

WEST VIRGINIA LEGISLATURE
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ENROLLED

Senate Bill No. 426

(BY SENATOR PLYMALE)

[PASSED MARCH 8, 2014; IN EFFECT FROM PASSAGE.]

E N R O L L E D

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[Passed March 8, 2014; in effect from passage.]

AN ACT 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; and 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) No more than one member may serve from the same
41 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 remainder of the unexpired term.
48 The Governor shall fill the vacancy within sixty days of the
49 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 prior to expiration
54 of the term. If the Governor does not reappoint within the
55 thirty-day period, the term is deemed expired, effective on the
56 scheduled expiration date.

57 (h) Upon expiration of an at-large member's term, the
58 Governor shall appoint a successor within sixty days of the

59 end of term. An at-large member whose term has expired
60 may not serve more than sixty days following expiration of
61 the term.

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

68 (j) A member of the commission appointed by the
69 Governor may not be removed from office by the Governor
70 except for official misconduct, incompetence, neglect of duty
71 or gross immorality and then only in the manner prescribed
72 by law for the removal of the state elective officers by the
73 Governor.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

§18B-2A-1. Findings; composition of boards; terms and qualifications of members; vacancies; eligibility for reappointment.

1 (a) *Findings.* – The Legislature finds that the State of
2 West Virginia is served best when the membership of each
3 governing board includes the following:

4 (1) The academic expertise and institutional experience
5 of faculty members and a student of the institution governed
6 by the board;

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

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

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

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

30 (c) *Board membership.* –

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

35 (2) The Board of Governors for Marshall University
36 consists of sixteen persons. The Board of Governors for
37 West Virginia University consists of seventeen persons. The
38 boards of governors of the other state institutions of higher
39 education consist of twelve persons.

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

42 (A) A full-time member of the faculty with the rank of
43 instructor or above duly elected by the faculty of the
44 respective institution;

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

48 (C) A member from the institutional classified employees
49 duly elected by the classified employees of the respective
50 institution;

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

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

58 (A) The Chairperson of the Board of Visitors of West
59 Virginia University Institute of Technology;

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

64 (6) For each board of governors of the other state
65 institutions of higher education, nine lay members appointed
66 by the Governor, by and with the advice and consent of the
67 Senate, pursuant to this section.

68 (A) Of the nine members appointed by the Governor, no
69 more than five may be of the same political party. Of the
70 thirteen members appointed by the Governor to the governing
71 board of Marshall University, no more than eight may be of
72 the same political party. Of the twelve members appointed
73 by the Governor to the governing board of West Virginia
74 University, no more than seven may be of the same political
75 party.

76 (B) Of the nine members appointed by the Governor, at
77 least five shall be residents of the state. Of the thirteen
78 members appointed by the Governor to the governing board
79 of Marshall University, at least eight shall be residents of the
80 state. Of the twelve members appointed by the Governor to
81 the governing board of West Virginia University, at least
82 seven shall be residents of the state.

83 (7) In making lay appointments, the Governor shall
84 consider the institutional mission and membership
85 characteristics including the following:

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

88 (B) The need for awareness and understanding of
89 institutional problems and priorities, including those related
90 to research, teaching and outreach;

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

92 (D) The value of achieving balance in gender and
93 diversity in the racial and ethnic characteristics of the lay
94 membership of each board.

95 (d) *Board member terms.* –

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

98 (2) The faculty member serves for a term of two years.
99 Each term begins on July 1. Faculty members are eligible to
100 succeed themselves for three additional terms, not to exceed
101 a total of eight consecutive years.

102 (3) The member representing classified employees serves
103 for a term of two years. Each term begins on July 1.
104 Members representing classified employees are eligible to
105 succeed themselves for three additional terms, not to exceed
106 a total of eight consecutive years.

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

118 (5) A vacancy in an unexpired term of a member shall be
119 filled for the unexpired term within sixty days of the
120 occurrence of the vacancy in the same manner as the original
121 appointment or election. Except in the case of a vacancy, all
122 elections are held and all appointments are made no later than
123 June 30 preceding the commencement of the term. A
124 member whose term has expired may not serve more than
125 sixty days following expiration of the term. Each board of
126 governors shall elect one of its appointed lay members to be

127 chairperson in June of each year. A member may not serve
128 as chairperson for more than four consecutive years.

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

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

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

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

150 (B) For a community and technical college, a person is
151 ineligible for appointment who is an officer, employee or
152 member of any other board of governors; a member of a
153 board of visitors of any public institution of higher education;
154 an employee of any institution of higher education; an officer
155 or member of any political party executive committee; the
156 holder of any other public office, other than an elected county
157 office, or public employment, other than employment by the

158 county board of education, under the government of this state
159 or any of its political subdivisions; an employee of any
160 affiliated research corporation created pursuant to article
161 twelve of this chapter; an employee of any affiliated
162 foundation organized and operated in support of one or more
163 state institutions of higher education; or a member of the
164 council or commission. This subsection does not prevent the
165 representative from the faculty, classified employees or
166 students from being members of the governing boards.

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

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

179 (4) The members of the board of governors serve without
180 compensation, but are reimbursed for all reasonable and
181 necessary expenses actually incurred in the performance of
182 official duties under this article upon presentation of an
183 itemized sworn statement of expenses.

184 (5) The president of the institution shall make available
185 resources of the institution for conducting the business of its
186 board of governors. All expenses incurred by the board of
187 governors and the institution under this section are paid from
188 funds allocated to the institution for that purpose.

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

§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 as follows:

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

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, article
12 one of this chapter. The Governor shall invite the President
13 of the Senate, the Speaker of the House of Delegates, the
14 chairs of the Senate and House of Delegates committees on
15 finance and education and such other legislative leaders as
16 the Governor may determine to participate in interviewing
17 potential candidates.

18 (2) The Chairperson of the West Virginia Workforce
19 Investment Council;

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

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

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

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

30 (b) Any appointed member shall be a citizen of the state,
31 shall represent the public interest and shall understand and be
32 committed to the legislative intent and achieving the goals
33 and objectives set forth in section one-a, article one of this
34 chapter, the essential conditions set forth in article three-c of
35 this chapter, and the goals for secondary and post-secondary
36 vocational-technical- occupational and adult basic education
37 in the state. Any appointed member shall represent the
38 interests of the business, labor and employer communities
39 and demonstrate knowledge of the education needs of the
40 various regions, attainment levels and age groups within the
41 state.

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

54 (d) Members of the council serve for staggered terms of
55 four years.

56 (e) A member appointed by the Governor may not serve
57 more than two consecutive terms. If the Governor intends to
58 reappoint a member for a second term, the Governor shall do
59 so within thirty days prior to expiration of the term. If the
60 Governor does not reappoint within the thirty-day period, the
61 term is deemed expired, effective on the scheduled expiration
62 date.

63 (f) Upon expiration of an appointed member's term, the
64 Governor shall appoint a successor within sixty days of the
65 end of the term. An appointed member whose term has
66 expired may not serve more than sixty days following
67 expiration of the term.

68 (g) The Governor shall appoint a member to fill any
69 vacancy among the eight appointed members, by and with the
70 advice and consent of the Senate. Any member appointed to
71 fill a vacancy serves for the remainder of the unexpired term.
72 The Governor shall fill the vacancy within sixty days of the
73 occurrence of the vacancy.

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

.....
Chairman Senate Committee

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this
the Day of, 2014.

.....
Governor