

SB 2005
GS

FILED

2007 SEP -6 AM 10: 21

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
SECOND EXTRAORDINARY SESSION, 2007

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 2005

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,
BY REQUEST OF THE EXECUTIVE)

[Passed August 21, 2007; to take effect from passage.]

FILED

2007 SEP -6 AM 10: 21

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 2005

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,
BY REQUEST OF THE EXECUTIVE)

[Passed August 21, 2007; in effect from passage.]

AN ACT to amend and reenact §18B-1B-3 and §18B-1B-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-2A-1 of said code; to amend and reenact §18B-2B-5 of said code; to amend and reenact §18B-6-1 of said code; and to amend and reenact §18B-9-4 of said code, all relating to higher education generally; Higher Education Policy Commission; authorizing the Higher Education Policy Commission to convey real property; West Virginia Council for Community and Technical College Education; institutional boards of governors and

institutional boards of advisors; providing for election of officers; terms of office; meetings; authorizing institutions to provide salary increases if funds are available for certain classified employees under certain circumstances; and deleting obsolete language.

Be it enacted by the Legislature of West Virginia:

That §18B-1B-3 and §18B-1B-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §18B-2A-1 of said code be amended and reenacted; that §18B-2B-5 of said code be amended and reenacted; that §18B-6-1 of said code be amended and reenacted; and that §18B-9-4 of said code be amended and reenacted, all to read as follows:

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-3. Meetings and compensation.

1 (a) The commission shall meet as needed at the time
2 and place specified by the call of the chairperson.

3 (b) The commission shall hold an annual meeting at
4 the final, regularly scheduled meeting of each fiscal year
5 for the purpose of electing officers. At the annual
6 meeting, the commission shall elect from its members
7 appointed by the Governor a chairperson and other
8 officers as it may consider necessary or desirable. All
9 officers are elected from the citizen appointees. The
10 chairperson and other officers are elected for a one-year
11 term commencing on the first day of July following the
12 annual meeting and ending on the thirtieth day of June
13 of the following year. The chairperson of the
14 commission may serve no more than four consecutive
15 terms as chair.

16 (c) Members of the commission shall be reimbursed for
17 actual and necessary expenses incident to the
18 performance of their duties upon presentation of an
19 itemized sworn statement thereof. The foregoing
20 reimbursement for actual and necessary expenses shall
21 be paid from appropriations made by the Legislature to
22 the commission.

23 (d) A majority of the members constitutes a quorum
24 for conducting the business of the commission.

**§18B-1B-4. Powers and duties of Higher Education Policy
Commission.**

1 (a) The primary responsibility of the commission is to
2 develop, establish and implement policy that will
3 achieve the goals and objectives found in section one-a,
4 article one of this chapter. The commission shall
5 exercise its authority and carry out its responsibilities
6 in a manner that is consistent and not in conflict with
7 the powers and duties assigned by law to the West
8 Virginia Council for Community and Technical College
9 Education and the powers and duties assigned to the
10 governing boards of Marshall University and West
11 Virginia University, respectively. To that end, the
12 commission has the following powers and duties relating
13 to the institutions under its jurisdiction:

14 (1) Develop, oversee and advance the public policy
15 agenda pursuant to section one, article one-a of this
16 chapter to address major challenges facing the state,
17 including, but not limited to, the goals and objectives
18 found in section one-a, article one of this chapter and
19 including specifically those goals and objectives
20 pertaining to the compacts created pursuant to section

21 two, article one-a of this chapter and to develop and
22 implement the master plan described in section nine of
23 this article for the purpose of accomplishing the
24 mandates of this section;

25 (2) Develop, oversee and advance the implementation
26 jointly with the council of a financing policy for higher
27 education in West Virginia. The policy shall meet the
28 following criteria:

29 (A) Provide an adequate level of education and general
30 funding for institutions pursuant to section five, article
31 one-a of this chapter;

32 (B) Serve to maintain institutional assets, including,
33 but not limited to, human and physical resources and
34 deferred maintenance;

35 (C) Invest and provide incentives for achieving the
36 priority goals in the public policy agenda, including, but
37 not limited to, those found in section one-a, article one
38 of this chapter; and

39 (D) Incorporate the plan for strategic funding to
40 strengthen capacity for support of community and
41 technical college education established by the West
42 Virginia Council for Community and Technical College
43 Education pursuant to the provisions of section six,
44 article two-b of this chapter;

45 (3) In collaboration with the council, create a policy
46 leadership structure capable of the following actions:

47 (A) Developing, building public consensus around and
48 sustaining attention to a long-range public policy

49 agenda. In developing the agenda, the commission and
50 council shall seek input from the Legislature and the
51 Governor and specifically from the State Board of
52 Education and local school districts in order to create
53 the necessary linkages to assure smooth, effective and
54 seamless movement of students through the public
55 education and post-secondary education systems and to
56 ensure that the needs of public school courses and
57 programs can be fulfilled by the graduates produced
58 and the programs offered;

59 (B) Ensuring that the governing boards carry out their
60 duty effectively to govern the individual institutions of
61 higher education; and

62 (C) Holding the higher education institutions and the
63 higher education systems as a whole accountable for
64 accomplishing their missions and implementing the
65 provisions of the compacts;

66 (4) Develop and adopt each institutional compact;

67 (5) Review and adopt the annual updates of the
68 institutional compacts;

69 (6) Serve as the accountability point to:

70 (A) The Governor for implementation of the public
71 policy agenda; and

72 (B) The Legislature by maintaining a close working
73 relationship with the legislative leadership and the
74 Legislative Oversight Commission on Education
75 Accountability;

76 (7) Jointly with the council, promulgate legislative
77 rules pursuant to article three-a, chapter twenty-nine-a
78 of this code to fulfill the purposes of section five, article
79 one-a of this chapter;

80 (8) Establish and implement a peer group for each
81 institution as described in section three, article one-a of
82 this chapter;

83 (9) Establish and implement the benchmarks and
84 performance indicators necessary to measure
85 institutional achievement towards state policy priorities
86 and institutional missions pursuant to section two,
87 article one-a of this chapter;

88 (10) Annually report to the Legislature and to the
89 Legislative Oversight Commission on Education
90 Accountability during the January interim meetings on
91 a date and at a time and location to be determined by
92 the President of the Senate and the Speaker of the
93 House of Delegates. The report shall address at least the
94 following:

95 (A) The performance of its system of higher education
96 during the previous fiscal year, including, but not
97 limited to, progress in meeting goals stated in the
98 compacts and progress of the institutions and the higher
99 education system as a whole in meeting the goals and
100 objectives set forth in section one-a, article one of this
101 chapter;

102 (B) An analysis of enrollment data collected pursuant
103 to section one, article ten of this chapter and
104 recommendations for any changes necessary to assure
105 access to high-quality, high-demand education

106 programs for West Virginia residents;

107 (C) The priorities established for capital investment
108 needs pursuant to subdivision (11) of this subsection and
109 the justification for such priority;

110 (D) Recommendations of the commission for statutory
111 changes needed to further the goals and objectives set
112 forth in section one-a, article one of this chapter;

113 (11) Establish a formal process for identifying needs
114 for capital investments and for determining priorities
115 for these investments for consideration by the Governor
116 and the Legislature as part of the appropriation request
117 process. It is the responsibility of the commission to
118 assure a fair distribution of funds for capital projects
119 between the commission and the council. To that end
120 the commission shall take the following steps:

121 (A) Receive the list of priorities developed by the
122 council for capital investment for the institutions under
123 the council's jurisdiction pursuant to subsection (b),
124 section six, article two-b of this chapter;

125 (B) Place the ranked list of projects on the agenda for
126 action within sixty days of the date on which the list
127 was received;

128 (C) Select a minimum of three projects from the list
129 submitted by the council to be included on the ranked
130 list established by the commission. At least one of the
131 three projects selected must come from the top two
132 priorities established by the council;

133 (12) Maintain guidelines for institutions to follow

134 concerning extensive capital project management except
135 the governing boards of Marshall University and West
136 Virginia University are not subject to the provisions of
137 this subdivision as it relates to the state institutions of
138 higher education known as Marshall University and
139 West Virginia University. The guidelines shall provide
140 a process for developing capital projects, including, but
141 not limited to, the notification by an institution to the
142 commission of any proposed capital project which has
143 the potential to exceed one million dollars in cost. Such
144 a project may not be pursued by an institution without
145 the approval of the commission. An institution may not
146 participate directly or indirectly with any public or
147 private entity in any capital project which has the
148 potential to exceed one million dollars in cost;

149 (13) Acquire legal services as are considered necessary,
150 including representation of the commission, its
151 institutions, employees and officers before any court or
152 administrative body, notwithstanding any other
153 provision of this code to the contrary. The counsel may
154 be employed either on a salaried basis or on a
155 reasonable fee basis. In addition, the commission may,
156 but is not required to, call upon the Attorney General
157 for legal assistance and representation as provided by
158 law;

159 (14) Employ a Chancellor for Higher Education
160 pursuant to section five of this article;

161 (15) Employ other staff as necessary and appropriate
162 to carry out the duties and responsibilities of the
163 commission and the council, in accordance with the
164 provisions of article four of this chapter;

165 (16) Provide suitable offices in Charleston for the
166 chancellor, vice chancellors and other staff;

167 (17) Advise and consent in the appointment of the
168 presidents of the institutions of higher education under
169 its jurisdiction pursuant to section six of this article.
170 The role of the commission in approving an institutional
171 president is to assure through personal interview that
172 the person selected understands and is committed to
173 achieving the goals and objectives as set forth in the
174 institutional compact and in section one-a, article one of
175 this chapter;

176 (18) Approve the total compensation package from all
177 sources for presidents of institutions under its
178 jurisdiction, as proposed by the governing boards. The
179 governing boards must obtain approval from the
180 commission of the total compensation package both
181 when institutional presidents are employed initially and
182 afterward when any change is made in the amount of
183 the total compensation package;

184 (19) Establish and implement the policy of the state to
185 assure that parents and students have sufficient
186 information at the earliest possible age on which to base
187 academic decisions about what is required for students
188 to be successful in college, other post-secondary
189 education and careers related, as far as possible, to
190 results from current assessment tools in use in West
191 Virginia;

192 (20) Approve and implement a uniform standard
193 jointly with the council to determine which students
194 shall be placed in remedial or developmental courses.
195 The standard shall be aligned with college admission

196 tests and assessment tools used in West Virginia and
197 shall be applied uniformly by the governing boards
198 throughout the public higher education system. The
199 chancellors shall develop a clear, concise explanation of
200 the standard which they shall communicate to the State
201 Board of Education and the State Superintendent of
202 Schools;

203 (21) Review and approve or disapprove capital
204 projects as described in subdivision (11) of this
205 subsection;

206 (22) Jointly with the council, develop and implement
207 an oversight plan to manage systemwide technology
208 such as the following:

209 (A) Expanding distance learning and technology
210 networks to enhance teaching and learning, promote
211 access to quality educational offerings with minimum
212 duplication of effort; and

213 (B) Increasing the delivery of instruction to
214 nontraditional students, to provide services to business
215 and industry and increase the management capabilities
216 of the higher education system.

217 (C) Notwithstanding any other provision of law or this
218 code to the contrary, the council, commission and state
219 institutions of higher education are not subject to the
220 jurisdiction of the Chief Technology Officer for any
221 purpose;

222 (23) Establish and implement policies and procedures
223 to ensure that students may transfer and apply toward
224 the requirements for a bachelor's degree the maximum

225 number of credits earned at any regionally accredited
226 in-state or out-of-state community and technical college
227 with as few requirements to repeat courses or to incur
228 additional costs as is consistent with sound academic
229 policy;

230 (24) Establish and implement policies and procedures
231 to ensure that students may transfer and apply toward
232 the requirements for a degree the maximum number of
233 credits earned at any regionally accredited in-state or
234 out-of-state higher education institution with as few
235 requirements to repeat courses or to incur additional
236 costs as is consistent with sound academic policy;

237 (25) Establish and implement policies and procedures
238 to ensure that students may transfer and apply toward
239 the requirements for a master's degree the maximum
240 number of credits earned at any regionally accredited
241 in-state or out-of-state higher education institution with
242 as few requirements to repeat courses or to incur
243 additional costs as is consistent with sound academic
244 policy;

245 (26) Establish and implement policies and programs,
246 in cooperation with the council and the institutions of
247 higher education, through which students who have
248 gained knowledge and skills through employment,
249 participation in education and training at vocational
250 schools or other education institutions, or
251 internet-based education programs, may demonstrate by
252 competency-based assessment that they have the
253 necessary knowledge and skills to be granted academic
254 credit or advanced placement standing toward the
255 requirements of an associate degree or a bachelor's
256 degree at a state institution of higher education;

257 (27) Seek out and attend regional, national and
258 international meetings and forums on education and
259 workforce development-related topics, as in the
260 commission's discretion is critical for the performance
261 of their duties as members, for the purpose of keeping
262 abreast of education trends and policies to aid it in
263 developing the policies for this state to meet the
264 established education goals and objectives pursuant to
265 section one-a, article one of this chapter;

266 (28) Develop, establish and implement a rule for
267 higher education governing boards and institutions to
268 follow when considering capital projects. The
269 guidelines shall assure that the governing boards and
270 institutions do not approve or promote capital projects
271 involving private sector businesses which would have
272 the effect of reducing property taxes on existing
273 properties or avoiding, in whole or in part, the full
274 amount of taxes which would be due on newly
275 developed or future properties;

276 (29) Consider and submit to the appropriate agencies
277 of the executive and legislative branches of state
278 government a budget that reflects recommended
279 appropriations from the commission and the institutions
280 under its jurisdiction. The commission shall submit as
281 part of its budget proposal the separate recommended
282 appropriations it received from the council, both for the
283 council and the institutions under the council's
284 jurisdiction. The commission annually shall submit the
285 proposed institutional allocations based on each
286 institution's progress toward meeting the goals of its
287 institutional compact;

288 (30) The commission has the authority to assess

289 institutions under its jurisdiction, including the state
290 institutions of higher education known as Marshall
291 University and West Virginia University, for the
292 payment of expenses of the commission or for the
293 funding of statewide higher education services,
294 obligations or initiatives related to the goals set forth for
295 the provision of public higher education in the state;

296 (31) Promulgate rules allocating reimbursement of
297 appropriations, if made available by the Legislature, to
298 institutions of higher education for qualifying
299 noncapital expenditures incurred in the provision of
300 services to students with physical, learning or severe
301 sensory disabilities;

302 (32) Make appointments to boards and commissions
303 where this code requires appointments from the State
304 College System Board of Directors or the University of
305 West Virginia System Board of Trustees which were
306 abolished effective the thirtieth day of June, two
307 thousand, except in those cases where the required
308 appointment has a specific and direct connection to the
309 provision of community and technical college education,
310 the appointment shall be made by the council.
311 Notwithstanding any provisions of this code to the
312 contrary, the commission or the council may appoint
313 one of its own members or any other citizen of the state
314 as its designee. The commission and council shall
315 appoint the total number of persons in the aggregate
316 required to be appointed by these previous governing
317 boards;

318 (33) Pursuant to the provisions of article three-a,
319 chapter twenty-nine-a of this code and section six,
320 article one of this chapter, promulgate rules as

321 necessary or expedient to fulfill the purposes of this
322 chapter. The commission and the council shall
323 promulgate a uniform joint legislative rule for the
324 purpose of standardizing, as much as possible, the
325 administration of personnel matters among the
326 institutions of higher education;

327 (34) Determine when a joint rule among the governing
328 boards of the institutions under its jurisdiction is
329 necessary or required by law and, in those instances, in
330 consultation with the governing boards of all the
331 institutions under its jurisdiction, promulgate the joint
332 rule;

333 (35) In consultation with the governing boards of
334 Marshall University and West Virginia University,
335 implement a policy jointly with the council whereby
336 course credit earned at a community and technical
337 college transfers for program credit at any other state
338 institution of higher education and is not limited to
339 fulfilling a general education requirement;

340 (36) Promulgate a joint rule with the council
341 establishing tuition and fee policy for all institutions of
342 higher education, other than state institutions of higher
343 education known as Marshall University and West
344 Virginia University which are subject to the provisions
345 of section one, article ten of this chapter. The rule shall
346 include, but is not limited to, the following:

347 (A) Comparisons with peer institutions;

348 (B) Differences among institutional missions;

349 (C) Strategies for promoting student access;

350 (D) Consideration of charges to out-of-state students;
351 and

352 (E) Such other policies as the commission and council
353 consider appropriate;

354 (37) Implement general disease awareness initiatives
355 to educate parents and students, particularly dormitory
356 residents, about meningococcal meningitis; the
357 potentially life-threatening dangers of contracting the
358 infection; behaviors and activities that can increase
359 risks; measures that can be taken to prevent contact or
360 infection; and potential benefits of vaccination. The
361 commission shall encourage institutions that provide
362 medical care to students to provide access to the vaccine
363 for those who wish to receive it; and

364 (38) Notwithstanding any other provision of this code
365 to the contrary, sell, lease, convey or otherwise dispose
366 of all or part of any real property which it may own,
367 either by contract or at public auction, and to retain the
368 proceeds of any such sale or lease: *Provided, That:*

369 (A) The commission may not sell, lease, convey or
370 otherwise dispose of any real property without first:

371 (i) Providing notice to the public in the county in
372 which the real property is located by a Class II legal
373 advertisement pursuant to section two, article three,
374 chapter fifty-nine of this code;

375 (ii) Holding a public hearing on the issue in the county
376 in which the real property is located; and

377 (iii) Providing notice to the Joint Committee on

378 Government and Finance; and

379 (B) Any proceeds from the sale, lease, conveyance or
380 other disposal of real property that is used jointly by
381 institutions or for statewide programs under the
382 jurisdiction of the commission or the council shall be
383 transferred to the General Revenue Fund of the state.

384 (b) In addition to the powers and duties listed in
385 subsection (a) of this section, the commission has the
386 following general powers and duties related to its role in
387 developing, articulating and overseeing the
388 implementation of the public policy agenda:

389 (1) Planning and policy leadership, including a distinct
390 and visible role in setting the state's policy agenda and
391 in serving as an agent of change;

392 (2) Policy analysis and research focused on issues
393 affecting the system as a whole or a geographical region
394 thereof;

395 (3) Development and implementation of institutional
396 mission definitions, including use of incentive funds to
397 influence institutional behavior in ways that are
398 consistent with public priorities;

399 (4) Academic program review and approval for
400 institutions under its jurisdiction, including the use of
401 institutional missions as a template to judge the
402 appropriateness of both new and existing programs and
403 the authority to implement needed changes. The
404 commission's authority to review and approve academic
405 programs for either the state institution of higher
406 education known as Marshall University or West

407 Virginia University is limited to programs that are
408 proposed to be offered at a new location not presently
409 served by that institution;

410 (5) Distribution of funds appropriated to the
411 commission, including incentive and performance-based
412 funding;

413 (6) Administration of state and federal student aid
414 programs under the supervision of the vice chancellor
415 for administration, including promulgation of any rules
416 necessary to administer those programs;

417 (7) Serving as the agent to receive and disburse public
418 funds when a governmental entity requires designation
419 of a statewide higher education agency for this purpose;

420 (8) Development, establishment and implementation
421 of information, assessment and accountability systems,
422 including maintenance of statewide data systems that
423 facilitate long-term planning and accurate measurement
424 of strategic outcomes and performance indicators;

425 (9) Jointly with the council, developing, establishing
426 and implementing policies for licensing and oversight
427 for both public and private degree-granting and
428 nondegree-granting institutions that provide
429 post-secondary education courses or programs in the
430 state pursuant to the findings and policy
431 recommendations required by section eleven of this
432 article;

433 (10) Development, implementation and oversight of
434 statewide and regionwide projects and initiatives
435 related to providing post-secondary education at the

436 baccalaureate level and above such as those using funds
437 from federal categorical programs or those using
438 incentive and performance-based funding from any
439 source; and

440 (11) Quality assurance that intersects with all other
441 duties of the commission particularly in the areas of
442 research, data collection and analysis, planning, policy
443 analysis, program review and approval, budgeting and
444 information and accountability systems.

445 (c) In addition to the powers and duties provided in
446 subsections (a) and (b) of this section and any other
447 powers and duties as may be assigned to it by law, the
448 commission has such other powers and duties as may be
449 necessary or expedient to accomplish the purposes of
450 this article.

451 (d) The commission is authorized to withdraw specific
452 powers of any governing board of an institution under
453 its jurisdiction for a period not to exceed two years, if
454 the commission makes a determination that:

455 (1) The governing board has failed for two consecutive
456 years to develop an institutional compact as required in
457 article one of this chapter;

458 (2) The commission has received information,
459 substantiated by independent audit, of significant
460 mismanagement or failure to carry out the powers and
461 duties of the board of governors according to state law;
462 or

463 (3) Other circumstances which, in the view of the
464 commission, severely limit the capacity of the board of

465 governors to carry out its duties and responsibilities.

466 The period of withdrawal of specific powers may not
467 exceed two years during which time the commission is
468 authorized to take steps necessary to reestablish the
469 conditions for restoration of sound, stable and
470 responsible institutional governance.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

**§18B-2A-1. Composition of boards; terms and qualifications
of members; vacancies; eligibility for
reappointment.**

1 (a) A board of governors is continued at each of the
2 following institutions: Bluefield State College, Blue
3 Ridge Community and Technical College, Concord
4 University, Eastern West Virginia Community and
5 Technical College, Fairmont State University, Glenville
6 State College, Marshall University, New River
7 Community and Technical College, Shepherd
8 University, Southern West Virginia Community and
9 Technical College, West Liberty State College, West
10 Virginia Northern Community and Technical College,
11 the West Virginia School of Osteopathic Medicine, West
12 Virginia State University and West Virginia University.

13 (b) The institutional Board of Governors for Marshall
14 University consists of sixteen persons and the
15 institutional Board of Governors for West Virginia
16 University consists of eighteen persons. Each other
17 board of governors consists of twelve persons.

18 (c) Each board of governors includes the following
19 members:

20 (1) A full-time member of the faculty with the rank of
21 instructor or above duly elected by the faculty of the
22 respective institution;

23 (2) A member of the student body in good academic
24 standing, enrolled for college credit work and duly
25 elected by the student body of the respective institution;

26 (3) A member from the institutional classified
27 employees duly elected by the classified employees of
28 the respective institution; and

29 (4) For the institutional Board of Governors at
30 Marshall University, twelve lay members appointed by
31 the Governor, by and with the advice and consent of the
32 Senate, pursuant to this section and, additionally, the
33 chairperson of the institutional board of advisors of
34 Marshall Community and Technical College serving as
35 an ex officio, voting member.

36 (5) For the institutional Board of Governors at West
37 Virginia University, twelve lay members appointed by
38 the Governor, by and with the advice and consent of the
39 Senate, pursuant to this section and, additionally, the
40 chairpersons of the following boards serving as ex
41 officio, voting members:

42 (A) The institutional board of advisors of:

43 (i) The Community and Technical College at West
44 Virginia University Institute of Technology; and

45 (ii) West Virginia University at Parkersburg; and

46 (B) The Board of Visitors of West Virginia University

47 Institute of Technology.

48 (6) For each institutional board of governors of an
49 institution that does not have an administratively linked
50 community and technical college under its jurisdiction,
51 nine lay members appointed by the Governor, by and
52 with the advice and consent of the Senate, pursuant to
53 this section.

54 (7) For each institutional board of governors which
55 has an administratively linked community and technical
56 college under its jurisdiction:

57 (A) Eight lay members appointed by the Governor, by
58 and with the advice and consent of the Senate, pursuant
59 to this section and, additionally, the chairperson of the
60 institutional board of advisors of the administratively
61 linked community and technical college; and

62 (B) Of the eight lay members appointed by the
63 Governor, one shall be the superintendent of a county
64 board of education from the area served by the
65 institution.

66 (d) Of the eight or nine members appointed by the
67 Governor, no more than five may be of the same
68 political party. Of the twelve members appointed by the
69 Governor to the governing boards of Marshall
70 University and West Virginia University, no more than
71 seven may be of the same political party. Of the eight or
72 nine members appointed by the Governor, at least six
73 shall be residents of the state. Of the twelve members
74 appointed by the Governor to the governing boards of
75 Marshall University and West Virginia University, at
76 least eight shall be residents of the state.

77 (e) The student member serves for a term of one year.
78 Each term begins on the first day of July.

79 (f) The faculty member serves for a term of two years.
80 Each term begins on the first day of July. Faculty
81 members are eligible to succeed themselves for three
82 additional terms, not to exceed a total of eight
83 consecutive years.

84 (g) The member representing classified employees
85 serves for a term of two years. Each term begins on the
86 first day of July. Members representing classified
87 employees are eligible to succeed themselves for three
88 additional terms, not to exceed a total of eight
89 consecutive years.

90 (h) The appointed lay citizen members serve terms of
91 four years each and are eligible to succeed themselves
92 for no more than one additional term.

93 (i) A vacancy in an unexpired term of a member shall
94 be filled for the unexpired term within thirty days of the
95 occurrence of the vacancy in the same manner as the
96 original appointment or election. Except in the case of
97 a vacancy, all elections shall be held and all
98 appointments shall be made no later than the thirtieth
99 day of June preceding the commencement of the term.
100 Each board of governors shall elect one of its appointed
101 lay members to be chairperson in June of each year. A
102 member may not serve as chairperson for more than
103 four consecutive years.

104 (j) The appointed members of the institutional boards
105 of governors serve staggered terms of four years.

106 (k) A person is ineligible for appointment to
107 membership on a board of governors of a state
108 institution of higher education under the following
109 conditions:

110 (1) For a baccalaureate institution or university, a
111 person is ineligible for appointment who is an officer,
112 employee or member of any other board of governors, a
113 member of an institutional board of advisors of any
114 public institution of higher education, an employee of
115 any institution of higher education, an officer or
116 member of any political party executive committee, the
117 holder of any other public office or public employment
118 under the government of this state or any of its political
119 subdivisions or a member of the council or commission.
120 This subsection does not prevent the representative from
121 the faculty, classified employees, students or
122 chairpersons of the boards of advisors or the
123 superintendent of a county board of education from
124 being members of the governing boards.

125 (2) For a community and technical college, a person is
126 ineligible for appointment who is an officer, employee
127 or member of any other board of governors; a member of
128 an institutional board of advisors of any public
129 institution of higher education; an employee of any
130 institution of higher education; an officer or member of
131 any political party executive committee; the holder of
132 any other public office, other than an elected county
133 office, or public employment, other than employment by
134 the county board of education, under the government of
135 this state or any of its political subdivisions; or a
136 member of the council or commission. This subsection
137 does not prevent the representative from the faculty,
138 classified employees, students or chairpersons of the

139 boards of advisors from being members of the governing
140 boards.

141 (l) Before exercising any authority or performing any
142 duties as a member of a governing board, each member
143 shall qualify as such by taking and subscribing to the
144 oath of office prescribed by section five, article IV of the
145 Constitution of West Virginia and the certificate thereof
146 shall be filed with the Secretary of State.

147 (m) A member of a governing board appointed by the
148 Governor may not be removed from office by the
149 Governor except for official misconduct, incompetence,
150 neglect of duty or gross immorality and then only in the
151 manner prescribed by law for the removal of the state
152 elective officers by the Governor.

153 (n) The president of the institution shall make
154 available resources of the institution for conducting the
155 business of its board of governors. The members of the
156 board of governors serve without compensation, but are
157 reimbursed for all reasonable and necessary expenses
158 actually incurred in the performance of official duties
159 under this article upon presentation of an itemized
160 sworn statement of expenses. All expenses incurred by
161 the board of governors and the institution under this
162 section are paid from funds allocated to the institution
163 for that purpose.

**ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND
TECHNICAL COLLEGE EDUCATION.**

§18B-2B-5. Meetings and compensation.

1 (a) The council shall meet as needed at the time and
2 place specified at the call of the chairperson. One

3 meeting each year shall be a public forum for the
4 discussion of the goals and standards for workforce
5 development, economic development and vocational
6 education in the state.

7 (b) The council shall hold an annual meeting at its
8 final, regularly scheduled meeting of each fiscal year for
9 the purpose of electing officers. At the annual meeting,
10 the council shall elect from its voting members a
11 chairperson and other officers as it may consider
12 necessary or desirable. The chairperson and other
13 officers are elected for one-year terms commencing on
14 the first day of July following the annual meeting and
15 ending on the thirtieth day of June of the following year.
16 The chairperson of the council may serve no more than
17 four consecutive one-year terms as chair.

18 (c) Members of the council serve without
19 compensation. Members shall be reimbursed for all
20 reasonable and necessary expenses actually incurred in
21 the performance of official duties under this article
22 upon presentation of an itemized sworn statement of
23 their expenses. An ex officio member of the council who
24 is an employee of the state is reimbursed by the
25 employing agency.

26 (d) A majority of the voting members constitutes a
27 quorum for conducting the business of the council. All
28 action taken by the council shall be by majority vote of
29 the voting members present.

ARTICLE 6. ADVISORY COUNCILS AND BOARDS.

**§18B-6-1. Institutional boards of advisors for regional
campuses and certain administratively linked
community and technical colleges.**

1 (a) There are continued institutional boards of
2 advisors as follows:

3 (1) For each regional campus. The chairperson of the
4 board of advisors of West Virginia University at
5 Parkersburg serves as an ex officio, voting member of
6 the Governing Board of West Virginia University;

7 (2) For administratively linked community and
8 technical colleges which share a physical location with
9 the sponsoring institution. This category includes
10 Marshall Community and Technical College, West
11 Virginia State Community and Technical College and
12 the Community and Technical College at West Virginia
13 University Institute of Technology. The chairperson of
14 the board of advisors of each administratively linked
15 community and technical college serves as an ex officio,
16 voting member of the sponsoring institution's board of
17 governors, or in the case of the Community and
18 Technical College at West Virginia University Institute
19 of Technology, the chairperson of the board of advisors
20 serves as an ex officio voting member of the Governing
21 Board of West Virginia University; and

22 (3) For Pierpont Community and Technical College.
23 The chairperson of the board of advisors of Pierpont
24 Community and Technical College serves as an ex
25 officio, voting member of the Fairmont State University
26 Board of Governors.

27 (b) The lay members of the institutional boards of
28 advisors for the regional campuses are appointed by the
29 board of governors.

30 (c) The lay members of the institutional boards of

31 advisors established for the administratively linked
32 community and technical colleges and Pierpont
33 Community and Technical College are appointed by the
34 West Virginia Council for Community and Technical
35 College Education.

36 (d) The board of advisors consists of fifteen members,
37 including a full-time member of the faculty with the
38 rank of instructor or above duly elected by the faculty
39 of the respective institution; a member of the student
40 body in good academic standing, enrolled for college
41 credit work and duly elected by the student body of the
42 respective institution; a member from the institutional
43 classified employees duly elected by the classified
44 employees of the respective institution; and twelve lay
45 persons appointed pursuant to this section who have
46 demonstrated a sincere interest in and concern for the
47 welfare of that institution and who are representative of
48 the population of its responsibility district and fields of
49 study. At least eight of the twelve lay persons appointed
50 shall be residents of the state. Of the lay members who
51 are residents of the state, at least two shall be alumni of
52 the respective institution and no more than a simple
53 majority may be of the same political party.

54 (e) The student member serves for a term of one year
55 beginning on the first day of May. The member from the
56 faculty and the classified employees, respectively, serves
57 for a term of two years beginning on the first day of
58 May. The twelve lay members serve terms of four years
59 each beginning on the first day of May. All members are
60 eligible to succeed themselves for no more than one
61 additional term. A vacancy in an unexpired term of a
62 member shall be filled for the remainder of the
63 unexpired term within thirty days of the occurrence

64 thereof in the same manner as the original appointment
65 or election. Except in the case of a vacancy:

66 (1) All elections shall be held and all appointments
67 shall be made no later than the thirtieth day of April
68 preceding the commencement of the term; and

69 (2) Terms of members begin on the first day of May
70 following election.

71 (f) Each board of advisors shall hold a regular meeting
72 at least quarterly, commencing in May of each year.
73 Additional meetings may be held upon the call of the
74 chairperson, president of the institution or upon the
75 written request of at least five members. A majority of
76 the members constitutes a quorum for conducting the
77 business of the board of advisors.

78 (g) One of the twelve lay members shall be elected as
79 chairperson by the board of advisors in May of each
80 year. A member may not serve as chairperson for more
81 than four consecutive years.

82 (h) The president of the institution shall make
83 available resources of the institution for conducting the
84 business of the board of advisors. The members of the
85 board of advisors shall be reimbursed for all reasonable
86 and necessary expenses actually incurred in the
87 performance of their official duties under this section
88 upon presentation of an itemized sworn statement
89 thereof. All expenses incurred by the boards of advisors
90 and the institutions under this section shall be paid from
91 funds allocated to the institutions for that purpose.

92 (i) Prior to the submission by the president to its

93 governing board, the board of advisors shall review all
94 proposals of the institution in the areas of mission,
95 academic programs, budget, capital facilities and such
96 other matters as requested by the president of the
97 institution or its governing board or otherwise assigned
98 to it by law. The board of advisors shall comment on
99 each such proposal in writing, with such
100 recommendations for concurrence therein or revision or
101 rejection thereof as it considers proper. The written
102 comments and recommendations shall accompany the
103 proposal to the governing board and the governing
104 board shall include the comments and recommendations
105 in its consideration of and action on the proposal. The
106 governing board shall promptly acknowledge receipt of
107 the comments and recommendations and shall notify the
108 board of advisors in writing of any action taken thereon.

109 (j) Prior to their implementation by the president, the
110 board of advisors shall review all proposals regarding
111 institutionwide personnel policies. The board of
112 advisors may comment on the proposals in writing.

113 (k) The board of advisors shall provide advice and
114 assistance to the president and the governing board in
115 areas including, but not limited to, the following:

116 (1) Establishing closer connections between higher
117 education and business, labor, government and
118 community and economic development organizations to
119 give students greater opportunities to experience the
120 world of work. Examples of such experiences include
121 business and community service internships,
122 apprenticeships and cooperative programs;

123 (2) Communicating better and serving the current

124 workforce and workforce development needs of their
125 service area, including the needs of nontraditional
126 students for college-level skills upgrading and
127 retraining and the needs of employers for specific
128 programs of limited duration; and

129 (3) Assessing the performance of the institution's
130 graduates and assisting in job placement.

131 (1) When a vacancy occurs in the office of president of
132 the institution, the board of advisors shall serve as a
133 search and screening committee for candidates to fill the
134 vacancy under guidelines established by the council.
135 When serving as a search and screening committee, the
136 board of advisors and its governing board are each
137 authorized to appoint up to three additional persons to
138 serve on the committee as long as the search and
139 screening process is in effect. The three additional
140 appointees of the board of advisors shall be faculty
141 members of the institution. For the purposes of the
142 search and screening process only, the additional
143 members shall possess the same powers and rights as the
144 regular members of the board of advisors, including
145 reimbursement for all reasonable and necessary
146 expenses actually incurred. Following the search and
147 screening process, the committee shall submit the names
148 of at least three candidates to the appropriate governing
149 board. If the governing board rejects all candidates
150 submitted, the committee shall submit the names of at
151 least three additional candidates and this process shall
152 be repeated until the governing board approves one of
153 the candidates submitted. In all cases, the governing
154 board shall make the appointment with the approval of
155 the council or the commission in the case of West
156 Virginia University Institute of Technology. The

157 governing board or the council shall provide all
158 necessary staff assistance to the board of advisors in its
159 role as a search and screening committee. This
160 subsection does not apply to Fairmont State University.
161 The President of Fairmont State University continues to
162 be appointed pursuant to the provisions of section six,
163 article one-b of this chapter.

164 (m) The boards of advisors shall develop a master plan
165 for those administratively linked community and
166 technical colleges which retain boards of advisors. The
167 ultimate responsibility for developing and updating the
168 master plans at the institutional level resides with the
169 institutional board of advisors, but the ultimate
170 responsibility for approving the final version of these
171 institutional master plans, including periodic updates,
172 resides with the council. The plan shall include, but not
173 be limited to, the following:

174 (1) A detailed demonstration of how the master plan
175 will be used to meet the goals and objectives of the
176 institutional compact;

177 (2) A well-developed set of goals outlining missions,
178 degree offerings, resource requirements, physical plant
179 needs, personnel needs, enrollment levels and other
180 planning determinates and projections necessary in such
181 a plan to assure that the needs of the institution's area
182 of responsibility for a quality system of higher education
183 are addressed;

184 (3) Documentation of the involvement of the
185 commission, institutional constituency groups, clientele
186 of the institution and the general public in the
187 development of all segments of the institutional master

188 plan.

189 The plan shall be established for periods of not less
190 than three nor more than six years and shall be revised
191 periodically as necessary, including recommendations
192 on the addition or deletion of degree programs as, in the
193 discretion of the board of advisors, may be necessary.

**ARTICLE 9. CLASSIFIED EMPLOYEE SALARY SCHEDULE AND
CLASSIFICATION SYSTEM.**

**§18B-9-4. Establishment of personnel classification system;
assignment to classification and to salary
schedule.**

1 (a) The commission shall implement an equitable
2 system of job classifications, with the advice and
3 assistance of staff councils and other groups
4 representing classified employees, each classification to
5 consist of related job titles and corresponding job
6 descriptions for each position within a classification,
7 together with the designation of an appropriate pay
8 grade for each job title, which system shall be the same
9 for corresponding positions of the commission and in
10 institutions under all governing boards. The equitable
11 system of job classification and the rules establishing it
12 which were in effect immediately prior to the effective
13 date of this section are hereby transferred to the
14 jurisdiction and authority of the commission and shall
15 remain in effect unless modified or rescinded by the
16 commission.

17 (b) Any classified salary increases distributed within
18 a state institution of higher education after the first day
19 of July, two thousand one, shall be in accordance with
20 the uniform classification system and a uniform and

21 equitable salary policy adopted by each individual
22 board of governors. Each salary policy shall detail the
23 salary goals of the institution and the process whereby
24 the institution will achieve or progress toward
25 achievement of placing each classified employee at his
26 or her minimum salary on the schedule established
27 pursuant to section three of this article.

28 (c) A classified employee may receive a salary in
29 excess of the salary established by the salary schedule
30 for his or her pay grade and years of experience only if
31 all such employees at the institution are receiving at
32 least the minimum salary for their pay grade and years
33 of experience as established for them by the salary
34 schedule: *Provided*, That any salary increase must be
35 provided in a manner that is consistent with the uniform
36 classification system and the institution's salary policy.

Enr. Com. Sub. for S. B. No. 2005] 34

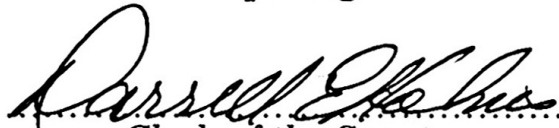
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

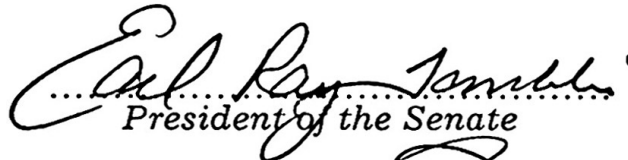

.....
Chairman House Committee

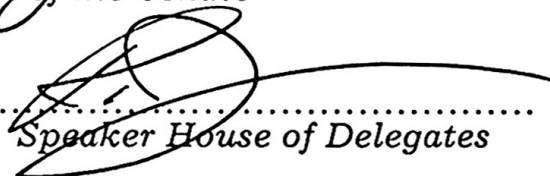
Originated in the Senate.

In effect from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this
the 6 Day of September, 2007.

.....
Governor

PRESENTED TO THE
GOVERNOR,

Date 8/27/07

Time 11:20am