

1 **ENROLLED**

2 **Senate Bill No. 426**

3 (BY SENATOR PLYMALE)

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5 [Passed March 8, 2014; in effect from passage.]
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10 AN ACT to amend and reenact §18B-1B-2 of the Code of West Virginia,
11 1931, as amended; to amend and reenact §18B-2A-1 of said code;
12 and to amend and reenact §18B-2B-4 of said code, all relating
13 to higher education; appointment of members to the Higher
14 Education Policy Commission; appointment of members to the
15 institutional boards of Governors; and appointment of members
16 to the West Virginia Council for Community and Technical
17 College Education.

18 *Be it enacted by the Legislature of West Virginia:*

19 That §18B-1B-2 of the Code of West Virginia, 1931, as amended,
20 be amended and reenacted; that §18B-2A-1 of said code be amended
21 and reenacted; and that §18B-2B-4 of said code be amended and
22 reenacted, all to read as follows:

23 **ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.**

1 **§18B-1B-2. Composition of commission; terms and qualifications of**
2 **members; vacancies; eligibility for reappointment;**
3 **oath of office; removal from office.**

4 (a) The commission is comprised of ten members, all of whom
5 are entitled to vote. The membership of the commission is as
6 follows:

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

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

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

11 (4) Seven at-large members who are citizens of the state,
12 appointed by the Governor, by and with the advice and consent of
13 the Senate: *Provided*, That prior to appointment, the Governor shall
14 interview each candidate to assure that the person selected
15 understands and is committed to achieving the goals and objectives
16 as set forth in the institutional compacts and in section one-a,
17 article one of this chapter. The Governor shall invite the
18 President of the Senate, the Speaker of the House of Delegates, the
19 chairs of the Senate and House of Delegates committees on finance
20 and education and such other legislative leaders as the Governor
21 may determine to participate in interviewing potential candidates.

22 (b) Each of the at-large members appointed by the Governor
23 shall represent the public interest and shall be committed to the

1 legislative intent and goals set forth in state law and policy.

2 (c) The Governor may not appoint any person to be a member of
3 the commission who is an officer, employee or member of the council
4 or an advisory board of any state college or university; an officer
5 or member of any political party executive committee; the holder of
6 any other public office or public employment under the government
7 of this state or any of its political subdivisions; an appointee or
8 employee of any governing board; or an immediate family member of
9 any employee under the jurisdiction of the commission, the council
10 or any governing board.

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

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

13 (2) At least two shall be appointed from each congressional
14 district; and

15 (3) No more than one member may serve from the same county.

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

18 (f) The Governor shall appoint a member to fill any vacancy
19 among the seven at-large members, by and with the advice and
20 consent of the Senate. Any member appointed to fill a vacancy
21 serves for the remainder of the unexpired term. The Governor shall
22 fill the vacancy within sixty days of the occurrence of the
23 vacancy.

1 (g) An at-large member appointed by the Governor may not serve
2 more than two consecutive terms. If the Governor intends to
3 reappoint an at-large member for a second term, the Governor shall
4 do so within thirty days prior to expiration of the term. If the
5 Governor does not reappoint within the thirty-day period, the term
6 is deemed expired, effective on the scheduled expiration date.

7 (h) Upon expiration of an at-large member's term, the Governor
8 shall appoint a successor within sixty days of the end of term. An
9 at-large member whose term has expired may not serve more than
10 sixty days following expiration of the term.

11 (i) Before exercising any authority or performing any duties
12 as a member of the commission, each member shall qualify as such by
13 taking and subscribing to the oath of office prescribed by section
14 five, article IV of the Constitution of West Virginia and the
15 certificate thereof shall be filed with the Secretary of State.

16 (j) A member of the commission appointed by the Governor may
17 not be removed from office by the Governor except for official
18 misconduct, incompetence, neglect of duty or gross immorality and
19 then only in the manner prescribed by law for the removal of the
20 state elective officers by the Governor.

21 **ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.**

22 **§18B-2A-1. Findings; composition of boards; terms and**
23 **qualifications of members; vacancies; eligibility**

1 **for reappointment.**

2 (a) *Findings.* -- The Legislature finds that the State of West
3 Virginia is 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 the
7 board;

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

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

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

16 (b) *Boards of Governors continued.* -- A Board of Governors is
17 continued at each of the following institutions: Bluefield State
18 College, Blue Ridge Community and Technical College, BridgeValley
19 Community and Technical College, Concord University, Eastern West
20 Virginia Community and Technical College, Fairmont State
21 University, Glenville State College, Mountwest Community and
22 Technical College, Marshall University, New River Community and
23 Technical College, Pierpont Community and Technical College,

1 Shepherd University, Southern West Virginia Community and Technical
2 College, West Liberty University, West Virginia Northern Community
3 and Technical College, West Virginia School of Osteopathic
4 Medicine, West Virginia State University, West Virginia University
5 and West Virginia University at Parkersburg.

6 (c) *Board membership.* --

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

10 (2) The Board of Governors for Marshall University consists of
11 sixteen persons. The Board of Governors for West Virginia
12 University consists of seventeen persons. The boards of governors
13 of the other state institutions of higher education consist of
14 twelve persons.

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

16 (A) A full-time member of the faculty with the rank of
17 instructor or above duly elected by the faculty of the respective
18 institution;

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

22 (C) A member from the institutional classified employees duly
23 elected by the classified employees of the respective institution;

1 (4) For the Board of Governors at Marshall University,
2 thirteen lay members appointed by the Governor, by and with the
3 advice and consent of the Senate, pursuant to this section;

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

8 (A) The Chairperson of the Board of Visitors of West Virginia
9 University Institute of Technology;

10 (B) A full-time faculty member representing the extension
11 service at the institution or a full-time faculty member
12 representing the health sciences, selected by the faculty senate.

13 (6) For each board of governors of the other state
14 institutions of higher education, nine lay members appointed by the
15 Governor, by and with the advice and consent of the Senate,
16 pursuant to this section.

17 (A) Of the nine members appointed by the Governor, no more
18 than five may be of the same political party. Of the thirteen
19 members appointed by the Governor to the governing board of
20 Marshall University, no more than eight may be of the same
21 political party. Of the twelve members appointed by the Governor
22 to the governing board of West Virginia University, no more than
23 seven may be of the same political party.

1 (B) Of the nine members appointed by the Governor, at least
2 five shall be residents of the state. Of the thirteen members
3 appointed by the Governor to the governing board of Marshall
4 University, at least eight shall be residents of the state. Of the
5 twelve members appointed by the Governor to the governing board of
6 West Virginia University, at least seven shall be residents of the
7 state.

8 (7) In making lay appointments, the Governor shall consider
9 the institutional mission and membership characteristics including
10 the following:

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

13 (B) The need for awareness and understanding of institutional
14 problems and priorities, including those related to research,
15 teaching and outreach;

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

17 (D) The value of achieving balance in gender and diversity in
18 the racial and ethnic characteristics of the lay membership of each
19 board.

20 (d) *Board member terms.* --

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

23 (2) The faculty member serves for a term of two years. Each

1 term begins on July 1. Faculty members are eligible to succeed
2 themselves for three additional terms, not to exceed a total of
3 eight consecutive years.

4 (3) The member representing classified employees serves for a
5 term of two years. Each term begins on July 1. Members
6 representing classified employees are eligible to succeed
7 themselves for three additional terms, not to exceed a total of
8 eight consecutive years.

9 (4) The appointed lay citizen members serve terms of four
10 years each and are eligible to succeed themselves for no more than
11 one additional term, except that citizen members who are appointed
12 to fill unexpired terms are eligible to succeed themselves for two
13 full terms after completing an unexpired term. If the Governor
14 intends to reappoint a lay citizen member for a second term, the
15 Governor shall do so within thirty days prior to expiration of the
16 term. If the Governor does not reappoint within the thirty-day
17 period, the term is deemed expired, effective on the scheduled
18 expiration date.

19 (5) A vacancy in an unexpired term of a member shall be filled
20 for the unexpired term within sixty days of the occurrence of the
21 vacancy in the same manner as the original appointment or election.
22 Except in the case of a vacancy, all elections are held and all
23 appointments are made no later than June 30 preceding the

1 commencement of the term. A member whose term has expired may not
2 serve more than sixty days following expiration of the term. Each
3 board of governors shall elect one of its appointed lay members to
4 be chairperson in June of each year. A member may not serve as
5 chairperson for more than four consecutive years.

6 (6) The appointed members of the boards of governors serve
7 staggered terms of up to four years.

8 (e) *Board member eligibility, expenses.* --

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

12 (A) For a baccalaureate institution or university, a person is
13 ineligible for appointment who is an officer, employee or member of
14 any other board of governors; an employee of any institution of
15 higher education; an officer or member of any political party
16 executive committee; the holder of any other public office or
17 public employment under the government of this state or any of its
18 political subdivisions; an employee of any affiliated research
19 corporation created pursuant to article twelve of this chapter; an
20 employee of any affiliated foundation organized and operated in
21 support of one or more state institutions of higher education; or
22 a member of the council or commission. This subsection does not
23 prevent the representative from the faculty, classified employees,

1 students or the superintendent of a county board of education from
2 being members of the governing boards.

3 (B) For a community and technical college, a person is
4 ineligible for appointment who is an officer, employee or member of
5 any other board of governors; a member of a board of visitors of
6 any public institution of higher education; an employee of any
7 institution of higher education; an officer or member of any
8 political party executive committee; the holder of any other public
9 office, other than an elected county office, or public employment,
10 other than employment by the county board of education, under the
11 government of this state or any of its political subdivisions; an
12 employee of any affiliated research corporation created pursuant to
13 article twelve of this chapter; an employee of any affiliated
14 foundation organized and operated in support of one or more state
15 institutions of higher education; or a member of the council or
16 commission. This subsection does not prevent the representative
17 from the faculty, classified employees or students from being
18 members of the governing boards.

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

1 (3) A member of a governing board appointed by the Governor
2 may not be removed from office by the Governor except for official
3 misconduct, incompetence, neglect of duty or gross immorality and
4 then only in the manner prescribed by law for the removal of the
5 state elective officers by the Governor.

6 (4) The members of the board of governors serve without
7 compensation, but are reimbursed for all reasonable and necessary
8 expenses actually incurred in the performance of official duties
9 under this article upon presentation of an itemized sworn statement
10 of expenses.

11 (5) The president of the institution shall make available
12 resources of the institution for conducting the business of its
13 board of governors. All expenses incurred by the board of
14 governors and the institution under this section are paid from
15 funds allocated to the institution for that purpose.

16 **ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL**
17 **COLLEGE EDUCATION.**

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

19 (a) The council is comprised of thirteen members selected as
20 follows:

21 (1) Eight members appointed by the Governor, with the advice
22 and consent of the Senate as follows:

23 (A) One member shall be appointed from each community and

1 technical college consortia district as established in this
2 article.

3 (B) Prior to appointment, the Governor shall interview each
4 candidate to assure that the person selected understands and is
5 committed to achieving the goals and objectives as set forth in the
6 institutional compacts and in section one-a, article one of this
7 chapter. The Governor shall invite the President of the Senate,
8 the Speaker of the House of Delegates, the chairs of the Senate and
9 House of Delegates committees on finance and education and such
10 other legislative leaders as the Governor may determine to
11 participate in interviewing potential candidates.

12 (2) The Chairperson of the West Virginia Workforce Investment
13 Council;

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

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

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

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

22 (b) Any appointed member shall be a citizen of the state,
23 shall represent the public interest and shall understand and be

1 committed to the legislative intent and achieving the goals and
2 objectives set forth in section one-a, article one of this chapter,
3 the essential conditions set forth in article three-c of this
4 chapter, and the goals for secondary and post-secondary vocational-
5 technical- occupational and adult basic education in the state.
6 Any appointed member shall represent the interests of the business,
7 labor and employer communities and demonstrate knowledge of the
8 education needs of the various regions, attainment levels and age
9 groups within the state.

10 (c) The Governor may not appoint any person to be a member of
11 the council who is an officer, employee or member of an advisory
12 board of any state college or university, the holder of any other
13 public office or public employment under the government of this
14 state or any of its political subdivisions, an appointee or
15 employee of any governing board or an immediate family member of
16 any employee under the jurisdiction of the commission or any
17 governing board. An individual may not serve on the council who is
18 engaged in providing, or employed by a person or company whose
19 primary function is to provide, workforce development services and
20 activities.

21 (d) Members of the council serve for staggered terms of four
22 years.

23 (e) A member appointed by the Governor may not serve more than

1 two consecutive terms. If the Governor intends to reappoint a
2 member for a second term, the Governor shall do so within thirty
3 days prior to expiration of the term. If the Governor does not
4 reappoint within the thirty-day period, the term is deemed expired,
5 effective on the scheduled expiration date.

6 (f) Upon expiration of an appointed member's term, the
7 Governor shall appoint a successor within sixty days of the end of
8 the term. An appointed member whose term has expired may not serve
9 more than sixty days following expiration of the term.

10 (g) The Governor shall appoint a member to fill any vacancy
11 among the eight appointed members, by and with the advice and
12 consent of the Senate. Any member appointed to fill a vacancy
13 serves for the remainder of the unexpired term. The Governor shall
14 fill the vacancy within sixty days of the occurrence of the
15 vacancy.