

Senate Bill No. 426

(By Senator Plymale)

[Introduced January 23, 2014; referred to the Committee
on Education.]

A BILL 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; 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.**

1 (a) The commission is comprised of ten members, all of
2 whom are entitled to vote. The membership of the
3 commission is as follows:

4 (1) The Secretary of Education and the Arts, ex officio;

5 (2) The State Superintendent of Schools, ex officio;

6 (3) The chair of the West Virginia Council for
7 Community and Technical College Education, ex officio; and

8 (4) Seven at-large members who are citizens of the state,
9 appointed by the Governor, by and with the advice and
10 consent of the Senate: *Provided*, That prior to appointment,
11 the Governor shall interview each candidate to assure that the

12 person selected understands and is committed to achieving
13 the goals and objectives as set forth in the institutional
14 compacts and in section one-a, article one of this chapter.

15 The Governor shall invite the President of the Senate, the
16 Speaker of the House of Delegates, the chairs of the Senate
17 and House of Delegates committees on finance and education
18 and such other legislative leaders as the Governor may
19 determine to participate in interviewing potential candidates.

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

24 (c) The Governor may not appoint any person to be a
25 member of the commission who is an officer, employee or
26 member of the council or an advisory board of any state
27 college or university; an officer or member of any political
28 party executive committee; the holder of any other public
29 office or public employment under the government of this
30 state or any of its political subdivisions; an appointee or

31 employee of any governing board; or an immediate family
32 member of any employee under the jurisdiction of the
33 commission, the council or any governing board.

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

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

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

40 (3) Effective July 1, 2008, no more than one member may
41 serve from the same county.

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

44 (f) The Governor shall appoint a member to fill any
45 vacancy among the seven at-large members, by and with the
46 advice and consent of the Senate. Any member appointed to
47 fill a vacancy serves for the unexpired term of the vacating
48 member. The Governor shall fill the vacancy within thirty
49 days of the occurrence of the vacancy.

50 (g) An at-large member appointed by the Governor may
51 not serve more than two consecutive terms. If the Governor
52 intends to reappoint an at-large member for a second term,
53 the Governor shall do so within thirty days of the expiration
54 of that member's term. If reappointment does not occur
55 within thirty days, the at-large member's term shall be
56 deemed expired, effective upon the date of the expiration of
57 the member's term.

58 (h) Upon the expiration of an at-large member's term, the
59 Governor shall appoint a successor within thirty days of the
60 end of the member's term. The at-large member whose term
61 has expired shall not serve more than sixty days after the
62 expiration of his or her term.

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

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

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

15 (b) *Boards of Governors established.* – A board of
16 governors is continued at each of the following institutions:
17 Bluefield State College, Blue Ridge Community and
18 Technical College, Bridgemont Community and Technical
19 College, Concord University, Eastern West Virginia
20 Community and Technical College, Fairmont State
21 University, Glenville State College, Kanawha Valley
22 Community and Technical College, Mountwest
23 Community and Technical College, Marshall University,
24 New River Community and Technical College, Pierpont
25 Community and Technical College, Shepherd University,
26 Southern West Virginia Community and Technical
27 College, West Liberty University, West Virginia Northern

28 Community and Technical College, the West Virginia
29 School of Osteopathic Medicine, West Virginia State
30 University, West Virginia University and West Virginia
31 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
38 consists of sixteen persons. The Board of Governors for
39 West Virginia University consists of seventeen persons. The
40 boards of governors of the other state institutions of higher
41 education consist of twelve persons.

42 (3) Each board of governors includes the following
43 members:

44 (A) A full-time member of the faculty with the rank of
45 instructor or above duly elected by the faculty of the
46 respective 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 with
55 the advice and consent of the Senate, pursuant to this section;

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

60 (A) The Chairperson of the Board of Visitors of West
61 Virginia University Institute of Technology;

62 (B) A full-time faculty member representing the
63 extension service at the institution or a full-time faculty
64 member representing the health sciences, selected by the
65 faculty senate.

66 (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
73 governing board of Marshall University, no more than eight
74 may be of the same political party. Of the twelve members
75 appointed by the Governor to the governing board of West
76 Virginia University, no more than seven may be of the same
77 political 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
87 characteristics including the following:

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

90 (B) The need for awareness and understanding of
91 institutional problems and priorities, including those related
92 to 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
95 diversity in the racial and ethnic characteristics of the lay
96 membership of each board.

97 (d) *Board member terms.* –

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

100 (2) The faculty member serves for a term of two years.
101 Each 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.
106 Members representing classified employees are eligible to
107 succeed themselves for three additional terms, not to exceed
108 a total of eight consecutive years.

109 (4) The appointed lay citizen members serve terms of
110 four years each and are eligible to succeed themselves for no
111 more than one additional term, except that citizen members
112 who are appointed to fill unexpired terms are eligible to
113 succeed themselves for two full terms after completing an
114 unexpired term. If the Governor intends to reappoint a lay
115 citizen member for a second term, the Governor shall do so
116 within thirty days of the expiration of that member's term. If
117 reappointment does not occur within thirty days, the lay
118 citizen member's term shall be deemed expired, effective
119 upon the date of the expiration of the member's term.

120 (5) A vacancy in an unexpired term of a member shall
121 be filled for the unexpired term within thirty days of the
122 occurrence of the vacancy in the same manner as the

123 original appointment or election. Except in the case of a
124 vacancy, all elections are held and all appointments are
125 made no later than June 30 preceding the commencement
126 of the term. A member whose term has expired shall not
127 serve more than sixty days after the expiration of his or her
128 term. Each board of governors shall elect one of its
129 appointed lay members to be chairperson in June of each
130 year. A member may not serve as chairperson for more
131 than four consecutive years.

132 (6) The appointed members of the boards of governors
133 serve staggered terms of up to four years except that four of
134 the initial appointments to the governing boards of
135 community and technical colleges that became independent
136 July 1, 2008, are for terms of two years and five of the initial
137 appointments are for terms of four years.

138 (e) *Board member eligibility, expenses.* –

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

142 (A) For a baccalaureate institution or university, a person
143 is ineligible for appointment who is an officer, employee or
144 member of any other board of governors; an employee of any
145 institution of higher education; an officer or member of any
146 political party executive committee; the holder of any other
147 public office or public employment under the government of
148 this state or any of its political subdivisions; an employee of
149 any affiliated research corporation created pursuant to article
150 twelve of this chapter; an employee of any affiliated
151 foundation organized and operated in support of one or more
152 state institutions of higher education; or a member of the
153 council or commission. This subsection does not prevent the
154 representative from the faculty, classified employees,
155 students or the superintendent of a county board of education
156 from being members of the governing boards.

157 (B) For a community and technical college, a person is
158 ineligible for appointment who is an officer, employee or
159 member of any other board of governors; a member of a
160 board of visitors of any public institution of higher education;

161 an employee of any institution of higher education; an officer
162 or member of any political party executive committee; the
163 holder of any other public office, other than an elected
164 county office, or public employment, other than employment
165 by the county board of education, under the government of
166 this state or any of its political subdivisions; an employee of
167 any affiliated research corporation created pursuant to article
168 twelve of this chapter; an employee of any affiliated
169 foundation organized and operated in support of one or more
170 state institutions of higher education; or a member of the
171 council or commission. This subsection does not prevent the
172 representative from the faculty, classified employees or
173 students from being members of the governing boards.

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

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

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

3 (1) Eight members appointed by the Governor, with the
4 advice and consent of the Senate:

5 (A) One member shall be appointed from each
6 community and technical college consortia district as
7 established in this section.

8 (B) Prior to appointment, the Governor shall interview
9 each candidate to assure that the person selected understands
10 and is committed to achieving the goals and objectives as set
11 forth in the institutional compacts and in section one-a,
12 article one of this chapter. The Governor shall invite the
13 President of the Senate, the Speaker of the House of
14 Delegates, the chairs of the Senate and House of Delegates
15 committees on finance and education and such other
16 legislative leaders as the Governor may determine to
17 participate in interviewing potential candidates. Each
18 member appointed to the council by the Governor shall

19 represent the public interest and shall be committed to the
20 legislative intent and goals set forth in section one-a, article
21 one of this chapter.

22 (2) The Chairperson of the West Virginia Workforce
23 Investment Council;

24 (3) The Executive Director of the West Virginia
25 Development Office, or designee;

26 (4) The President of the West Virginia AFL-CIO, or a
27 designee;

28 (5) The Chair of the Higher Education Policy
29 Commission who serves as an ex officio, nonvoting member
30 of the council; and

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

34 (b) Any appointed member shall be a citizen of the state,
35 shall represent the public interest and shall understand and be
36 committed to achieving the goals and objectives set forth in
37 section one-a, article one of this chapter, the essential

38 conditions set forth in article three-c of this chapter, and the
39 goals for secondary and post-secondary vocational-technical-
40 occupational and adult basic education in the state. Any
41 appointed member shall represent the interests of the
42 business, labor and employer communities and demonstrate
43 knowledge of the education needs of the various regions,
44 attainment levels and age groups within the state.

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

57 (d) Members of the council serve for staggered terms of
58 four years. Notwithstanding the provisions of subdivision
59 (1), subsection (a) of this section, on the effective date of this
60 section any current member of the council maintains his or
61 her appointment to the council and continues to serve for the
62 remainder of the term for which originally appointed. Any
63 additional appointment required by the provisions of said
64 subdivision shall represent a consortia district not otherwise
65 represented on the council.

66 (e) A member appointed by the Governor may not serve
67 more than two consecutive terms. If the Governor intends to
68 reappoint a member for a second term, the Governor shall do
69 so within thirty days of the expiration of that member's term.
70 If reappointment does not occur within thirty days, that
71 member's term shall be deemed expired, effective upon the
72 date of the expiration of the member's term.

73 (f) Upon the expiration of an appointed member's term,
74 the Governor shall appoint a successor within thirty days of
75 the end of the member's term. The appointed member whose

76 term has expired shall not serve more than sixty days after
77 the expiration of his or her term.

78 (g) The Governor shall appoint a member to fill any
79 vacancy among the eight appointed members, by and with the
80 advice and consent of the Senate. Any member appointed to
81 fill a vacancy serves for the unexpired term of the vacating
82 member. The Governor shall fill the vacancy within thirty
83 days of the occurrence of the vacancy.

(NOTE: The purpose of this bill is to alleviate any lapse in filling vacancies and to ensure that members are not forced to serve beyond their appointment time.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)