

1 **H. B. 4495**

2  
3 (By Delegates Hamrick, Butler, Sobonya,  
4 Miller, Storch, Raines and McCuskey)  
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6 [Introduced February 13, 2014; referred to the  
7 Committee on Education the Judiciary.]  
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10 A BILL to amend and reenact §18-2-1 of the Code of West Virginia,  
11 1931, as amended, relating to the West Virginia Board of  
12 Education; requiring election of six members; requiring  
13 Governor to appoint three members; providing six-year terms;  
14 and including residency requirements.

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

16 That §18-2-1 of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

18 **ARTICLE 2. STATE BOARD OF EDUCATION.**

19 **§18-2-1. Creation; composition; appointment, qualifications, terms  
20 and removal of members; offices.**

21 (a) (1) There is a state board of education, to be known as the  
22 West Virginia Board of Education, which is a corporation and as  
23 such may contract and be contracted with, plead and be impleaded,  
24 sue and be sued, and have and use a common seal. The state board

1 consists of twelve members, of whom one is the State Superintendent  
2 of Schools, ex officio; one of whom is the Chancellor of the Higher  
3 Education Policy Commission, ex officio; and one of whom is the  
4 Chancellor of the West Virginia Council for Community and Technical  
5 College Education, ex officio, none of whom is entitled to vote.  
6 The other nine members are citizens of the state, appointed by the  
7 Governor, by and with the advice and consent of the Senate, for  
8 overlapping terms of nine years. Terms of office begin on November  
9 5, of the appropriate year and end on November 4, of the  
10 appropriate year. At least two, but not more than three, members  
11 are appointed from each congressional district.

12 (2) No more than five of the appointive members may belong to  
13 the same political party and no person is eligible for appointment  
14 to membership on the state board who is a member of any political  
15 party executive committee or holds any other public office or  
16 public employment under the federal government or under the  
17 government of this state or any of its political subdivisions, or  
18 who is an appointee or employee of the board. Members are eligible  
19 for reappointment. Any vacancy on the board shall be filled by the  
20 Governor by appointment for the unexpired term.

21 (3) This subdivision becomes effective upon the ratification  
22 of the Constitutional amendment authorizing the election of members  
23 of the West Virginia Board of Education in 2014. Notwithstanding  
24 subdivisions (1) and (2) of this subsection, beginning January 1,

1 2017, the board consists of six elected members who are elected on  
2 a nonpartisan basis and three members appointed by the Governor, by  
3 and with the advice and consent of the Senate. At the first  
4 election after the ratification of the Constitutional amendment  
5 authorizing the election of members six members shall be elected,  
6 half for four-year terms and half for six-year terms. After that  
7 all members shall be elected for six-year terms. There may be no  
8 more than two members elected who are residents of the same  
9 congressional district and they may not be residents of the same  
10 county. Each candidate seeking election as a board member at the  
11 first election after the ratification of the Constitutional  
12 amendment authorizing the election of members shall designate  
13 whether he or she is seeking a four-year term or a six-year term.  
14 The members appointed by the Governor serve for six-year terms,  
15 except that of the members appointed after the ratification of the  
16 Constitutional amendment authorizing the election of members one  
17 shall be appointed to a two-year term, one to a four-year term and  
18 one to a six-year term.

19       (b) Notwithstanding the provisions of section four, article  
20 six, chapter six of this code, a member of the state board may not  
21 be removed from office by the Governor except for official  
22 misconduct, incompetence, neglect of duty or gross immorality and  
23 then only in the manner prescribed by law for the removal by the  
24 Governor of state elective officers.

1        (c) Before exercising any authority or performing any duties  
2 as a member of the state board, each member shall qualify ~~as such~~  
3 by taking and subscribing to the oath of office prescribed by  
4 section five, article IV of the Constitution of West Virginia. The  
5 certificate ~~whereof~~ of the oath shall be filed with the Secretary  
6 of State. The state board shall provide a suitable office in the  
7 state Department of Education at the state Capitol ~~shall be~~  
8 ~~provided~~ for use by the state board.

NOTE: The purpose of this bill is to authorize the election of and specify qualifications for nonappointed members of the West Virginia Board of Education.

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