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ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 200

(Senators Kessler (Acting President), McCabe, Stollings, Plymale, Prezioso, Yost and Klempa, original sponsors)

[Passed February 8, 2011; in effect from passage.]
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[Passed February 8, 2011; in effect from passage.]

AN ACT to amend and reenact §18B-1-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-2A-1 of said code, all relating to correcting names of certain state institutions of higher education.

Be it enacted by the Legislature of West Virginia:

That §18B-1-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §18B-2A-1 of said code 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 have the meanings ascribed to them unless the context clearly indicates a different meaning:

4 (a) "Governing boards" or "boards" means the institutional boards of governors created pursuant to section one, article two-a of this chapter;
(b) "Free-standing community and technical colleges" means Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, and Eastern West Virginia Community and Technical College, which may not be operated as branches or off-campus locations of any other state institution of higher education;

(c) "Community and technical college", in the singular or plural, means the free-standing community and technical colleges and other state institutions of higher education which deliver community and technical college education. This definition includes Blue Ridge Community and Technical College, Bridgemont Community and Technical College, Eastern West Virginia Community and Technical College, Kanawha Valley Community and Technical College, Mountwest Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, and West Virginia University at Parkersburg;

(d) "Community and technical college education" means the programs, faculty, administration and funding associated with the delivery of community and technical college education programs;

(e) "Essential conditions" means those conditions which shall be met by community and technical colleges as provided in section three, article three-c of this chapter;

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

(g) "Higher Education Policy Commission", "Policy Commission" or "Commission" means the commission created pursuant to section one, article one-b of this chapter;

(h) "Chancellor for Higher Education" means the chief executive officer of the Higher Education Policy Commission
employed pursuant to section five, article one-b of this chapter;

(i) "Chancellor for Community and Technical College Education" means the chief executive officer of the West Virginia Council for Community and Technical College Education employed pursuant to section three, article two-b of this chapter;

(j) "Chancellor" means the Chancellor for Higher Education where the context refers to a function of the Higher Education Policy Commission. "Chancellor" means Chancellor for Community and Technical College Education where the context refers to a function of the West Virginia Council for Community and Technical College Education;

(k) "Institutional operating budget" or "operating budget" means for any fiscal year an institution's total unrestricted education and general funding from all sources in the prior fiscal year, including, but not limited to, tuition and fees and legislative appropriation, and any adjustments to that funding as approved by the Commission or Council based on comparisons with peer institutions or to reflect consistent components of peer operating budgets;

(l) "Community and technical college education program" means any college-level course or program beyond the high school level provided through a public institution of higher education resulting in or which may result in a two-year associate degree award including an associate of arts, an associate of science and an associate of applied science; certificate programs and skill sets; developmental education; continuing education; collegiate credit and noncredit workforce development programs; and transfer and baccalaureate parallel programs. All programs are under the jurisdiction of the Council. Any reference to "post-secondary vocational education programs" means community and technical college education programs as defined in this subsection;

(m) "Rule" or "rules" means a regulation, standard, policy or interpretation of general application and future effect;
(n) "Vice Chancellor for Administration" means the person employed in accordance with section two, article four of this chapter. Any reference in this chapter or chapter eighteen-c of this code to "Senior Administrator" means Vice Chancellor for Administration;

(o) "State college" means Bluefield State College, Concord University, Fairmont State University, Glenville State College, Shepherd University, West Liberty University or West Virginia State University;

(p) "State institution of higher education" means any university, college or community and technical college under the jurisdiction of a governing board as that term is defined in this section;

(q) "Board of visitors" means the advisory board previously appointed for the West Virginia Graduate College and the advisory board previously appointed for West Virginia University Institute of Technology, which provide guidance to the Marshall University Graduate College and West Virginia University Institute of Technology, respectively;

(r) "Institutional compact" means the compact between the Commission or Council and a state institution of higher education under its jurisdiction, as described in section six, article one-d of this chapter;

(s) "Peer institutions", "peer group" or "peers" means public institutions of higher education used for comparison purposes and selected by the Commission pursuant to section three, article one-a of this chapter;

(t) "Administratively linked community and technical college" means a state institution of higher education delivering community and technical college education and programs which has maintained a contractual agreement to receive essential services from another accredited state institution of higher education prior to July 1, 2008;

(u) "Sponsoring institution" means a state institution of higher education that maintained an administrative link to
a community and technical college providing essential services prior to July 1, 2008. This definition includes institutions whose governing boards had under their jurisdiction a community and technical college, regional campus or a division delivering community and technical college education and programs;

(v) "Collaboration" means entering into an agreement with one or more providers of education services in order to enhance the scope, quality or efficiency of education services;

(w) "Broker" or "brokering" means serving as an agent on behalf of students, employers, communities or responsibility areas to obtain education services not offered at that institution. These services include courses, degree programs or other services contracted through an agreement with a provider of education services either in-state or out-of-state;

(x) "Council" means the West Virginia Council for Community and Technical College Education created pursuant to article two-b of this chapter;

(y) "West Virginia Consortium for Undergraduate Research and Engineering" or "West Virginia CURE" means the collaborative planning group established pursuant to article one-c of this chapter;

(z) "Advanced technology center" means a facility established under the direction of an independent community and technical college for the purpose of implementing and delivering education and training programs for high-skill, high-performance Twenty-first Century workplaces;

(aa) "Statewide network of independently accredited community and technical colleges" or "community and technical college network" means the state institutions of higher education under the jurisdiction of the West Virginia Council for Community and Technical College Education which are independently accredited, each governed by its own independent governing board, and each having a core
mission of providing affordable access to and delivering high
quality community and technical education in every region
of the state;

(bb) "Independent community and technical college”
means a state institution of higher education under the
jurisdiction of the Council which is independently accred-
ited, is governed by its own independent governing board,
and may not be operated as a branch or off-campus location
of any other state institution of higher education. This
definition includes Blue Ridge Community and Technical
College, Bridgemont Community and Technical College,
Eastern West Virginia Community and Technical College,
Kanawha Valley Community and Technical College,
Mountwest Community and Technical College, New River
Community and Technical College, Pierpont Community and
Technical College, Southern West Virginia Community and
Technical College, West Virginia Northern Community and
Technical College, and West Virginia University at
Parkersburg; and

(cc) "Dual credit course” or “dual enrollment course”
means a credit-bearing college-level course offered in a high
school by a state institution of higher education for high
school students in which the students are concurrently
enrolled and receiving credit at the secondary level.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

§18B-2A-1. Findings; composition of boards; terms and qualifica-
tions of members; vacancies; eligibility for reappoin-
tment.

(a) Findings. —

The Legislature finds that the State of West Virginia is
served best when the membership of each governing board
includes the following:

(1) The academic expertise and institutional experience of
faculty members and a student of the institution governed by
the board;
(2) The technical or professional expertise and institutional experience of a classified employee of the institution governed by the board;

(3) An awareness and understanding of the issues facing the institution governed by the board; and

(4) The diverse perspectives that arise from a membership that is balanced in terms of gender and varied in terms of race and ethnic heritage.

(b) Boards of Governors established. —

A Board of Governors is continued at each of the following institutions: Bluefield State College, Blue Ridge Community and Technical College, Bridgemont Community and Technical College, Concord University, Eastern West Virginia Community and Technical College, Fairmont State University, Glenville State College, Kanawha Valley Community and Technical College, Mountwest Community and Technical College, Marshall University, New River Community and Technical College, Pierpont Community and Technical College, Shepherd University, Southern West Virginia Community and Technical College, West Liberty University, West Virginia Northern Community and Technical College, the West Virginia School of Osteopathic Medicine, West Virginia State University, West Virginia University and West Virginia University at Parkersburg.

(c) Board Membership. —

(1) 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.

(2) The board of governors for Marshall University consists of sixteen persons. The board of governors for West Virginia University consists of seventeen persons. The boards of governors of the other state institutions of higher education consist of twelve persons.
(3) Each board of governors includes the following members:

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

(B) 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; and

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

(4) For the 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 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:

(A) The chairperson of the board of visitors of West Virginia University Institute of Technology;

(B) A full-time faculty member representing the extension service at the institution or a full-time faculty member representing the health sciences, selected by the faculty senate. (6) For each 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.

(A) 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.

(B) Of the nine members appointed by the Governor, at least five 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 seven shall be residents of the state.

(7) In making lay appointments, the Governor shall consider the institutional mission and membership characteristics including the following:

(A) The need for individual skills, knowledge and experience relevant to governing the institution;

(B) The need for awareness and understanding of institutional problems and priorities, including those related to research, teaching and outreach;

(C) The value of gender, racial and ethnic diversity; and

(D) The value of achieving balance in gender and diversity in the racial and ethnic characteristics of the lay membership of each board.

(d) Board member terms.

(1) The student member serves for a term of one year. Each term begins on July 1.

(2) The faculty member serves for a term of two years. Each term begins on July 1. Faculty members are eligible to succeed themselves for three additional terms, not to exceed a total of eight consecutive years.

(3) The member representing classified employees serves for a term of two years. Each term begins on July 1. Members representing classified employees are eligible to succeed themselves for three additional terms, not to exceed a total of eight consecutive years.
(4) 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.

(5) 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 are held and all appointments are made no later than June 30 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. A member may not serve as chairperson for more than four consecutive years.

(6) The appointed members of the 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 that became independent July 1, 2008, are for terms of two years and five of the initial appointments are for terms of four years.

(e) Board member eligibility, expenses.

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

(A) 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 council or commission. This subsection does not prevent the representative from the faculty, classified employees,
145 students or the superintendent of a county board of educa-
146 tion from being members of the governing boards.

147 (B) For a community and technical college, a person is
148 ineligible for appointment who is an officer, employee or
149 member of any other board of governors; a member of a
150 board of visitors of any public institution of higher educa-
151 tion; an employee of any institution of higher education; an
152 officer or member of any political party executive committee;
153 the holder of any other public office, other than an elected
154 county office, or public employment, other than employment
155 by the county board of education, under the government of
156 this state or any of its political subdivisions; an employee of
157 any affiliated research corporation created pursuant to
158 article twelve of this chapter; an employee of any affiliated
159 foundation organized and operated in support of one or more
160 state institutions of higher education; or a member of the
161 council or commission. This subsection does not prevent the
162 representative from the faculty, classified employees or
163 students from being members of the governing boards.

164 (2) Before exercising any authority or performing any
165 duties as a member of a governing board, each member shall
166 qualify as such by taking and subscribing to the oath of
167 office prescribed by section five, article IV of the Constitu-
168 tion of West Virginia and the certificate thereof shall be filed
169 with the Secretary of State.

170 (3) A member of a governing board appointed by the
171 Governor may not be removed from office by the Governor
172 except for official misconduct, incompetence, neglect of duty
173 or gross immorality and then only in the manner prescribed
174 by law for the removal of the state elective officers by the
175 Governor.

176 (4) The members of the board of governors serve without
177 compensation, but are reimbursed for all reasonable and
178 necessary expenses actually incurred in the performance of
179 official duties under this article upon presentation of an
180 itemized sworn statement of expenses.
(5) The president of the institution shall make available resources of the institution for conducting the business of its board of governors. 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]
Chairman Senate Committee
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signatures]
Clerk of the Senate
Clerk of the House of Delegates

[Signatures]
Acting President of the Senate
Speaker of the House of Delegates

The within is approved this the 18th Day of ........., 2011.

[Signature]
Governor