

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 145

(By Senator Unger)

[Originating in the Committee on Education;
reported February 17, 2012.]

A BILL to amend and reenact §18B-10-1 of the Code of West Virginia, 1931, as amended, relating to allowing students to opt out of institutional insurance coverage in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That §18B-10-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE
INSTITUTIONS OF HIGHER EDUCATION.**

§18B-10-1. Enrollment, tuition and other fees at education institutions; refund of fees.

1 (a) Each governing board shall fix tuition and other fees
2 for each academic term for the different classes or categories
3 of students enrolling at the state institution of higher
4 education under its jurisdiction and may include among the
5 tuition and fees any one or more of the following as defined
6 in section one-b of this article:

7 (1) Tuition and required educational and general fees;

8 (2) Auxiliary and auxiliary capital fees; and

9 (3) Required educational and general capital fees.

10 (b) A governing board may establish a single special
11 revenue account for each of the following classifications of
12 fees:

13 (1) All tuition and required educational and general fees
14 collected;

15 (2) All auxiliary and auxiliary capital fees collected; and

16 (3) All required educational and general capital fees
17 collected to support existing systemwide and institutional
18 debt service and future systemwide and institutional debt
19 service, capital projects and campus renewal for educational
20 and general facilities.

21 (4) Subject to any covenants or restrictions imposed with
22 respect to revenue bonds payable from the accounts, a

23 governing board may expend funds from each special
24 revenue account for any purpose for which funds were
25 collected within that account regardless of the original
26 purpose for which the funds were collected.

27 (c) (1) The purposes for which tuition and fees may be
28 expended include, but are not limited to, health services,
29 student activities, recreational, athletic and extracurricular
30 activities. Additionally, tuition and fees may be used to
31 finance a students' attorney to perform legal services for
32 students in civil matters at the institutions.

33 (2) The legal services are limited to those types of cases,
34 programs or services approved by the president of the
35 institution where the legal services are to be performed.

36 (3) When a student is required to have health insurance
37 coverage and that student has health insurance independent
38 of the institution, he or she may opt out of the institution's
39 coverage by providing appropriate documentation. Once the
40 institution grants a waiver from its health insurance, future
41 silence or inaction on the student's part may not be con-
42 strued as an assent either to permit the institution to include
43 that student under its insurance coverage or to collect a fee
44 associated with that coverage.

45 (d) By October 1, 2011, the commission and council each
46 shall propose a rule for legislative approval in accordance
47 with article three-a, chapter twenty-nine-a of this code to
48 govern the fixing, collection and expenditure of tuition and
49 other fees by the governing boards under their respective
50 jurisdictions.

51 (e) The schedule of all tuition and fees, and any changes
52 in the schedule, shall be entered in the minutes of the
53 meeting of the appropriate governing board and the board
54 shall file with the commission or council, or both, as appro-
55 priate, and the Legislative Auditor a certified copy of the
56 schedule and changes.

57 (f) The governing boards shall establish the rates to be
58 charged full-time students, as defined in section one-b of this
59 article, who are enrolled during a regular academic term.

60 (1) Undergraduate students taking fewer than twelve
61 credit hours in a regular term shall have their fees reduced
62 pro rata based upon one twelfth of the full-time rate per
63 credit hour and graduate students taking fewer than nine
64 credit hours in a regular term shall have their fees reduced
65 pro rata based upon one ninth of the full-time rate per credit
66 hour.

67 (2) Fees for students enrolled in summer terms or other
68 nontraditional time periods shall be prorated based upon the
69 number of credit hours for which the student enrolls in
70 accordance with this subsection.

71 (g) All fees are due and payable by the student upon
72 enrollment and registration for classes except as provided in
73 this subsection:

74 (1) The governing boards shall permit fee payments to be
75 made in installments over the course of the academic term.
76 All fees shall be paid prior to awarding course credit at the
77 end of the academic term.

78 (2) The governing boards also shall authorize the accep-
79 tance of credit cards or other payment methods which may
80 be generally available to students for the payment of fees.
81 The governing boards may charge the students for the
82 reasonable and customary charges incurred in accepting
83 credit cards and other methods of payment.

84 (3) If a governing board determines that a student's
85 finances are affected adversely by a legal work stoppage, it
86 may allow the student an additional six months to pay the
87 fees for any academic term. The governing board shall

88 determine on a case-by-case basis whether the finances of a
89 student are affected adversely.

90 (4) The commission and council jointly shall propose a
91 rule in accordance with article three-a, chapter twenty-nine-
92 a of this code defining conditions under which a governing
93 board may offer tuition and fee deferred payment plans itself
94 or through third parties.

95 (5) A governing board may charge interest or fees for any
96 deferred or installment payment plans.

97 (h) In addition to the other fees provided in this section,
98 each governing board may impose, collect and distribute a
99 fee to be used to finance a nonprofit, student-controlled
100 public interest research group if the students at the institu-
101 tion demonstrate support for the increased fee in a manner
102 and method established by that institution's elected student
103 government. The fee may not be used to finance litigation
104 against the institution.

105 (i) Governing boards shall retain tuition and fee revenues
106 not pledged for bonded indebtedness or other purposes in
107 accordance with the tuition rules proposed by the commis-
108 sion and council pursuant to this section. The tuition rules
109 shall address the following areas:

110 (1) Providing a basis for establishing nonresident tuition
111 and fees;

112 (2) Allowing governing boards to charge different tuition
113 and fees for different programs;

114 (3) Authorizing a governing board to propose to the
115 commission, council or both, as appropriate, a mandatory
116 auxiliary fee under the following conditions:

117 (A) The fee shall be approved by the commission, council
118 or both, as appropriate, and either the students below the
119 senior level at the institution or the Legislature before
120 becoming effective;

121 (B) Increases may not exceed previous state subsidies by
122 more than ten percent;

123 (C) The fee may be used only to replace existing state
124 funds subsidizing auxiliary services such as athletics or
125 bookstores;

126 (D) If the fee is approved, the amount of the state subsidy
127 shall be reduced annually by the amount of money generated
128 for the institution by the fees. All state subsidies for the
129 auxiliary services shall cease five years from the date the
130 mandatory auxiliary fee is implemented;

131 (E) The commission or council or both, as appropriate,
132 shall certify to the Legislature annually by October 1 the
133 amount of fees collected for each of the five years;

134 (4) Establishing methodology, where applicable, to
135 ensure that, within the appropriate time period under the
136 compact, community and technical college tuition rates for
137 students in all community and technical colleges will be
138 commensurate with the tuition and fees charged by their
139 peer institutions.

140 (j) A penalty may not be imposed by the commission or
141 council upon any governing board based upon the number of
142 nonresidents who attend the institution unless the commis-
143 sion or council determines that admission of nonresidents to
144 any institution or program of study within the institution is
145 impeding unreasonably the ability of resident students to
146 attend the institution or participate in the programs of the
147 institution. The governing boards shall report annually to the
148 commission or council on the numbers of nonresidents and
149 any other enrollment information the commission or council
150 may request.

151 (k) Tuition and fee increases of the governing boards,
152 including the governing boards of Marshall University and

153 West Virginia University, are subject to rules adopted by the
154 commission and council pursuant to this section and in
155 accordance with article three-a, chapter twenty-nine-a of
156 this code. The commission or council, as appropriate, shall
157 examine individually each request from a governing board
158 for an increase and make its determinations as follows:

159 (1) A tuition and fee increase greater than five percent
160 for resident students proposed by a governing board requires
161 the approval of the commission or council, as appropriate.

162 (2) A fee used solely for the purpose of complying with
163 the athletic provisions of 20 U. S. C. 1681, *et seq.*, known as
164 Title IX of the Education Amendment of 1972, is exempt
165 from the limitations on fee increases set forth in this subsec-
166 tion for three years from the effective date of the section.

167 (3) In determining whether to approve or deny a govern-
168 ing board's request for a tuition and/or fee increase for
169 resident students greater than the increases granted pursu-
170 ant to subdivision (1) of this subsection, the commission or
171 council shall determine the progress the governing board has
172 made toward meeting the conditions outlined in this subsec-
173 tion and shall make this determination the predominate
174 factor in its decision. The commission or council shall

175 consider the degree to which each governing board has met
176 the following conditions:

177 (A) Maximizes resources available through nonresident
178 tuition and fee charges to the satisfaction of the commission
179 or council;

180 (B) Consistently achieves the benchmarks established in
181 the compact pursuant to article one-d of this chapter;

182 (C) Continuously pursues the statewide goals for
183 postsecondary education and the statewide compact estab-
184 lished in this chapter;

185 (D) Demonstrates to the satisfaction of the commission
186 or council that an increase will be used to maintain high-
187 quality programs at the institution;

188 (E) Demonstrates to the satisfaction of the commission or
189 council that the governing board is making adequate
190 progress toward achieving the goals for education estab-
191 lished by the Southern Regional Education Board;

192 (F) Demonstrates to the satisfaction of the commission or
193 council that the governing board has considered the average
194 per capita income of West Virginia families and their ability
195 to pay for any increases; and

196 (G) Demonstrates to the satisfaction of the commission
197 or council that base appropriation increases have not kept
198 pace with recognized nation-wide inflationary benchmarks;

199 (4) This section does not require equal increases among
200 governing boards nor does it require any level of increase by
201 a governing board.

202 (5) The commission and council shall report to the
203 Legislative Oversight Commission on Education Account-
204 ability regarding the basis for approving or denying each
205 request as determined using the criteria established in this
206 subsection.