

WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2011



E N R O L L E D

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.]

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.]

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
2 eighteen-c of this code have the meanings ascribed to them
3 unless the context clearly indicates a different meaning:

4 (a) “Governing boards” or “boards” means the institu-
5 tional boards of governors created pursuant to section one,
6 article two-a of this chapter;

7 (b) “Free-standing community and technical colleges”
8 means Southern West Virginia Community and Technical
9 College, West Virginia Northern Community and Technical
10 College, and Eastern West Virginia Community and Techni-
11 cal College, which may not be operated as branches or off-
12 campus locations of any other state institution of higher
13 education;

14 (c) “Community and technical college”, in the singular or
15 plural, means the free-standing community and technical
16 colleges and other state institutions of higher education
17 which deliver community and technical college education.
18 This definition includes Blue Ridge Community and Techni-
19 cal College, Bridgemont Community and Technical College,
20 Eastern West Virginia Community and Technical College,
21 Kanawha Valley Community and Technical College,
22 Mountwest Community and Technical College, New River
23 Community and Technical College, Pierpont Community and
24 Technical College, Southern West Virginia Community and
25 Technical College, West Virginia Northern Community and
26 Technical College, and West Virginia University at
27 Parkersburg;

28 (d) “Community and technical college education” means
29 the programs, faculty, administration and funding associated
30 with the delivery of community and technical college
31 education programs;

32 (e) “Essential conditions” means those conditions which
33 shall be met by community and technical colleges as pro-
34 vided in section three, article three-c of this chapter;

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

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

41 (h) “Chancellor for Higher Education” means the chief
42 executive officer of the Higher Education Policy Commission

43 employed pursuant to section five, article one-b of this
44 chapter;

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

50 (j) “Chancellor” means the Chancellor for Higher Educa-
51 tion where the context refers to a function of the Higher
52 Education Policy Commission. “Chancellor” means Chancel-
53 lor for Community and Technical College Education where
54 the context refers to a function of the West Virginia Council
55 for Community and Technical College Education;

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

64 (l) “Community and technical college education program”
65 means any college-level course or program beyond the high
66 school level provided through a public institution of higher
67 education resulting in or which may result in a two-year
68 associate degree award including an associate of arts, an
69 associate of science and an associate of applied science;
70 certificate programs and skill sets; developmental education;
71 continuing education; collegiate credit and noncredit
72 workforce development programs; and transfer and bacca-
73 laureate parallel programs. All programs are under the
74 jurisdiction of the Council. Any reference to “post-secondary
75 vocational education programs” means community and
76 technical college education programs as defined in this
77 subsection;

78 (m) “Rule” or “rules” means a regulation, standard, policy
79 or interpretation of general application and future effect;

80 (n) “Vice Chancellor for Administration” means the person
81 employed in accordance with section two, article four of this
82 chapter. Any reference in this chapter or chapter eighteen-c
83 of this code to “Senior Administrator” means Vice Chancel-
84 lor for Administration;

85 (o) “State college” means Bluefield State College, Concord
86 University, Fairmont State University, Glenville State
87 College, Shepherd University, West Liberty University or
88 West Virginia State University;

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

93 (q) “Board of visitors” means the advisory board previously
94 appointed for the West Virginia Graduate College and the
95 advisory board previously appointed for West Virginia
96 University Institute of Technology, which provide guidance
97 to the Marshall University Graduate College and West
98 Virginia University Institute of Technology, respectively;

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

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

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

113 (u) “Sponsoring institution” means a state institution of
114 higher education that maintained an administrative link to

115 a community and technical college providing essential
116 services prior to July 1, 2008. This definition includes
117 institutions whose governing boards had under their juris-
118 diction a community and technical college, regional campus
119 or a division delivering community and technical college
120 education and programs;

121 (v) “Collaboration” means entering into an agreement with
122 one or more providers of education services in order to
123 enhance the scope, quality or efficiency of education ser-
124 vices;

125 (w) “Broker” or “brokering” means serving as an agent on
126 behalf of students, employers, communities or responsibility
127 areas to obtain education services not offered at that institu-
128 tion. These services include courses, degree programs or
129 other services contracted through an agreement with a
130 provider of education services either in-state or out-of-state;

131 (x) “Council” means the West Virginia Council for Commu-
132 nity and Technical College Education created pursuant to
133 article two-b of this chapter;

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

138 (z) “Advanced technology center” means a facility estab-
139 lished under the direction of an independent community and
140 technical college for the purpose of implementing and
141 delivering education and training programs for high-skill,
142 high-performance Twenty-first Century workplaces;

143 (aa) “Statewide network of independently accredited
144 community and technical colleges” or “community and
145 technical college network” means the state institutions of
146 higher education under the jurisdiction of the West Virginia
147 Council for Community and Technical College Education
148 which are independently accredited, each governed by its
149 own independent governing board, and each having a core

150 mission of providing affordable access to and delivering high
151 quality community and technical education in every region
152 of the state;

153 (bb) “Independent community and technical college”
154 means a state institution of higher education under the
155 jurisdiction of the Council which is independently accred-
156 ited, is governed by its own independent governing board,
157 and may not be operated as a branch or off-campus location
158 of any other state institution of higher education. This
159 definition includes Blue Ridge Community and Technical
160 College, Bridgemont Community and Technical College,
161 Eastern West Virginia Community and Technical College,
162 Kanawha Valley Community and Technical College,
163 Mountwest Community and Technical College, New River
164 Community and Technical College, Pierpont Community and
165 Technical College, Southern West Virginia Community and
166 Technical College, West Virginia Northern Community and
167 Technical College, and West Virginia University at
168 Parkersburg; and

169 (cc) “Dual credit course” or “dual enrollment course”
170 means a credit-bearing college-level course offered in a high
171 school by a state institution of higher education for high
172 school students in which the students are concurrently
173 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 reap- pointment.

1 (a) *Findings.* —

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

5 (1) The academic expertise and institutional experience of
6 faculty members and a student of the institution governed by
7 the board;

8 (2) The technical or professional expertise and institutional
9 experience of a classified employee of the institution gov-
10 erned by the board;

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

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

16 (b) *Boards of Governors established.* —

17 A Board of Governors is continued at each of the following
18 institutions: Bluefield State College, Blue Ridge Community
19 and Technical College, Bridgemont Community and Techni-
20 cal College, Concord University, Eastern West Virginia
21 Community and Technical College, Fairmont State Univer-
22 sity, Glenville State College, Kanawha Valley Community
23 and Technical College, Mountwest Community and Technical
24 College, Marshall University, New River Community and
25 Technical College, Pierpont Community and Technical
26 College, Shepherd University, Southern West Virginia
27 Community and Technical College, West Liberty University,
28 West Virginia Northern Community and Technical College,
29 the West Virginia School of Osteopathic Medicine, West
30 Virginia State University, West Virginia University and West
31 Virginia University at Parkersburg.

32 (c) *Board Membership.* —

33 (1) An appointment to fill a vacancy on the board or
34 reappointment of a member who is eligible to serve an
35 additional term is made in accordance with the provisions of
36 this section.

37 (2) The board of governors for Marshall University consists
38 of sixteen persons. The board of governors for West Virginia
39 University consists of seventeen persons. The boards of
40 governors of the other state institutions of higher education
41 consist of twelve persons.

42 (3) Each board of governors includes the following mem-
43 bers:

44 (A) A full-time member of the faculty with the rank of
45 instructor or above duly elected by the faculty of the respec-
46 tive institution;

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

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

53 (4) For the board of governors at Marshall University,
54 thirteen lay members appointed by the Governor, by and
55 with the advice and consent of the Senate, pursuant to this
56 section;

57 (5) For the board of governors at West Virginia University,
58 twelve lay members appointed by the Governor, by and with
59 the advice and consent of the Senate, pursuant to this
60 section, and additionally:

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

63 (B) A full-time faculty member representing the extension
64 service at the institution or a full-time faculty member
65 representing the health sciences, selected by the faculty
66 senate. (6) For each board of governors of the other state
67 institutions of higher education, nine lay members appointed
68 by the Governor, by and with the advice and consent of the
69 Senate, pursuant to this section.

70 (A) Of the nine members appointed by the Governor, no
71 more than five may be of the same political party. Of the
72 thirteen members appointed by the Governor to the govern-
73 ing board of Marshall University, no more than eight may be
74 of the same political party. Of the twelve members appointed
75 by the Governor to the governing board of West Virginia

76 University, no more than seven may be of the same political
77 party.

78 (B) Of the nine members appointed by the Governor, at
79 least five shall be residents of the state. Of the thirteen
80 members appointed by the Governor to the governing board
81 of Marshall University, at least eight shall be residents of the
82 state. Of the twelve members appointed by the Governor to
83 the governing board of West Virginia University, at least
84 seven shall be residents of the state.

85 (7) In making lay appointments, the Governor shall
86 consider the institutional mission and membership charac-
87 teristics including the following:

88 (A) The need for individual skills, knowledge and experi-
89 ence relevant to governing the institution;

90 (B) The need for awareness and understanding of institu-
91 tional problems and priorities, including those related to
92 research, teaching and outreach;

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

94 (D) The value of achieving balance in gender and diversity
95 in the racial and ethnic characteristics of the lay member-
96 ship of each board.

97 (d) *Board member terms.* —

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

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

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

109 (4) The appointed lay citizen members serve terms of up to
110 four years each and are eligible to succeed themselves for no
111 more than one additional term.

112 (5) A vacancy in an unexpired term of a member shall be
113 filled for the unexpired term within thirty days of the
114 occurrence of the vacancy in the same manner as the original
115 appointment or election. Except in the case of a vacancy, all
116 elections are held and all appointments are made no later
117 than June 30 preceding the commencement of the term. Each
118 board of governors shall elect one of its appointed lay
119 members to be chairperson in June of each year. A member
120 may not serve as chairperson for more than four consecutive
121 years.

122 (6) The appointed members of the boards of governors
123 serve staggered terms of up to four years except that four of
124 the initial appointments to the governing boards of commu-
125 nity and technical colleges that became independent July 1,
126 2008, are for terms of two years and five of the initial
127 appointments are for terms of four years.

128 (e) *Board member eligibility, expenses.* —

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

132 (A) For a baccalaureate institution or university, a person
133 is ineligible for appointment who is an officer, employee or
134 member of any other board of governors; an employee of any
135 institution of higher education; an officer or member of any
136 political party executive committee; the holder of any other
137 public office or public employment under the government of
138 this state or any of its political subdivisions; an employee of
139 any affiliated research corporation created pursuant to
140 article twelve of this chapter; an employee of any affiliated
141 foundation organized and operated in support of one or more
142 state institutions of higher education; or a member of the
143 council or commission. This subsection does not prevent the
144 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.

181 (5) The president of the institution shall make available
182 resources of the institution for conducting the business of its
183 board of governors. All expenses incurred by the board of
184 governors and the institution under this section are paid
185 from funds allocated to the institution for that purpose.

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

.....
Acting President of the Senate

.....
Speaker of the House of Delegates

The within this the
 Day of, 2011.

.....
Governor

