WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 2008

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ENROLLED

House Bill No. 102

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)
[By Request of the Executive]

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Passed March 16, 2008
In Effect June 30, 2008
AN ACT to amend and reenact §18B-2A-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-3C-13 of said code, relating to higher education generally; establishing boards of governors for independent community and technical colleges; providing for the initial appointment to and the terms of office of members of the boards of governors for independent community and technical colleges; relating to the appointment and membership of institutional boards of governors of state institutions of higher education; and providing for the election of a chairperson of an institutional board of governors during the fiscal year beginning on the first day of July, two thousand eight.

Be it enacted by the Legislature of West Virginia:

That §18B-2A-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §18B-3C-13 of said code be amended and reenacted, all to read as follows:

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.
§18B-2A-1. Composition of boards; terms and qualifications of members; vacancies; eligibility for reappointment; establishment of boards for independent community and technical colleges.

(a) A board of governors is continued at each of the following institutions: Bluefield State College, Blue Ridge Community and Technical College, Concord University, Eastern West Virginia Community and Technical College, Fairmont State University, Glenville State College, Marshall University, New River Community and Technical College, Shepherd University, Southern West Virginia Community and Technical College, West Liberty State College, West Virginia Northern Community and Technical College, the West Virginia School of Osteopathic Medicine, West Virginia State University and West Virginia University.

(b) *Independent community and technical colleges established* --

Effective the first day of July, two thousand eight, the board of advisors is abolished and a board of governors is established for Marshall Community and Technical College; Pierpont Community and Technical College, formerly a division of Fairmont State University; The Community and Technical College at West Virginia University Institute of Technology; West Virginia State Community and Technical College; and West Virginia University at Parkersburg.

(A) In making the initial appointments to these boards of governors, the Governor may appoint those persons who are lay members of the boards of advisors by the thirtieth day of June, two thousand eight.

(B) At the end of the initial term, and thereafter, an appointment to fill a vacancy on the board or reappointment
of a member who is eligible to serve an additional term is made in accordance with the provisions of this section.

(c) The institutional boards of governors for Marshall University and West Virginia University consist of sixteen persons. The boards of governors of the other state institutions of higher education consist of twelve persons.

(d) Each board of governors includes the following members:

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

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

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

(4) For the institutional Board of Governors at Marshall University, thirteen lay members appointed by the Governor, by and with the advice and consent of the Senate, pursuant to this section.

(5) For the institutional Board of Governors at West Virginia University, twelve lay members appointed by the Governor, by and with the advice and consent of the Senate, pursuant to this section and, additionally, the chairperson of the Board of Visitors of West Virginia University Institute of Technology.

(6) For each institutional board of governors of the other state institutions of higher education, nine lay members
appointed by the Governor, by and with the advice and consent of the Senate, pursuant to this section.

(e) Of the nine members appointed by the Governor, no more than five may be of the same political party. Of the thirteen members appointed by the Governor to the governing board of Marshall University, no more than eight may be of the same political party. Of the twelve members appointed by the Governor to the governing board of West Virginia University, no more than seven may be of the same political party. Of the nine members appointed by the Governor, at least six shall be residents of the state. Of the thirteen members appointed by the Governor to the governing board of Marshall University, at least eight shall be residents of the state. Of the twelve members appointed by the Governor to the governing board of West Virginia University, at least eight shall be residents of the state.

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

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

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

(i) The appointed lay citizen members serve terms of up to four years each and are eligible to succeed themselves for no more than one additional term.
(j) A vacancy in an unexpired term of a member shall be filled for the unexpired term within thirty days of the occurrence of the vacancy in the same manner as the original appointment or election. Except in the case of a vacancy, all elections shall be held and all appointments shall be made no later than the thirtieth day of June preceding the commencement of the term. Each board of governors shall elect one of its appointed lay members to be chairperson in June of each year except for the fiscal year beginning on the first day of July, two thousand eight only, when the board shall elect the chairperson in July. A member may not serve as chairperson for more than four consecutive years.

(k) The appointed members of the institutional boards of governors serve staggered terms of up to four years except that four of the initial appointments to the governing boards of community and technical colleges which become independent on the first day of July, two thousand eight are for terms of two years and five of the initial appointments are for terms of four years.

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

(1) For a baccalaureate institution or university, a person is ineligible for appointment who is an officer, employee or member of any other board of governors, an employee of any institution of higher education; an officer or member of any political party executive committee; the holder of any other public office or public employment under the government of this state or any of its political subdivisions; an employee of any affiliated research corporation created pursuant to article twelve of this chapter; an employee of any affiliated foundation organized and operated in support of one or more state institutions of higher education; or a member of the
120 Council or Commission. This subsection does not prevent
121 the representative from the faculty, classified employees,
122 students, or the superintendent of a county board of education
123 from being members of the governing boards.

124 (2) For a community and technical college, a person is
125 ineligible for appointment who is an officer, employee or
126 member of any other board of governors; a member of a
127 board of visitors of any public institution of higher education;
128 an employee of any institution of higher education; an officer
129 or member of any political party executive committee; the
130 holder of any other public office, other than an elected county
131 office, or public employment, other than employment by the
132 county board of education, under the government of this state
133 or any of its political subdivisions; an employee of any
134 affiliated research corporation created pursuant to article
135 twelve of this chapter; an employee of any affiliated
136 foundation organized and operated in support of one or more
137 state institutions of higher education; or a member of the
138 Council or Commission. This subsection does not prevent
139 the representative from the faculty, classified employees,
140 students, or chairpersons of the boards of advisors from being
141 members of the governing boards.

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

148 (n) A member of a governing board appointed by the
149 Governor may not be removed from office by the Governor
150 except for official misconduct, incompetence, neglect of duty
151 or gross immorality and then only in the manner prescribed by law
152 for the removal of the state elective officers by the Governor.
(o) The president of the institution shall make available resources of the institution for conducting the business of its board of governors. The members of the board of governors serve without compensation, but are reimbursed for all reasonable and necessary expenses actually incurred in the performance of official duties under this article upon presentation of an itemized sworn statement of expenses. All expenses incurred by the board of governors and the institution under this section are paid from funds allocated to the institution for that purpose.

ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.

§18B-3C-13. Legislative intent; Pierpont Community and Technical College established as independent state institution of higher education; governing board; institutional organization, structure, accreditation status.

(a) The intent of the Legislature in enacting this section is to provide for the most effective education delivery system for community and technical education programs to the entire region to be served by Pierpont Community and Technical College and to focus the institutional mission on achieving state goals, objectives, priorities, and essential conditions as established in articles one, one-d, and three-c of this chapter.

(b) Pierpont Community and Technical College is established as an independent state institution of higher education. Any reference in this code to Fairmont State Community and Technical College or to Pierpont Community and Technical College, a division of Fairmont State University, means the independent state institution of higher education known as Pierpont Community and Technical College.
(c) Effective the first day of July, two thousand eight, the board of advisors for Pierpont Community and Technical College is abolished and a governing board for that institution is appointed subject to the provisions of article two-a of this chapter. The administrative head of Pierpont Community and Technical College on the thirtieth day of June, two thousand eight, is the president of the independent community and technical college subject to the provisions of section five of this article.

(d) In the delivery of community and technical college education and programs, Pierpont Community and Technical College shall adhere to all provisions set forth in this code and rules promulgated by the Council for the delivery of education and programs, including, but not limited to, Council review and approval of academic programs, institutional compacts, master plans and tuition and fee rates, including capital fees.

(e) Pierpont Community and Technical College shall pursue independent accreditation status and the board of governors of the community and technical college shall provide through contractual arrangement for the administration and operation of Pierpont Community and Technical College by Fairmont State University while the community and technical college seeks appropriate independent accreditation. The contractual arrangement may not be implemented until approved by the Council and shall include provisions to ensure that the programs offered at Pierpont Community and Technical College are accredited while independent accreditation is being sought. Fairmont State University shall continue to provide services to the community and technical college which the community and technical college or the Council considers necessary or expedient in carrying out its mission under the terms of an agreement between the two institutions pursuant to the provisions of section twelve of this article.
(f) The Council has the authority and the duty to take all steps necessary to assure that the institution acquires independent accreditation status as quickly as possible. If the community and technical college fails to achieve independent accreditation by the first day of July, two thousand eleven, the Council shall sever any contractual agreement between Pierpont Community and Technical College and Fairmont State University and assign the responsibility for achieving independent accreditation to another state institution of higher education.
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.

In effect June 30, 2008.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 1st day of April, 2008.

Governor