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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 438

(SENATORS PLYMALE, WELLS AND McCABE,
ORIGINAL SPONSORS)

[PASSED APRIL 13, 2013; IN EFFECT FROM PASSAGE.]

E N R O L L E D

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(SENATORS PLYMALE, WELLS AND MCCABE, *original sponsors*)

[Passed April 13, 2013; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18B-3F-1, §18B-3F-2, §18B-3F-3, §18B-3F-4, §18B-3F-5, §18B-3F-6, §18B-3F-7, §18B-3F-8, §18B-3F-9 and §18B-3F-10, all relating to reorganization and consolidation of Bridgemont Community and Technical College and Kanawha Valley Community and Technical College; creating an independent, multicampus community and technical college on June 30, 2013; abolishing certain boards of governors and providing for appointment of a new board of governors; setting forth legislative findings; providing definitions; requiring development of a strategic reorganization plan; establishing an administrative planning committee; providing for committee membership, powers, duties and termination date; appointing president and other officers; specifying certain duties; providing for transfer of assets and liabilities, operating budgets, orders, rules and procedures; providing for the transfer of faculty, classified employees and nonclassified employees; providing for employee rights and benefits when positions are abolished; requiring notification of employment status by

certain date under certain circumstances; and providing for the transfer of students.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §18B-3F-1, §18B-3F-2, §18B-3F-3, §18B-3F-4, §18B-3F-5, §18B-3F-6, §18B-3F-7, §18B-3F-8, §18B-3F-9 and §18B-3F-10, all to read as follows:

ARTICLE 3F. REORGANIZATION OF COMMUNITY AND TECHNICAL COLLEGES.

§18B-3F-1. Legislative findings.

1 (a) The Legislature finds that while certain areas of the
2 state currently lack a sufficient population or employer base
3 to support an independent community and technical college,
4 it is vital to the citizens and businesses of these areas to have
5 access to comprehensive, high-quality community and
6 technical education programs and services that are well
7 articulated with the public schools, baccalaureate institutions
8 and other community and technical colleges; that make the
9 most efficient and effective use of facilities, faculty, staff,
10 equipment and other available resources; that encourage
11 students of all ages, ability levels and economic
12 circumstances to pursue a lifetime of learning; that serve as
13 engines of economic development; and that have the ability
14 to adapt quickly to changing needs for workforce training.

15 (b) The Legislature further finds that a critical need exists
16 to enhance the role of technical education in every area of the
17 state; to encourage and strengthen collaborative and
18 cooperative relationships between and among institutions in
19 order to provide the highest quality programs and services
20 most effectively; and to make the most efficient use of scarce

21 resources while avoiding, to the extent practicable,
22 duplication of administrative and programmatic costs.
23 Establishment of multicampus institutions provides an
24 excellent opportunity to implement more effective and
25 efficient systems of program delivery and to explore
26 alternative organizational and management structures best
27 suited to serving the needs of students, employers and the
28 citizens of a geographic region. Reorganization offers an
29 efficient and effective method to provide high-quality,
30 comprehensive community and technical education in an area
31 where two institutions serve the same community and
32 technical college district or population center. Creating a
33 consolidated multicampus institution will enhance the
34 delivery of comprehensive community and technical college
35 education to that entire geographical region.

§18B-3F-2. Definitions.

1 (a) *General.* – For the purposes of this article, terms have
2 the meaning ascribed to them in section two, article one of
3 this chapter, unless the context in which the term is used
4 clearly requires a different meaning or a specific definition is
5 provided in this section.

6 (b) *Definitions.* –

7 (1) “Administrative planning committee” or “planning
8 committee” means the advisory group established pursuant to
9 section seven of this article to advise the governing board of
10 the reorganized multicampus community and technical
11 college and to serve as liaison to the council.

12 (2) “Affected institution” means a community and
13 technical college which is included in a reorganization.

14 (3) “Chancellor” means the chief executive officer of the
15 council appointed pursuant to section three, article two-b of
16 this chapter.

17 (4) “Consolidated institution” means a community and
18 technical college formed by joining together two or more
19 institutions to create a new multicampus college or
20 integrating one or more institutions into an existing
21 institution to form one multicampus college. An institution
22 that is included in a consolidation or integrated into an
23 existing institution ceases to exist as an independent
24 institution of higher education.

25 (5) “Institution” means any community and technical
26 college under the jurisdiction of the council.

27 (6) “Multicampus institution” means a college that has
28 more than one campus as defined and approved by the Higher
29 Learning Commission of the North Central Association of
30 Schools and Colleges. In the case of the consolidation of
31 Bridgemont Community and Technical College and Kanawha
32 Valley Community and Technical College, “multicampus
33 institution” means the consolidated institution comprised of
34 existing campuses in Montgomery and South Charleston and
35 any other campuses that may be established in the future, in
36 accordance with the Higher Learning Commission standards
37 of accreditation.

38 (7) “Institutional reorganization” or “reorganization”
39 means the process of combining institutions to form a
40 consolidated community and technical college or integrating
41 one institution into another.

42 (8) “Strategic reorganization plan” or “plan” means the
43 document developed in accordance with section eight of this

44 article consisting of strategies, procedures and guidelines to
45 be used in implementing an institutional reorganization.

§18B-3F-3. Appointment of institutional board of governors.

1 (a) Effective June 30, 2013, Bridgemont Community and
2 Technical College and Kanawha Valley Community and
3 Technical College become one independent, multicampus
4 community and technical college administered by its own
5 governing board under the jurisdiction and authority of the
6 council and subject to all applicable provisions of this chapter
7 and chapter eighteen-c of this code, and to continued
8 fulfillment of institutional accreditation requirements. The
9 boards of governors of Bridgemont Community and
10 Technical College and Kanawha Valley Community and
11 Technical College are abolished on June 30, 2013.

12 (1) The consolidated institution is comprised of existing
13 campuses in Montgomery and South Charleston and any
14 other campuses that may be established in the future, in
15 accordance with the Higher Learning Commission standards
16 of accreditation.

17 (2) The board of governors of the consolidated institution
18 shall develop, implement and complete the reorganization by
19 July 1, 2014.

20 (3) Beginning on July 1, 2013, and thereafter, any
21 reference in this code to Bridgemont Community and
22 Technical College or Kanawha Valley Community and
23 Technical College means the multicampus institution created
24 pursuant to this article.

25 (b) Initial appointments to the board of governors of the
26 reorganized institution are made pursuant to the provisions of
27 section one, article two-a of this chapter, except as follows:

28 (1) As soon after the effective date of this article as
29 practicable, but before July 1, 2013, the Governor shall select
30 lay citizen members of the board of governors for the
31 consolidated institution from the former lay citizen members
32 of each of the boards of governors of the affected institutions.
33 The Governor shall appoint an equal number of lay citizen
34 members from each of the boards of the affected institutions.
35 One such member serves a one-year term only, after which
36 that membership position is not reappointed.

37 (2) One of the initial appointments is for a term of one
38 year, four of the initial appointments are for terms of four
39 years and five of the initial appointments are for terms of
40 three years.

41 (3) Until June 30, 2014, all of the constituent members of
42 the boards of governors of the affected institutions
43 representing faculty, classified employees and students serve
44 as members on the board of governors of the reorganized
45 institution. Beginning July 1, 2014, the constituent members
46 of the reorganized institution are appointed according to the
47 provisions of section one, article two-a of this chapter.

48 (c) At the end of each initial term, and thereafter, an
49 appointment to the board of governors of the consolidated
50 institution, either to fill a vacancy or to reappoint a member
51 who is eligible to serve an additional term, shall be made in
52 accordance with section one, article two-a of this chapter.

53 (d) The chancellor shall call the first meeting of the board
54 of governors as soon after June 30, 2013, as feasible, at
55 which time the members shall elect a chairperson and other
56 officers pursuant to article two-a of this chapter. Thereafter,
57 the board shall hold an annual meeting in June of each year
58 for the purpose of electing officers.

§18B-3F-4. Powers and duties of board of governors.

1 (a) The actions of the board of governors appointed
2 pursuant to section three of this article are subject to the
3 terms and conditions prescribed in article two-a of this
4 chapter. The board has all the powers and duties provided in
5 section four, article two-a of this chapter.

6 (b) The programs of the consolidated institution are
7 operated under the rules and procedures of the institution's
8 board of governors, which, initially, shall adopt rules from
9 one or both of the affected institutions until the time when
10 new or revised rules are proposed and approved pursuant to
11 section six, article one of this chapter.

12 (1) The administrative planning committee shall make
13 recommendations to the board of governors regarding which
14 of the rules of the affected institutions should be adopted.

15 (2) Nothing in this section requires the initial rules of the
16 board of governors to be promulgated again under the rule
17 adopted by the council for community and technical college
18 education pursuant to section six, article one of this chapter
19 unless the rules are rescinded, revised, amended or otherwise
20 altered.

21 (c) It is the duty of the board of governors of the
22 consolidated institution to adopt rules and procedures that
23 authorize, support and encourage the consolidated institution
24 to fulfill its core mission. It is further the specific duty of the
25 board of governors to facilitate delivery of a comprehensive
26 program of community and technical college education in all
27 the counties that are served by the multicampus consolidated
28 institution. To that end, the board shall expend from the
29 appropriations allocated to the affected institutions such
30 funds as are necessary or expedient to operate and conduct

31 programs, to acquire clear title to any real property and to
32 make necessary capital improvements.

33 (d) In addition to the powers and duties set forth in this
34 section and in article two-a of this chapter, the board of
35 governors shall perform the following duties:

36 (1) Choose a name for the consolidated multicampus
37 institution from the recommendations submitted by the
38 Administrative Planning Committee pursuant to section seven
39 of this article.

40 (2) Choose the president of one of the affected
41 institutions to serve as president of the consolidated
42 institution pursuant to section five of this article;

43 (3) Determine which positions of the affected institutions
44 are to be abolished and notify employees as required by
45 section nine of this article; and

46 (4) Serve as the designated board of advisors for the
47 Advantage Valley Advanced Technology Center created by
48 section fourteen, article three-c of this chapter.

§18B-3F-5. Appointment of institutional president; other officers.

1 (a) The board of governors shall designate the president
2 of one of the affected institutions to serve as president of the
3 consolidated multicampus institution. The other president
4 shall serve as provost or chief executive officer of his or her
5 respective campus. The salary and benefits of an individual
6 who is serving as an institutional president at the time of a
7 reorganization may not be reduced solely as a result of the
8 reorganization. Provosts and chief executive officers report
9 directly to the president of the consolidated institution.

10 (b) After the initial contract period ends or at the
11 expiration of a president's current contract, the board of
12 governors of the consolidated multicampus institution shall
13 appoint and evaluate the president in accordance with section
14 six, article one-b of this chapter.

**§18B-3F-6. Budget; transfer of financial assets, property,
liability, orders, policies, procedures, etc.**

1 When a consolidated institution is formed:

2 (1) The operating budget of each affected institution is
3 integrated under the authority and jurisdiction of the board of
4 governors of the consolidated institution.

5 (2) All financial assets, including state fund balances, and
6 liabilities are transferred from the authority of the board of
7 governors of each affected institution to the authority of the
8 board of governors of the consolidated institution.

9 (3) Any capital debt service payment formerly the
10 responsibility of an affected institution or the affected
11 institution's share of any capital debt service payment of its
12 former sponsoring institution continues in the required
13 amount and is the responsibility of the board of governors of
14 the consolidated institution.

15 (4) The titles to all real property, facilities and equipment
16 of, as well as each valid agreement and obligation undertaken
17 by, the affected institutions are transferred to the board of
18 governors of the consolidated institution, which shall exercise
19 general determination, control, supervision and management
20 of the financial, business and education policies and affairs of
21 the consolidated multicampus institution.

22 (5) The title to all property purchased for the use of an
23 affected institution is vested in the board of governors of the
24 consolidated multicampus institution.

**§18B-3F-7. Administrative planning committee; purpose;
membership; duties; termination.**

1 (a) On the effective date of this article, or as soon
2 thereafter as practicable, the council shall establish an
3 administrative planning committee to advise in the
4 reorganization of Bridgemont and Kanawha Valley
5 Community and Technical Colleges.

6 (b) *Membership.* – The administrative planning
7 committee consists of the following members:

8 (1) The president of each affected institution;

9 (2) The chair of the board of governors of each affected
10 institution;

11 (3) The chair of the council;

12 (4) The vice chancellor for administration, appointed
13 pursuant to section two, article four of this chapter, or a
14 designee; and

15 (5) The chancellor, who chairs the planning committee.

16 (c) The administrative planning committee serves in an
17 advisory capacity to the board of governors in developing the
18 strategic reorganization plan and serves as liaison to the
19 council during the reorganization period.

20 (d) The administrative planning committee shall submit
21 to the board of governors a list of at least three names from

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22 which the board shall choose a name for the consolidated,
23 multicampus community and technical college at their first
24 meeting as soon after June 30, 2013, as feasible.

25 (e) The planning committee shall report to the council at
26 least quarterly, or more often if requested, on development of
27 the strategic reorganization plan and the progress of the board
28 of governors in implementing the reorganization.

29 (f) The administrative planning committee is created
30 specifically to assist in the reorganization of Bridgemont and
31 Kanawha Valley Community and Technical Colleges and
32 ceases to exist on July 1, 2014, or on the date when the
33 council determines the reorganization has been completed,
34 whichever occurs first.

§18B-3F-8. Strategic reorganization plan.

1 (a) The board of governors, with the advice of the
2 administrative planning committee, shall develop a strategic
3 reorganization plan for Bridgemont and Kanawha Valley
4 Community and Technical Colleges, including all campuses
5 and instruction sites of each institution. The board of
6 governors shall develop, implement and complete the
7 reorganization by July 1, 2014.

8 (b) The reorganization plan includes, but is not limited to,
9 the following elements:

10 (1) A time line showing specific steps for completing the
11 reorganization by July 1, 2014;

12 (2) A procedure to assure that all employees of the
13 affected institutions are notified of their employment status
14 pursuant to section nine of this article;

15 (3) A statement of assurance showing specific steps to be
16 taken to safeguard the rights, privileges and benefits of
17 faculty, classified employees and nonclassified employees of
18 the affected institutions including provisions for fulfilling
19 contracts and protecting earned benefits;

20 (4) A description of the instructional benefits expected
21 from the reorganization including a detailed explanation of
22 enhancements to academic program offerings, workforce
23 development programs for employers and services to
24 students;

25 (5) A description of the fiscal benefits expected from the
26 reorganization including a detailed explanation of
27 management efficiencies, enhanced leadership skills, better
28 coordination of instruction and student support services and
29 efficiencies in expenditures per full-time equivalent student;

30 (6) A statement of assurance that student access to high-
31 quality education programming will be enhanced and/or
32 maintained; and

33 (7) A strategy to secure regional accreditation of the
34 reorganized institution by July 1, 2014.

§18B-3F-9. Rights and benefits of employees of affected institutions; positions to be abolished; notice of employment status by certain date required.

1 (a) When a consolidated institution is formed, the faculty,
2 classified employees and nonclassified employees of the
3 affected institutions become the faculty, classified employees
4 and nonclassified employees of the consolidated institution,
5 subject to the provisions of this article.

6 (b) By December 31, 2013, the board of governors of the
7 consolidated institution, in consultation with the president,
8 shall determine which, if any, positions existing at the
9 affected institutions on the effective date of this article are to
10 be abolished.

11 (1) In the case of positions which the board chooses to
12 retain, but which exist at both affected institutions, when
13 there is an overlap of duties and responsibilities of employees
14 who occupy those positions, the board of governors, in
15 consultation with the president, shall determine which
16 position or positions shall be abolished.

17 (2) A classified employee who holds a position scheduled
18 to be abolished is afforded all rights and benefits provided by
19 this article and by section three, article seven of this chapter.

20 (c) *Official notification to employees.* –

21 (1) The president shall provide official notice of
22 employment status to each classified employee, faculty
23 member and nonclassified employee of the affected
24 institutions not later than thirty days after the board's
25 decision. For an employee whose position is to be abolished,
26 the official notice shall specify his or her date of termination.
27 The termination date shall be within three to six months
28 following the date of official notification.

29 (2) Any person who was employed full time by an
30 affected institution on the effective date of this article and
31 whose employment continues in any capacity with the board
32 of governors of the consolidated institution is considered to
33 have no break in service for calculation of years of service,
34 seniority, participation in health and retirement plans or
35 continued employment by the state.

36 (3) The board of governors, created pursuant to this
37 article, is an organization as defined in section two, article
38 nine-a of this chapter and is subject to all the terms and
39 conditions that apply to higher education organizations as
40 provided in this chapter and chapter eighteen-c of this code.
41 Specifically, the board is subject to section three, article
42 seven, of this chapter when making reductions in force of
43 classified employees.

§18B-3F-10. Transfer of students.

1 When a consolidated institution is formed, the students of
2 the affected institutions become the students of the
3 consolidated institution, subject to the provisions of section
4 eight, article one of this chapter.

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

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2013.

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Governor