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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



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Committee Substitute for Committee Substitute for
SENATE BILL NO. 67

(By Senators Tomblin, Mr. President, and Buckalew,
By Request of the Executive)



PASSED April 4, 1997

In Effect July 1, 1997 Passage

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Senate Bill No. 67

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

[Passed April 4, 1997; to take effect July 1, 1997.]

AN ACT to repeal section four, article two, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections two and eight-b, article one of said chapter; and to amend and reenact sections two, three and four, article six of said chapter, all relating to restructuring the Marshall university graduate school and the West Virginia graduate college into the Marshall university graduate college; providing definitions; repealing the establishment of the West Virginia graduate college; providing for the adoption and review of policies, procedures, programs, standards and the appointment of a head of the graduate college; providing legislative intent with respect to impact on fund

allocations and strategic plans; and providing for election of members to advisory councils of students, faculty and classified staff and to governing body from advisory councils of faculty, students and classified staff by the graduate college and by the regional campuses of West Virginia university.

Be it enacted by the Legislature of West Virginia:

That section four, article two, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections two and eight-b, article one of said chapter be amended and reenacted; and that sections two, three and four, article six of said chapter be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
2 chapter eighteen-c of this code shall have the meaning
3 hereinafter ascribed to them unless the context clearly
4 indicates a different meaning:

5 (a) "Governing board" or "board" means the university
6 of West Virginia board of trustees or the board of directors
7 of the state college system, whichever is applicable within
8 the context of the institution or institutions referred to in
9 this chapter or in other provisions of law;

10 (b) "Governing boards" or "boards" means both the
11 board of trustees and the board of directors;

12 (c) "Freestanding community colleges" means southern
13 West Virginia community and technical college and West
14 Virginia northern community and technical college, which
15 shall not be operated as branches or off-campus locations
16 of any other state institution of higher education;

17 (d) "Community college" or "community colleges"
18 means community and technical college or colleges as
19 those terms are defined in this section;

20 (e) "Community and technical college", in the singular
21 or plural, means the freestanding community and techni-
22 cal colleges, community and technical education programs

23 of regional campuses of West Virginia university and
24 divisions of state institutions of higher education which
25 have a defined community and technical college district
26 and offer community and technical college education in
27 accordance with the provisions of section three-a, article
28 three of this chapter;

29 (f) "Community and technical college education" means
30 the programs, faculty, administration and funding associ-
31 ated with the mission of community and technical colleges
32 as provided in section three-a, article three of this chapter,
33 and also shall include post-secondary vocational educa-
34 tion programs in the state as those terms are defined in
35 this section. Community and technical college education
36 shall be delivered through a system which includes eleven
37 community and technical college districts assigned to state
38 institutions of higher education under the jurisdiction of
39 the board of directors and the board of trustees, respec-
40 tively;

41 (g) "Directors" or "board of directors" means the board
42 of directors of the state college system created pursuant to
43 article three of this chapter or the members thereof;

44 (h) "Higher educational institution" means any institu-
45 tion as defined by Sections 401(f), (g) and (h) of the federal
46 Higher Education Facilities Act of 1963, as amended;

47 (i) "Post-secondary vocational education programs"
48 means any college-level course or program beyond the
49 high school level provided through an institution of higher
50 education which results in or may result in the awarding
51 of a two-year associate degree, under the jurisdiction of
52 the board of directors;

53 (j) "Rule" or "rules" means a regulation, standard,
54 policy or interpretation of general application and future
55 effect;

56 (k) "Senior administrator" means the person hired by
57 the governing boards in accordance with section one,
58 article four of this chapter, with powers and duties as may
59 be provided for in section two of said article;

60 (l) "State college" means Bluefield state college, Con-

61 cord college, Fairmont state college, Glenville state
62 college, Shepherd college, West Liberty state college or
63 West Virginia state college;

64 (m) "State college system" means the state colleges and
65 community and technical colleges, and also shall include
66 post-secondary vocational education programs in the state
67 as those terms are defined in this section;

68 (n) "State college system community and technical
69 colleges" means the freestanding community and technical
70 colleges and community and technical colleges operated
71 on the campuses of state colleges under the jurisdiction of
72 the board of directors of the state college system and all of
73 their associated branches, centers and off-campus loca-
74 tions;

75 (o) "State institution of higher education" means any
76 university, college or community and technical college in
77 the state university system or the state college system as
78 those terms are defined in this section;

79 (p) "Trustees" and "board of trustees" means the
80 university of West Virginia board of trustees created
81 pursuant to article two of this chapter or the members
82 thereof;

83 (q) "University", "university of West Virginia" and
84 "state university system" means the multi-campus,
85 integrated university of the state, consisting of West
86 Virginia university, including West Virginia university at
87 Parkersburg, Potomac state college of West Virginia
88 university, West Virginia university institute of technology
89 and the West Virginia university school of medicine;
90 Marshall university, including the Marshall university
91 school of medicine, and the Marshall university commu-
92 nity and technical college, the Marshall university gradu-
93 ate college; and the West Virginia school of osteopathic
94 medicine;

95 (r) "University system community and technical col-
96 leges" means Marshall university community and techni-
97 cal college, community and technical education programs
98 at West Virginia university at Parkersburg, community

99 and technical education programs at Potomac state
100 college of West Virginia university and West Virginia
101 university institute of technology community and techni-
102 cal college under the jurisdiction of the university of West
103 Virginia board of trustees and all their associated
104 branches, centers and off-campus locations;

105 (s) "Regional campus" means West Virginia university
106 at Parkersburg, Potomac state college of West Virginia
107 university and West Virginia university institute of
108 technology. The chief executive officer of a regional
109 campus shall be known as "campus president", shall serve
110 at the will and pleasure of the president of West Virginia
111 university, and shall report to the president of West
112 Virginia university or his or her designee in the method
113 specified by West Virginia university. The board of
114 advisors for West Virginia university established pursuant
115 to section one, article six of this chapter shall serve as the
116 advisory board for West Virginia university and its
117 regional campuses. The advisory boards previously
118 appointed for each regional campus shall be known as
119 "boards of visitors" and shall provide guidance to the
120 regional campus presidents. Each regional campus shall
121 adopt separate strategic plans required by section one-c of
122 this article; and

123 (t) The advisory board previously appointed for the West
124 Virginia graduate college shall be known as the "board of
125 visitors" and shall provide guidance to the Marshall
126 university graduate college.

§18B-1-8b. Marshall university graduate college.

1 (a) Notwithstanding any other provisions of this code to
2 the contrary, the West Virginia graduate college shall
3 cease to be an individual higher education institution, as
4 defined by subsection (h), section two, article one of this
5 chapter and shall be merged and consolidated with
6 Marshall university, effective the first day of July, one
7 thousand nine hundred ninety-seven.

8 (b) The graduate programs of Marshall university shall
9 be operated under the same procedures, policies, rules and
10 practices utilized by Marshall university and the board of

11 trustees in operating Marshall university: *Provided*, That
12 the board of trustees shall assure that the president of
13 Marshall university adopts policies, procedures and
14 standards for its graduate programs that facilitate the
15 multiple missions of the graduate college in serving
16 traditional and nontraditional students and providing
17 graduate instruction throughout the state. Nothing herein
18 shall be interpreted to abrogate the power or responsibil-
19 ity of the board of trustees to approve and review gradu-
20 ate programs offered within the university system, nor to
21 limit the statewide mission of West Virginia university or
22 any other institution.

23 (c) The president of Marshall university shall appoint
24 the head of the graduate college, who shall report directly
25 to the president of Marshall university.

26 (d) Nothing contained herein shall be interpreted to
27 authorize the provision or expansion of any four-year
28 programs offered by Marshall university to any sites
29 formerly offering graduate school courses by the West
30 Virginia graduate college.

31 (e) It is the intent of the Legislature that the program
32 review and approval process for campus offerings for
33 graduate education by the graduate college of Marshall
34 university be separate and distinct from the process for
35 the approval of undergraduate education program offer-
36 ings.

37 (f) It is the Legislature's intent that, through the fiscal
38 year two thousand—two thousand one, the proportionate
39 share of the funds which would have been generated by
40 the board of trustees resource allocation policy for the
41 West Virginia graduate college shall be allocated to the
42 Marshall university graduate college. It is further the
43 intent of the Legislature that the merger and consolidation
44 of West Virginia graduate school and Marshall university
45 shall not result in any financial gain or loss to the board of
46 trustees or any institution within the university system in
47 the appropriation decisions by the Legislature.

48 (g) It is the intent of the Legislature that Marshall
49 university and the Marshall university graduate college

50 each receive any increase in state appropriated funds for
51 the fiscal year beginning the first day of July, one thou-
52 sand nine hundred ninety-seven, set out in section one-c,
53 article one of this chapter, and further, that they shall not
54 be denied any increases because of the need for changes in
55 their strategic plans necessitated by the merger and
56 consolidation of the two institutions: *Provided*, That
57 Marshall university shall prepare a revised strategic plan
58 and submit it to the board of trustees for approval by the
59 first day of November, one thousand nine hundred ninety-
60 seven.

61 (h) Each valid agreement, obligation or claim entered
62 into or incurred by the board of trustees on behalf of the
63 West Virginia graduate college is hereby undertaken by
64 the board of trustees on behalf of Marshall university.

ARTICLE 6. ADVISORY COUNCILS OF FACULTY.

§18B-6-2. Advisory councils of faculty.

1 Effective the first day of July, one thousand nine
2 hundred eighty-nine, each governing board shall be
3 assisted by an advisory council of faculty.

4 During the month of April of each even-numbered year,
5 each president or other administrative head of a state
6 institution of higher education, including Potomac state
7 college of West Virginia university, West Virginia univer-
8 sity at Parkersburg, West Virginia university institute of
9 technology, Robert C. Byrd health sciences Charleston
10 division of West Virginia university and the Marshall
11 university graduate college, at the direction of the councils
12 and in accordance with procedures established by the
13 councils, shall convene a meeting or otherwise institute a
14 balloting process to elect one faculty to serve on the
15 appropriate governing board's advisory council of faculty,
16 which shall consist of one faculty, so elected, from each
17 institution under the appropriate governing board. Terms
18 of the members of each council shall be for two years and
19 shall begin on the first day of July of each even-numbered
20 year and members of each advisory council shall be
21 eligible to succeed themselves.

22 The advisory councils of faculty shall meet at least once

23 each quarter. One of the quarterly meetings shall be
24 during the month of July, at which meeting each council
25 shall elect a chairman, who shall be by virtue of the office
26 a voting member of the appropriate governing board:
27 *Provided*, That the chair shall serve no more than two
28 consecutive terms. No member may vote by proxy at the
29 election. In the event of a tie in the last vote taken for
30 such election, a member authorized by the council shall
31 select the chairman by lot from the names of those persons
32 tied. Immediately following the election of a chairman,
33 each council shall elect, in the manner prescribed by this
34 section for the election of a chairman, a member of that
35 council to preside over meetings of the council in the
36 chairman's absence. Should the chairman vacate the
37 position, the council shall meet and elect a new chairman
38 to fill the unexpired term within thirty days following the
39 vacancy.

40 Each advisory council of faculty, through its chairman
41 and in any other appropriate manner, shall consult and
42 advise its governing board in matters of higher education
43 in which the faculty members may have an interest.

44 Members of each advisory council shall serve without
45 compensation, but shall be entitled to reimbursement for
46 actual and necessary expenses incurred in the perfor-
47 mance of their official duties from funds allocated to the
48 state institution of higher education served.

49 Each governing board shall furnish secretarial services
50 to its advisory council of faculty, and each advisory
51 council shall cause to be prepared minutes of its meetings,
52 which minutes shall be available, upon request, to any
53 faculty member of a state institution of higher education
54 represented on the council. The minutes shall be for-
55 warded to the advisory council of faculty serving the other
56 governing board.

§18B-6-3. Advisory councils of students.

1 Effective the first day of July, one thousand nine
2 hundred eighty-nine, each governing board shall be
3 assisted by an advisory council of students.

4 The student government organization at each state
5 institution of higher education shall elect a student, who
6 may be the elected head or president of the organization,
7 to serve on the appropriate governing board's advisory
8 council of students, which are hereby created, consisting
9 of the elected representatives of each institution under the
10 appropriate governing board: *Provided*, That the student
11 government organization at each institution in the univer-
12 sity system, including Potomac state college of West
13 Virginia university, West Virginia university at
14 Parkersburg, West Virginia university institute of technol-
15 ogy, the Robert C. Byrd health sciences Charleston
16 division of West Virginia university and Marshall univer-
17 sity graduate college shall elect one student per three
18 thousand students enrolled at each institution with a
19 minimum of one representative from each institution. The
20 student government of each institution shall determine
21 how its representatives shall be elected. Terms of the
22 members of the council shall be for one year and shall
23 begin on the first day of May of each year, and members
24 of the advisory councils shall be eligible to succeed
25 themselves.

26 Each institution shall have only one vote in all matters.
27 The advisory councils of students shall meet at least once
28 each quarter, and shall meet during each month of June,
29 at which meeting each council shall elect a chairman, who
30 prior to the elections must be entitled to vote in the state
31 of West Virginia. By virtue of the office, the chairman
32 shall be a voting member of the appropriate governing
33 board. No member may vote by proxy at the election. In
34 the event of a tie in the last vote taken for the election, a
35 member authorized by the council shall select the chair-
36 man by lot from the names of those persons tied. Immedi-
37 ately following the election of a chairman, each council
38 shall elect, in the manner prescribed by this section for the
39 election of a chairman, a member of that council to
40 preside over meetings of the council in the chairman's
41 absence. Should the chairman vacate the position, the
42 council shall meet and elect a new chairman to fill the
43 unexpired term within thirty days following the vacancy.

44 Each advisory council of students, through its chairman
45 and in any other appropriate manner, shall consult and
46 advise its governing board in matters of higher education
47 in which the students may have an interest.

48 Members of each advisory council shall serve without
49 compensation, but shall be entitled to reimbursement for
50 actual and necessary expenses incurred in the perfor-
51 mance of their official duties from funds allocated to the
52 state institution of higher education served.

53 Each governing board shall furnish secretarial services
54 to its advisory council of students, and each advisory
55 council shall cause to be prepared minutes of its meetings,
56 which minutes shall be available, upon request, to any
57 student of a state institution of higher education repre-
58 sented on the council. The minutes shall be forwarded to
59 the advisory council of students serving the other govern-
60 ing board.

§18B-6-4. Advisory councils of classified employees.

1 Effective the first day of July, one thousand nine
2 hundred eighty-nine, each governing board shall be
3 assisted by an advisory council of classified employees.

4 During the month of April of each even-numbered year,
5 each president or other administrative head of a state
6 institution of higher education, including Potomac state
7 college of West Virginia university, West Virginia univer-
8 sity at Parkersburg, West Virginia university institute of
9 technology, the Robert C. Byrd health sciences Charleston
10 division of West Virginia university and the Marshall
11 university graduate college, at the direction of the councils
12 and in accordance with procedures established by the
13 councils, shall convene a meeting or otherwise institute a
14 balloting process to elect one classified employee to serve
15 on the appropriate governing board's advisory council of
16 classified employees, which shall consist of one classified
17 employee, so elected, from each institution under the
18 appropriate governing board. Terms of the members of
19 the councils shall be for two years and shall begin on the
20 first day of July of each even-numbered year, and mem-
21 bers of the advisory councils shall be eligible to succeed

22 themselves. For the purpose of this section the term
23 "institution of higher education" includes the facilities
24 and staff supervised by the senior administrator employed
25 by the governing boards, which is a part of the state
26 college system, and the West Virginia network for
27 telecomputing, which is a part of the state university
28 system.

29 Each advisory council of classified employees shall meet
30 at least once each quarter. One of the quarterly meetings
31 shall be during the month of July, at which meeting each
32 council shall elect a chairman, who shall be by virtue of
33 the office a voting member of the appropriate governing
34 board: *Provided*, That the chair shall serve no more than
35 two consecutive terms: *Provided, however*, That the board
36 of directors' advisory council for classified employees'
37 chairman shall not be a member of the staff supervised by
38 the central administrative official. No member may vote
39 by proxy at the election. In the event of a tie in the last
40 vote taken for the election, a member authorized by the
41 council shall select the chairman by lot from the names of
42 those persons tied. Immediately following the election of
43 a chairman, each council shall elect, in the manner
44 prescribed by this section for the election of a chairman,
45 a member of the council to preside over meetings of the
46 council in the chairman's absence. Should the chairman
47 vacate the position, the council shall meet and elect a new
48 chairman to fill the unexpired term within thirty days
49 following the vacancy.

50 Each advisory council of classified employees, through
51 its chairman and in any other appropriate manner, shall
52 consult and advise its governing board in matters of
53 higher education in which the classified employees may
54 have an interest.

55 Members of each advisory council shall serve without
56 compensation, but shall be entitled to reimbursement for
57 actual and necessary expenses incurred in the perfor-
58 mance of their official duties from funds allocated to the
59 state institution of higher education served.

60 Each governing board shall furnish secretarial services

61 to its advisory council of classified employees, and each
62 advisory council shall cause to be prepared minutes of its
63 meetings, which minutes shall be available, upon request,
64 to any classified employee of a state institution of higher
65 education represented on the council. The minutes shall
66 be forwarded to the advisory council of classified employ-
67 ees serving the other governing board.

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

Kathy Schoonover
.....
Chairman Senate Committee

Kirk Fantasia
.....
Chairman House Committee

Originated in the Senate.

To take affect July 1, 1997.

Darrell E. White
.....
Clerk of the Senate

Suzanne M. Bury
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *approved* this the *24*
day of *April*, 1997

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 4/9/97

Time 9:55am