WEST VIRGINIA LEGISLATURE
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ENROLLED

COMMITTEE SUBSTITUTE FOR

Senate Bill No. 438
(SENATORS PLYMALE, WELLS AND MCCABE, ORIGINAL SPONSORS)

[passed April 13, 2013; in effect from passage.]
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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18B-3F-1, §18B-3F-2, §18B-3F-3, §18B-3F-4, §18B-3F-5, §18B-3F-6, §18B-3F-7, §18B-3F-8, §18B-3F-9 and §18B-3F-10, all relating to reorganization and consolidation of Bridgemont Community and Technical College and Kanawha Valley Community and Technical College; creating an independent, multicampus community and technical college on June 30, 2013; abolishing certain boards of governors and providing for appointment of a new board of governors; setting forth legislative findings; providing definitions; requiring development of a strategic reorganization plan; establishing an administrative planning committee; providing for committee membership, powers, duties and termination date; appointing president and other officers; specifying certain duties; providing for transfer of assets and liabilities, operating budgets, orders, rules and procedures; providing for the transfer of faculty, classified employees and nonclassified employees; providing for employee rights and benefits when positions are abolished; requiring notification of employment status by
certain date under certain circumstances; and providing for the transfer of students.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §18B-3F-1, §18B-3F-2, §18B-3F-3, §18B-3F-4, §18B-3F-5, §18B-3F-6, §18B-3F-7, §18B-3F-8, §18B-3F-9 and §18B-3F-10, all to read as follows:

ARTICLE 3F. REORGANIZATION OF COMMUNITY AND TECHNICAL COLLEGES.

§18B-3F-1. Legislative findings.

(a) The Legislature finds that while certain areas of the state currently lack a sufficient population or employer base to support an independent community and technical college, it is vital to the citizens and businesses of these areas to have access to comprehensive, high-quality community and technical education programs and services that are well articulated with the public schools, baccalaureate institutions and other community and technical colleges; that make the most efficient and effective use of facilities, faculty, staff, equipment and other available resources; that encourage students of all ages, ability levels and economic circumstances to pursue a lifetime of learning; that serve as engines of economic development; and that have the ability to adapt quickly to changing needs for workforce training.

(b) The Legislature further finds that a critical need exists to enhance the role of technical education in every area of the state; to encourage and strengthen collaborative and cooperative relationships between and among institutions in order to provide the highest quality programs and services most effectively; and to make the most efficient use of scarce
resources while avoiding, to the extent practicable, duplication of administrative and programmatic costs. Establishment of multicampus institutions provides an excellent opportunity to implement more effective and efficient systems of program delivery and to explore alternative organizational and management structures best suited to serving the needs of students, employers and the citizens of a geographic region. Reorganization offers an efficient and effective method to provide high-quality, comprehensive community and technical education in an area where two institutions serve the same community and technical college district or population center. Creating a consolidated multicampus institution will enhance the delivery of comprehensive community and technical college education to that entire geographical region.

§18B-3F-2. Definitions.

(a) General. — For the purposes of this article, terms have the meaning ascribed to them in section two, article one of this chapter, unless the context in which the term is used clearly requires a different meaning or a specific definition is provided in this section.

(b) Definitions. —

(1) “Administrative planning committee” or “planning committee” means the advisory group established pursuant to section seven of this article to advise the governing board of the reorganized multicampus community and technical college and to serve as liaison to the council.

(2) “Affected institution” means a community and technical college which is included in a reorganization.
(3) "Chancellor" means the chief executive officer of the council appointed pursuant to section three, article two-b of this chapter.

(4) "Consolidated institution" means a community and technical college formed by joining together two or more institutions to create a new multicampus college or integrating one or more institutions into an existing institution to form one multicampus college. An institution that is included in a consolidation or integrated into an existing institution ceases to exist as an independent institution of higher education.

(5) "Institution" means any community and technical college under the jurisdiction of the council.

(6) "Multicampus institution" means a college that has more than one campus as defined and approved by the Higher Learning Commission of the North Central Association of Schools and Colleges. In the case of the consolidation of Bridgemont Community and Technical College and Kanawha Valley Community and Technical College, "multicampus institution" means the consolidated institution comprised of existing campuses in Montgomery and South Charleston and any other campuses that may be established in the future, in accordance with the Higher Learning Commission standards of accreditation.

(7) "Institutional reorganization" or "reorganization" means the process of combining institutions to form a consolidated community and technical college or integrating one institution into another.

(8) "Strategic reorganization plan" or "plan" means the document developed in accordance with section eight of this
article consisting of strategies, procedures and guidelines to be used in implementing an institutional reorganization.

§18B-3F-3. Appointment of institutional board of governors.

(a) Effective June 30, 2013, Bridgemont Community and Technical College and Kanawha Valley Community and Technical College become one independent, multicampus community and technical college administered by its own governing board under the jurisdiction and authority of the council and subject to all applicable provisions of this chapter and chapter eighteen-c of this code, and to continued fulfillment of institutional accreditation requirements. The boards of governors of Bridgemont Community and Technical College and Kanawha Valley Community and Technical College are abolished on June 30, 2013.

(1) The consolidated institution is comprised of existing campuses in Montgomery and South Charleston and any other campuses that may be established in the future, in accordance with the Higher Learning Commission standards of accreditation.

(2) The board of governors of the consolidated institution shall develop, implement and complete the reorganization by July 1, 2014.

(3) Beginning on July 1, 2013, and thereafter, any reference in this code to Bridgemont Community and Technical College or Kanawha Valley Community and Technical College means the multicampus institution created pursuant to this article.

(b) Initial appointments to the board of governors of the reorganized institution are made pursuant to the provisions of section one, article two-a of this chapter, except as follows:
(1) As soon after the effective date of this article as practicable, but before July 1, 2013, the Governor shall select lay citizen members of the board of governors for the consolidated institution from the former lay citizen members of each of the boards of governors of the affected institutions. The Governor shall appoint an equal number of lay citizen members from each of the boards of the affected institutions. One such member serves a one-year term only, after which that membership position is not reappointed.

(2) One of the initial appointments is for a term of one year, four of the initial appointments are for terms of four years and five of the initial appointments are for terms of three years.

(3) Until June 30, 2014, all of the constituent members of the boards of governors of the affected institutions representing faculty, classified employees and students serve as members on the board of governors of the reorganized institution. Beginning July 1, 2014, the constituent members of the reorganized institution are appointed according to the provisions of section one, article two-a of this chapter.

(c) At the end of each initial term, and thereafter, an appointment to the board of governors of the consolidated institution, either to fill a vacancy or to reappoint a member who is eligible to serve an additional term, shall be made in accordance with section one, article two-a of this chapter.

(d) The chancellor shall call the first meeting of the board of governors as soon after June 30, 2013, as feasible, at which time the members shall elect a chairperson and other officers pursuant to article two-a of this chapter. Thereafter, the board shall hold an annual meeting in June of each year for the purpose of electing officers.
§18B-3F-4. Powers and duties of board of governors.

(a) The actions of the board of governors appointed pursuant to section three of this article are subject to the terms and conditions prescribed in article two-a of this chapter. The board has all the powers and duties provided in section four, article two-a of this chapter.

(b) The programs of the consolidated institution are operated under the rules and procedures of the institution’s board of governors, which, initially, shall adopt rules from one or both of the affected institutions until the time when new or revised rules are proposed and approved pursuant to section six, article one of this chapter.

(1) The administrative planning committee shall make recommendations to the board of governors regarding which of the rules of the affected institutions should be adopted.

(2) Nothing in this section requires the initial rules of the board of governors to be promulgated again under the rule adopted by the council for community and technical college education pursuant to section six, article one of this chapter unless the rules are rescinded, revised, amended or otherwise altered.

(c) It is the duty of the board of governors of the consolidated institution to adopt rules and procedures that authorize, support and encourage the consolidated institution to fulfill its core mission. It is further the specific duty of the board of governors to facilitate delivery of a comprehensive program of community and technical college education in all the counties that are served by the multicampus consolidated institution. To that end, the board shall expend from the appropriations allocated to the affected institutions such funds as are necessary or expedient to operate and conduct
programs, to acquire clear title to any real property and to make necessary capital improvements.

(d) In addition to the powers and duties set forth in this section and in article two-a of this chapter, the board of governors shall perform the following duties:

(1) Choose a name for the consolidated multicampus institution from the recommendations submitted by the Administrative Planning Committee pursuant to section seven of this article.

(2) Choose the president of one of the affected institutions to serve as president of the consolidated institution pursuant to section five of this article;

(3) Determine which positions of the affected institutions are to be abolished and notify employees as required by section nine of this article; and

(4) Serve as the designated board of advisors for the Advantage Valley Advanced Technology Center created by section fourteen, article three-c of this chapter.

§18B-3F-5. Appointment of institutional president; other officers.

(a) The board of governors shall designate the president of one of the affected institutions to serve as president of the consolidated multicampus institution. The other president shall serve as provost or chief executive officer of his or her respective campus. The salary and benefits of an individual who is serving as an institutional president at the time of a reorganization may not be reduced solely as a result of the reorganization. Provosts and chief executive officers report directly to the president of the consolidated institution.
(b) After the initial contract period ends or at the
expiration of a president's current contract, the board of
governors of the consolidated multicampus institution shall
appoint and evaluate the president in accordance with section
six, article one-b of this chapter.

§18B-3F-6. Budget; transfer of financial assets, property,
liability, orders, policies, procedures, etc.

When a consolidated institution is formed:

(1) The operating budget of each affected institution is
integrated under the authority and jurisdiction of the board of
governors of the consolidated institution.

(2) All financial assets, including state fund balances, and
liabilities are transferred from the authority of the board of
governors of each affected institution to the authority of the
board of governors of the consolidated institution.

(3) Any capital debt service payment formerly the
responsibility of an affected institution or the affected
institution's share of any capital debt service payment of its
former sponsoring institution continues in the required
amount and is the responsibility of the board of governors of
the consolidated institution.

(4) The titles to all real property, facilities and equipment
of, as well as each valid agreement and obligation undertaken
by, the affected institutions are transferred to the board of
governors of the consolidated institution, which shall exercise
general determination, control, supervision and management
of the financial, business and education policies and affairs of
the consolidated multicampus institution.
§18B-JF-7. Administrative planning committee; purpose; membership; duties; termination.

(a) On the effective date of this article, or as soon thereafter as practicable, the council shall establish an administrative planning committee to advise in the reorganization of Bridgemont and Kanawha Valley Community and Technical Colleges.

(b) Membership. — The administrative planning committee consists of the following members:

(1) The president of each affected institution;

(2) The chair of the board of governors of each affected institution;

(3) The chair of the council;

(4) The vice chancellor for administration, appointed pursuant to section two, article four of this chapter, or a designee; and

(5) The chancellor, who chairs the planning committee.

(c) The administrative planning committee serves in an advisory capacity to the board of governors in developing the strategic reorganization plan and serves as liaison to the council during the reorganization period.

(d) The administrative planning committee shall submit to the board of governors a list of at least three names from
which the board shall choose a name for the consolidated, multicampus community and technical college at their first meeting as soon after June 30, 2013, as feasible.

(e) The planning committee shall report to the council at least quarterly, or more often if requested, on development of the strategic reorganization plan and the progress of the board of governors in implementing the reorganization.

(f) The administrative planning committee is created specifically to assist in the reorganization of Bridgemont and Kanawha Valley Community and Technical Colleges and ceases to exist on July 1, 2014, or on the date when the council determines the reorganization has been completed, whichever occurs first.

§18B-3F-8. Strategic reorganization plan.

(a) The board of governors, with the advice of the administrative planning committee, shall develop a strategic reorganization plan for Bridgemont and Kanawha Valley Community and Technical Colleges, including all campuses and instruction sites of each institution. The board of governors shall develop, implement and complete the reorganization by July 1, 2014.

(b) The reorganization plan includes, but is not limited to, the following elements:

(1) A time line showing specific steps for completing the reorganization by July 1, 2014;

(2) A procedure to assure that all employees of the affected institutions are notified of their employment status pursuant to section nine of this article;
(3) A statement of assurance showing specific steps to be taken to safeguard the rights, privileges and benefits of faculty, classified employees and nonclassified employees of the affected institutions including provisions for fulfilling contracts and protecting earned benefits;

(4) A description of the instructional benefits expected from the reorganization including a detailed explanation of enhancements to academic program offerings, workforce development programs for employers and services to students;

(5) A description of the fiscal benefits expected from the reorganization including a detailed explanation of management efficiencies, enhanced leadership skills, better coordination of instruction and student support services and efficiencies in expenditures per full-time equivalent student;

(6) A statement of assurance that student access to high-quality education programming will be enhanced and/or maintained; and

(7) A strategy to secure regional accreditation of the reorganized institution by July 1, 2014.

§18B-3F-9. Rights and benefits of employees of affected institutions; positions to be abolished; notice of employment status by certain date required.

(a) When a consolidated institution is formed, the faculty, classified employees and nonclassified employees of the affected institutions become the faculty, classified employees and nonclassified employees of the consolidated institution, subject to the provisions of this article.
(b) By December 31, 2013, the board of governors of the consolidated institution, in consultation with the president, shall determine which, if any, positions existing at the affected institutions on the effective date of this article are to be abolished.

(1) In the case of positions which the board chooses to retain, but which exist at both affected institutions, when there is an overlap of duties and responsibilities of employees who occupy those positions, the board of governors, in consultation with the president, shall determine which position or positions shall be abolished.

(2) A classified employee who holds a position scheduled to be abolished is afforded all rights and benefits provided by this article and by section three, article seven of this chapter.

(c) Official notification to employees. –

(1) The president shall provide official notice of employment status to each classified employee, faculty member and nonclassified employee of the affected institutions not later than thirty days after the board’s decision. For an employee whose position is to be abolished, the official notice shall specify his or her date of termination. The termination date shall be within three to six months following the date of official notification.

(2) Any person who was employed full time by an affected institution on the effective date of this article and whose employment continues in any capacity with the board of governors of the consolidated institution is considered to have no break in service for calculation of years of service, seniority, participation in health and retirement plans or continued employment by the state.
(3) The board of governors, created pursuant to this article, is an organization as defined in section two, article nine-a of this chapter and is subject to all the terms and conditions that apply to higher education organizations as provided in this chapter and chapter eighteen-c of this code. Specifically, the board is subject to section three, article seven, of this chapter when making reductions in force of classified employees.

§18B-3F-10. Transfer of students.

When a consolidated institution is formed, the students of the affected institutions become the students of the consolidated institution, subject to the provisions of section eight, article one of this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Originated in the Senate.

In effect from passage.

The within bill is approved this the 2nd Day of [Month], 2013.
PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 1:50 pm