum to be customized to meet needs without requiring additional board approval and incorporates a post-audit review of programs on a three to five year cycle to determine the effectiveness of the programs in meeting district needs.

§18B-3D-5. Vote by the institutional board of advisors.

1 After the board has developed a proposal for legislative rules as required in section four of this article and before the rules are submitted to the legislative oversight commission on education accountability, the board shall request the institutional board of advisors of Shepherd College to meet for the purpose of reviewing the provisions of the proposed rules that have a monetary impact on Shepherd College. The institutional board of advisors shall vote to accept or reject the provisions. Acceptance requires an affirmative vote by a majority of members present at the meeting. If the institutional board of advisors of Shepherd College does not accept the rule, the board cannot file the rule.
That 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 from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ___________ this the __________ day of __________, 1999.

Governor