WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014

ENROLLED

Senate Bill No. 426

(BY SENATOR PLYMALE)

[Passed March 8, 2014; in effect from passage.]
AN ACT to amend and reenact §18B-1B-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-2A-1 of said code; and to amend and reenact §18B-2B-4 of said code, all relating to higher education; appointment of members to the Higher Education Policy Commission; appointment of members to the institutional boards of Governors; and appointment of members to the West Virginia Council for Community and Technical College Education.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-2. Composition of commission; terms and qualifications of members; vacancies; eligibility for reappointment; oath of office; removal from office.
The commission is comprised of ten members, all of whom are entitled to vote. The membership of the commission is as follows:

1. The Secretary of Education and the Arts, ex officio;
2. The State Superintendent of Schools, ex officio;
3. The chair of the West Virginia Council for Community and Technical College Education, ex officio; and
4. Seven at-large members who are citizens of the state, appointed by the Governor, by and with the advice and consent of the Senate: Provided, That prior to appointment, the Governor shall interview each candidate to assure that the person selected understands and is committed to achieving the goals and objectives as set forth in the institutional compacts and in section one-a, article one of this chapter. The Governor shall invite the President of the Senate, the Speaker of the House of Delegates, the chairs of the Senate and House of Delegates committees on finance and education and such other legislative leaders as the Governor may determine to participate in interviewing potential candidates.

(b) Each of the at-large members appointed by the Governor shall represent the public interest and shall be committed to the legislative intent and goals set forth in state law and policy.

(c) The Governor may not appoint any person to be a member of the commission who is an officer, employee or member of the council or an advisory board of any state college or university; 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 appointee or
employee of any governing board; or an immediate family
member of any employee under the jurisdiction of the
commission, the council or any governing board.

(d) Of the seven at-large members appointed by the
Governor:

(1) No more than four may belong to the same political
party;

(2) At least two shall be appointed from each
congressional district; and

(3) No more than one member may serve from the same
county.

(e) The at-large members appointed by the Governor
serve overlapping terms of four years.

(f) The Governor shall appoint a member to fill any
vacancy among the seven at-large members, by and with the
advice and consent of the Senate. Any member appointed to
fill a vacancy serves for the remainder of the unexpired term.
The Governor shall fill the vacancy within sixty days of the
occurrence of the vacancy.

(g) An at-large member appointed by the Governor may
not serve more than two consecutive terms. If the Governor
intends to reappoint an at-large member for a second term,
the Governor shall do so within thirty days prior to expiration
of the term. If the Governor does not reappoint within the
thirty-day period, the term is deemed expired, effective on the
scheduled expiration date.

(h) Upon expiration of an at-large member’s term, the
Governor shall appoint a successor within sixty days of the
end of term. An at-large member whose term has expired may not serve more than sixty days following expiration of the term.

(i) Before exercising any authority or performing any duties as a member of the commission, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article IV of the Constitution of West Virginia and the certificate thereof shall be filed with the Secretary of State.

(j) A member of the commission appointed by the Governor may not be removed from office by the Governor except for official misconduct, incompetence, neglect of duty or gross immorality and then only in the manner prescribed by law for the removal of the state elective officers by the Governor.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

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

(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 continued. – A Board of Governors is continued at each of the following institutions: Bluefield State College, Blue Ridge Community and Technical College, BridgeValley Community and Technical College, Concord University, Eastern West Virginia Community and Technical College, Fairmont State University, Glenville State 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, 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.
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;

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;

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.

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 four years each and are eligible to succeed themselves for no more than one additional term, except that citizen members who are appointed to fill unexpired terms are eligible to succeed themselves for two full terms after completing an unexpired term. If the Governor intends to reappoint a lay citizen member for a second term, the Governor shall do so within thirty days prior to expiration of the term. If the Governor does not reappoint within the thirty-day period, the term is deemed expired, effective on the scheduled expiration date.

(5) A vacancy in an unexpired term of a member shall be filled for the unexpired term within sixty 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. A member whose term has expired may not serve more than sixty days following expiration 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.

(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,
students or the superintendent of a county board of education
from being members of the governing boards.

(B) For a community and technical college, a person is
ineligible for appointment who is an officer, employee or
member of any other board of governors; a member of a
board of visitors of any public institution of higher education;
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, other than an elected county
office, or public employment, other than employment by the
county board of education, 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 or students from being members of the governing boards.

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

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

(4) 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.

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

§18B-2B-4. Appointment, composition and terms of council.

(a) The council is comprised of thirteen members selected as follows:

1. Eight members appointed by the Governor, with the advice and consent of the Senate as follows:
   
   (A) One member shall be appointed from each community and technical college consortia district as established in this article.

   (B) Prior to appointment, the Governor shall interview each candidate to assure that the person selected understands and is committed to achieving the goals and objectives as set forth in the institutional compacts and in section one-a, article one of this chapter. The Governor shall invite the President of the Senate, the Speaker of the House of Delegates, the chairs of the Senate and House of Delegates committees on finance and education and such other legislative leaders as the Governor may determine to participate in interviewing potential candidates.

2. The Chairperson of the West Virginia Workforce Investment Council;

3. The Executive Director of the West Virginia Development Office, or designee;

4. The President of the West Virginia AFL-CIO, or a designee;
(5) The Chair of the Higher Education Policy Commission who serves as an ex officio, nonvoting member of the council; and

(6) The Assistant Superintendent for Technical and Adult Education of the State Department of Education who serves as an ex officio, nonvoting member of the council;

(b) Any appointed member shall be a citizen of the state, shall represent the public interest and shall understand and be committed to the legislative intent and achieving the goals and objectives set forth in section one-a, article one of this chapter, the essential conditions set forth in article three-c of this chapter, and the goals for secondary and post-secondary vocational-technical- occupational and adult basic education in the state. Any appointed member shall represent the interests of the business, labor and employer communities and demonstrate knowledge of the education needs of the various regions, attainment levels and age groups within the state.

(c) The Governor may not appoint any person to be a member of the council who is an officer, employee or member of an advisory board of any state college or university, the holder of any other public office or public employment under the government of this state or any of its political subdivisions, an appointee or employee of any governing board or an immediate family member of any employee under the jurisdiction of the commission or any governing board. An individual may not serve on the council who is engaged in providing, or employed by a person or company whose primary function is to provide, workforce development services and activities.

(d) Members of the council serve for staggered terms of four years.
(e) A member appointed by the Governor may not serve more than two consecutive terms. If the Governor intends to reappoint a member for a second term, the Governor shall do so within thirty days prior to expiration of the term. If the Governor does not reappoint within the thirty-day period, the term is deemed expired, effective on the scheduled expiration date.

(f) Upon expiration of an appointed member's term, the Governor shall appoint a successor within sixty days of the end of the term. An appointed member whose term has expired may not serve more than sixty days following expiration of the term.

(g) The Governor shall appoint a member to fill any vacancy among the eight appointed members, by and with the advice and consent of the Senate. Any member appointed to fill a vacancy serves for the remainder of the unexpired term. The Governor shall fill the vacancy within sixty days of the occurrence of the vacancy.
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 of the House of Delegates

The within ............... this

the ..................... Day of .............., 2014.

Governor
PRESENTED TO THE GOVERNOR

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