

H. B. 2469

(By Mr. Speaker, (Mr. Armstead) and Delegate Miley))

[By Request of the Executive]

[Introduced January 28, 2015; referred to the
Committee on Government Organization.]

A BILL to repeal §5B-2-3a and §5B-2-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §5B-2-2, §5B-2-3, §5B-2-4, §5B-2-5 and §5B-2-6 of said code; to amend and reenact §15-5-28 of said code; to amend and reenact §18A-3-2c of said code; to amend and reenact §33-16D-16 of said code, all relating to eliminating unnecessary, inactive, or redundant councils, committees and boards; terminating the Council for Community and Economic Development and transferring powers and duties to the Executive Director of the West Virginia Development Office; terminating the Statewide Intrastate Mutual Aid Committee and making technical corrections to the code to reference a state of preparedness; terminating the Principals Standards Advisory Council; and terminating the West Virginia Health Insurance Plan Board.

Be it enacted by the Legislature of West Virginia:

That §5B-2-3a and §5B-2-7 of the Code of West Virginia, 1931, as amended be repealed; that §5B-2-2, §5B-2-3, §5B-2-4, §5B-2-5 and §5B-2-6 of said code be amended and reenacted; that

1 §15-5-28 of said code be amended and reenacted; that §18A-3-2c of said code be amended and
2 reenacted; and that §33-16D-16 of said code be amended and reenacted, all to read as follows:

3 **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

4 **ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.**

5 **§5B-2-2. Appointment and compensation of the Executive Director of the West Virginia**
6 **Development Office.**

7 ~~(a) The Council for Community and Economic Development, within the West Virginia~~
8 ~~Development Office, is a body corporate and politic, constituting a public corporation and~~
9 ~~government instrumentality. Membership on the council consists of:~~

10 ~~(1) No less than nine nor more than eleven members to be appointed by the Governor, with~~
11 ~~the advice and consent of the Senate, representing community or regional interests, including~~
12 ~~economic development, commerce, banking, manufacturing, the utility industry, the mining industry,~~
13 ~~the telecommunications/data processing industry, small business, labor, tourism or agriculture. One~~
14 ~~such member shall be a member of a regional planning and development council. Of these members~~
15 ~~at least three shall represent each congressional district of the state and appointments shall be made~~
16 ~~in such a manner as to provide a broad geographical distribution of members of the council;~~

17 ~~(2) Four at-large members to be appointed by the Governor with the advice and consent of~~
18 ~~the Senate;~~

19 ~~(3) The president of the West Virginia Economic Development Council; and~~

20 ~~(4) The chair, or his or her designee, of the Tourism Commission created pursuant to the~~
21 ~~provisions of section eight of this article.~~

22 ~~In addition, the President of the Senate and the Speaker of the House of Delegates, or his or~~

1 her designee, shall serve as ex officio nonvoting members.

2 (b) The Governor appoints the members of the council to four-year terms. A member whose
3 term has expired continues to serve until the successor is duly appointed and qualified. Except as
4 otherwise provided in this section, any member is eligible for reappointment. A vacancy is filled by
5 appointment by the Governor in the same manner as the original appointment. A member appointed
6 to fill a vacancy serves for the remainder of the unexpired term.

7 (c) Members of the council are not compensated for services performed as members, but
8 receive reasonable and necessary expenses actually incurred in the performance of their duties in a
9 manner consistent with guidelines of the travel management office of the Department of
10 Administration. A majority of the voting members constitute a quorum for the purpose of conducting
11 business. The council shall elect its chair for a term to run concurrent with the term of office of the
12 member elected as chair. The chair is eligible for successive terms in that position.

13 (d) (a) The Governor shall appoint an the Executive Director of the West Virginia
14 Development Office who is qualified for the position by reason of his or her extensive education and
15 experience in the field of professional economic development. The executive director shall serve
16 serves at the will and pleasure of the Governor. The salary of the director shall annually be fixed by
17 ~~the council~~. The executive director shall have overall management responsibility and administrative
18 control and supervision within the West Virginia Development Office. It is the intention of the
19 Legislature that the executive director provide professional and technical expertise in the field of
20 professional economic and tourism development. ~~in order to support the policy-making functions~~
21 ~~of the council, but that the director not be a public officer, agent, servant or contractor within the~~
22 ~~meaning of section thirty-eight, article VI of the constitution of West Virginia and not be a statutory~~

1 ~~officer within the meaning of section one, article two, chapter five-f of this code.~~ Subject to the
2 provisions of the contract provided in section four of this article, the executive director may hire and
3 fire economic development representatives employed pursuant to the provisions of section five of
4 this article.

5 ~~(e)~~ (b) The Executive Director of the West Virginia Development Office may promulgate
6 rules to carry out the purposes and programs of the West Virginia Development Office to include
7 generally the programs available and the procedure and eligibility of applications relating to
8 assistance under the programs. These rules are not subject to the provisions of chapter twenty-nine-a
9 of this code, but shall be filed with the Secretary of State. The executive director may adopt any of
10 the rules previously promulgated by the council for community and economic development.

11 **§5B-2-3. Powers and duties of the executive director.**

12 ~~The council for community and economic development~~ executive director shall enhance
13 economic growth and development through the development of a comprehensive economic
14 development strategy for West Virginia. "Comprehensive economic development strategy" means
15 a plan that outlines strategies and activities designed to continue, diversify or expand the economic
16 base of the state as a whole; create jobs; develop a highly skilled workforce; facilitate business
17 access to capital, including venture capital; advertise and market the resources offered by the state
18 with respect to the needs of business and industry; facilitate cooperation among local, regional and
19 private economic development enterprises; improve infrastructure on a state, regional and
20 community level; improve the business climate generally; and leverage funding from sources other
21 than the state, including federal and private sources.

22 **§5B-2-4. Public-private partnerships.**

1 The West Virginia Development Office is authorized to enter into contractual or joint venture
2 agreements with a nonprofit corporation organized pursuant to the corporate laws of the state,
3 organized to permit qualification pursuant to section 501(c) of the Internal Revenue Code and for
4 purposes of the economic development of West Virginia, and funded from sources other than the
5 state. ~~Members of the council are authorized to sit on the board of directors of the private nonprofit~~
6 ~~corporation.~~ The contract shall include provisions relating to the employment of economic
7 development representatives assigned to the West Virginia Development Office to be paid a base
8 salary by the state and performance-based economic incentives from private funds of the nonprofit
9 corporation. Provisions relating to hiring practices with respect to economic development
10 representatives, job descriptions, accountability, public-private liaison, and performance standards
11 may be the subject of contract negotiations. The contract shall include provision for continuing
12 education and certification in the field of economic or industrial development for persons employed
13 as economic development representatives. Agreements providing for the payment of
14 performance-based incentives to the Executive Director of the West Virginia Development Office
15 are authorized. Agreements providing for the payment of travel and expenses to the Executive
16 Director of the West Virginia Development Office or to economic development representatives from
17 private funds by the nonprofit corporation are authorized. The prohibitions of subdivisions (b) and
18 (d), section five, article two, chapter six-b of this code are not applicable to the receipt by economic
19 development representatives or by the executive director of performance-based incentives and other
20 payments made by the nonprofit corporation and specifically authorized pursuant to this section.

21 From time to time the ~~council~~ executive director may enter into joint ventures wherein the
22 West Virginia Development Office and the nonprofit corporation share in the development and

1 funding of economic development programs.

2 All contracts and joint venture agreements must be approved by ~~vote of the council~~ the
3 executive director. Contracts entered into pursuant to this section for longer than one fiscal year shall
4 contain, in substance, a provision that the contract shall be considered cancelled without further
5 obligation on the part of the state if the State Legislature or, where appropriate, the federal
6 government, shall fail to appropriate sufficient funds therefor or shall act to impair the contract or
7 cause it to be cancelled.

8 **§5B-2-5. Economic development representatives.**

9 (a) The executive director may employ economic development representatives to be paid a
10 base salary within legislative appropriations to the West Virginia Development Office, subject to
11 ~~provisions set forth by the council in its reorganization plan and~~ applicable contract provisions
12 pursuant to section four of this article. Economic development representatives may receive
13 performance-based incentives and expenses paid from private funds from a nonprofit corporation
14 contracting with the West Virginia Development Office pursuant to the provisions of section four
15 of this article. The executive director shall establish job descriptions and responsibilities of economic
16 development representatives, subject to the provisions of any contract with a nonprofit corporation
17 entered into pursuant to section four of this article.

18 (b) Notwithstanding any provision of this code to the contrary, economic development
19 representatives employed within the West Virginia Development Office are not subject to the
20 procedures and protections provided by articles six and six-a, chapter twenty-nine of this code. Any
21 employee of the West Virginia Development Office on the effective date of this article who applies
22 for employment as an economic development representative is not entitled to the protections of

1 article six, chapter twenty-nine with respect to hiring procedures and qualifications; and upon
 2 accepting employment as an economic development representative, the employee relinquishes the
 3 protections provided for in article two, chapter six-c and article six, chapter twenty-nine of this code.

4 **§5B-2-6. Transition; savings provision.**

5 All programs, orders, determinations, rules, permits, grants, contracts, certificates, bonds,
 6 authorizations and privileges which have been issued, made, granted, or allowed to become effective
 7 pursuant to any prior enactments of this article or by the Governor, the Governor's Office of
 8 Community and Industrial Development or its director, or by a court of competent jurisdiction, and
 9 which are in effect on February 1, 1992, shall continue in effect according to their terms until
 10 modified, terminated, superseded, set aside, or revoked by the Governor ~~the council for community~~
 11 ~~and economic development~~ or the Executive Director of the West Virginia Development Office
 12 pursuant to this article, by a court of competent jurisdiction, or by operation of law.

13 **CHAPTER 15. PUBLIC SAFETY.**

14 **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY**
 15 **MANAGEMENT.**

16 **§15-5-28. Statewide mutual aid system.**

17 (a) The Legislature hereby finds that emergencies transcend political jurisdictional boundaries
 18 and that intergovernmental coordination is essential for the protection of lives and property and for
 19 the best use of available assets, both public and private. The purpose of this section is to create a
 20 system of intrastate mutual aid between participating political subdivisions in the state. The system
 21 shall provide for mutual assistance among the participating political subdivisions in the prevention
 22 of, response to and recovery from any disaster that results in a formal state of emergency or state of

1 preparedness in a participating political subdivision, subject to that participating political
2 subdivision's criteria for declaration. The system shall provide for mutual cooperation among the
3 participating subdivisions in conducting disaster-related exercises, testing or other training activities
4 outside actual declared emergency periods. This section provides no immunity, rights or privileges
5 for any individual responding to a state of emergency or state of preparedness that is not requested
6 or authorized to respond by a participating political subdivision. Participating political subdivisions
7 will be ensured, to the fullest extent possible, eligibility for state and federal disaster funding.

8 ~~(b) The Statewide Intrastate Mutual Aid Committee is hereby created. The committee shall~~
9 ~~consist of eleven members from various different public safety entities and other governmental~~
10 ~~entities who shall be appointed by the Governor. The Director of the Division of Homeland Security~~
11 ~~and Emergency Management, or his or her designee, shall chair the committee. This committee shall~~
12 ~~be multidisciplinary and representative of emergency management and response disciplines as well~~
13 ~~as local government. It shall be the committee's responsibility to hold, at a minimum, annual~~
14 ~~meetings to review the progress and status of statewide mutual aid, assist in developing methods to~~
15 ~~track and evaluate activation of the system and to examine issues facing participating political~~
16 ~~subdivisions regarding the implementation of this legislation. The committee may prepare an annual~~
17 ~~report on the condition and effectiveness of mutual aid in the state, make recommendations for~~
18 ~~correcting any deficiencies and submit that report to the appropriate legislative committee or other~~
19 ~~governing body. Members of the committee shall serve a maximum two-year term.~~

20 ~~(c)~~ (b) Upon the enactment of this legislation, all political subdivisions within the state are
21 members of the statewide mutual aid system: *Provided*, That a political subdivision within the state
22 may elect not to participate or to withdraw from the system upon the enactment of an appropriate

1 resolution by its governing body declaring that it elects not to participate in the statewide mutual aid
2 system. A copy of any such resolution shall be provided to the Division of Homeland Security and
3 Emergency Management.

4 ~~(d)~~ (c) This section does not preclude participating political subdivisions from entering into
5 supplementary agreements with another political subdivision and does not affect any other agreement
6 to which a political subdivision may currently be a party to, or decide to be a party to.

7 ~~(e)~~ (d) "Emergency responder", as used in this article, shall mean anyone with special skills,
8 qualifications, training, knowledge and experience in the public or private sectors that would be
9 beneficial to a participating political subdivision in response to a locally declared emergency as
10 defined in any applicable law or ordinance or authorized drill or exercises; and who is requested and
11 authorized to respond. Under this definition, an emergency responder may be required to possess
12 a license, certificate, permit or other official recognition for his or her expertise in a particular field
13 or area of knowledge. An emergency responder could include, but is in no way limited to, the
14 following: Law-enforcement officers, firefighters, emergency medical services personnel, physicians,
15 nurses, other public health personnel, emergency management personnel, public works personnel,
16 local emergency debris removal teams, those persons with specialized equipment operations skills
17 or training or any other skills needed to provide aid in a declared emergency.

18 ~~(f)~~ (e) It shall be the responsibility of each participating political subdivision with jurisdiction
19 over and responsibility for emergency management within that certain subdivision to do all of the
20 following:

21 (1) Identify potential hazards that could affect the participant using an identification system
22 common to all participating jurisdictions.

1 (2) Conduct joint planning, intelligence sharing and threat assessment development with
2 contiguous participating political subdivisions, and conduct joint training at least biennially.

3 (3) Identify and inventory the current services, equipment, supplies, personnel and other
4 resources related to planning, prevention, mitigation, response and recovery activities of the
5 participating political subdivision.

6 (4) Adopt and implement the National Incident Management System approved by the State
7 of West Virginia.

8 ~~(g)~~ (f) A participating political subdivision may request assistance of other participating
9 political subdivisions in preventing, mitigating, responding to and recovering from disasters that
10 result in locally declared emergencies or in concert with authorized drills or exercises as allowed
11 under this section. Requests for assistance shall be made to the Division of Homeland Security and
12 Emergency Management through the designated county emergency management director by the chief
13 executive officer of a participating political subdivision, or his or her designee for response.
14 Requests may be verbal or in writing. Verbal requests will be followed up with a written request as
15 soon as is practical or such number of days as the state, in its discretion, may dictate.

16 ~~(h)~~ (g) The obligation of a participating political subdivision to provide assistance in the
17 prevention of, response to and recovery from a locally declared emergency or in authorized drills or
18 exercises is subject to the following conditions:

19 (1) A participating political subdivision requesting assistance must have either declared a
20 state of emergency in the manner outlined in this section or authorized drills and exercises;

21 (2) A responding participating political subdivision may withhold resources to the extent
22 necessary to provide reasonable protection and services for its own jurisdiction;

1 (3) Emergency response personnel of a responding participating political subdivision shall
2 continue under the command and control of their responding jurisdiction to include medical
3 protocols, standard operating procedures and other protocols, but shall be under the operational
4 control of the appropriate officials within the National Incident Management System of the
5 participating political subdivision receiving the assistance; and

6 (4) Assets and equipment of a responding participating political subdivision shall continue
7 under the control of the responding jurisdiction, but shall be under the operational control of the
8 appropriate officials within the National Incident Management System of the participating political
9 subdivision receiving the assistance.

10 (†) (h) If a person or entity holds a license, certificate or other permit issued by a participating
11 political subdivision or the state evidencing qualification in a professional, mechanical or other skill
12 and the assistance of that person or entity is requested by a participating political subdivision, the
13 person or entity shall be deemed to be licensed, certified or permitted in the political subdivision
14 requesting assistance for the duration of the declared emergency or authorized drills or exercises and
15 subject to any limitations and conditions the chief executive of the participating political subdivision
16 receiving the assistance may prescribe by executive order or otherwise.

17 (†) (i) (1) Any requesting political subdivision shall reimburse the participating political
18 subdivision rendering aid under this system, ~~and in accordance with procedures developed by the~~
19 ~~Statewide Intrastate Mutual Aid Committee~~ provided the request for aid is authorized by the
20 Division of Homeland Security and Emergency Management. A participating political subdivision
21 providing assistance may determine to donate assets of any kind to a receiving participating political
22 subdivision. ~~Requests for reimbursement shall be in accordance with procedures developed by the~~

1 ~~Statewide Intrastate Mutual Aid Committee.~~

2 (2) Should a dispute arise between parties to the system regarding reimbursement, involved
3 parties will make every effort to resolve the dispute within thirty days of written notice of the dispute
4 by the party asserting noncompliance. In the event that the dispute is not resolved within ninety days
5 of the notice of the claim, either party may request the dispute be solved through arbitration. Any
6 arbitration under this provision shall be conducted under the commercial arbitration rules of the
7 American Arbitration Association.

8 ~~(k) The Statewide Intrastate Mutual Aid Committee shall develop comprehensive guidelines~~
9 ~~and procedures that address, including, but not limited to, the following: Projected or anticipated~~
10 ~~costs, checklists for requesting and providing assistance, recordkeeping for all participating political~~
11 ~~subdivisions, reimbursement procedures and other necessary implementation elements along with~~
12 ~~the necessary forms for requests and other records documenting deployment and return of assets.~~

13 ~~(j)~~ (j) Personnel of a participating political subdivision responding to or rendering assistance
14 for a request who sustain injury or death in the course of, and arising out of, their employment are
15 entitled to all applicable benefits normally available to personnel while performing their duties for
16 their employer. Responders shall receive any additional state and federal benefits that may be
17 available to them for line-of-duty deaths.

18 ~~(m)~~ (k) All activities performed under this section are deemed hereby to be governmental
19 functions. For the purposes of liability, all persons responding under the operational control of the
20 requesting political subdivision are deemed to be employees of the requesting participating political
21 subdivision.

22 ~~(n)~~ (l) Whenever the law-enforcement officials of any political subdivision are rendering

1 outside aid pursuant their lawful authority, and with the approval of the Director of the West Virginia
 2 Division of Homeland Security and Emergency Management, and under the authority of a state of
 3 emergency or state of preparedness as officially proclaimed by the Governor, such law-enforcement
 4 officials shall have the same authority, powers, duties, rights, privileges and immunities as if they
 5 were performing their law-enforcement duties in the political subdivisions in which they are
 6 normally employed. The authority vested in the law-enforcement official, in accordance with this
 7 section, shall vest upon reporting in person to the Emergency Management Agency official in charge
 8 and on duty at the county or city of destination assignment. The law-enforcement official shall act
 9 under the authority, supervision and control of the highest ranking law-enforcement official within
 10 the assigned outside jurisdiction. Law enforcement and powers of arrest authority will not attach to
 11 the law-enforcement official while in transit from his or her jurisdiction of origin en route to his or
 12 her assigned jurisdiction under intrastate mutual aid assistance.

13 **CHAPTER 18A. SCHOOL PERSONNEL.**

14 **ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL**
 15 **DEVELOPMENT.**

16 **§18A-3-2c. Training through the principals academy.**

17 (a) *Principal training and professional development required.* -- After the effective date of
 18 this section and subject to the provisions of subsection (c) of this section, every principal shall
 19 complete training and professional development through the principals academy as provided in
 20 subsection (b) of this section.

21 (b) *Principal training and professional development through the academy.* -- The academy
 22 and the persons required to complete training and professional development through the academy

1 shall adhere to the following guidelines:

2 (1) All persons assigned as a principal for the first time in a West Virginia school after July
3 1, 2002, shall complete specialized training and professional development for newly appointed
4 principals through the academy within the first twelve months following assignment;

5 (2) All principals of schools which have been designated as seriously impaired, in accordance
6 with section five, article two-e, chapter eighteen of this code, shall complete specialized training and
7 professional development through the academy specifically designed to assist the principal to
8 improve school performance commencing as soon as practicable following receipt of the
9 designation;

10 (3) All principals who are subject to an improvement plan, in accordance with section twelve,
11 article two of this chapter, shall complete specialized training and professional development through
12 the academy specifically designed for principals subject to an improvement plan. The specialized
13 training and professional development shall be completed within twelve months from the date that
14 the principal is first subject to the improvement plan;

15 (4) All principals who transfer to a school with a significantly different grade configuration
16 shall complete specialized training and professional development for principals in schools with the
17 grade configuration to which they transferred through the academy within the first twelve months
18 following transfer; and

19 (5) All persons serving as school principals shall complete training and professional
20 development through the academy designed to build the qualities, proficiencies and skills required
21 of all principals as determined by the state board.

22 (c) *Academy and requirements to complete training and professional development subject*

1 *to funding.* -- The requirement that principals complete training and professional development
2 through the academy shall be subject to the availability of funds for the principals academy from
3 legislative appropriation and from other sources. If these funds are insufficient to provide for the
4 total cost of the training and professional development required by subsection (b) of this section, then
5 the academy shall provide training and professional development for the persons described in
6 subdivisions (1) through (5), of subsection (b) according to the priority in which the subdivisions
7 appear in that subsection. If such funds are insufficient to provide for the training and professional
8 development of all the persons described in one or more of subdivisions (1) through (5), subsection
9 (b) of this section, the academy is authorized to determine which persons described within the
10 subdivision or subdivisions shall be admitted and which shall not be admitted: *Provided,* That the
11 principals academy shall make every effort to ensure that all principals receive training and
12 professional development through the academy at least once every six years effective July 1, 2002,
13 and thereafter: *Provided, however,* That nothing in this section shall be construed to require any
14 specific level of funding by the Legislature.

15 ~~(d) *Principals standards advisory council.* --- To assist the state board in the performance of~~
16 ~~the duties described in subsection (c) of this section, there is hereby created a "Principals Standards~~
17 ~~Advisory Council", which shall consist of nine persons, as follows: The executive director of the~~
18 ~~center for professional development, who shall serve as the ex officio chair; three principals, one~~
19 ~~from an elementary school and one from a middle school or a junior high school selected by the~~
20 ~~West Virginia association of elementary and middle school principals, and one from a high school~~
21 ~~selected by the West Virginia association of secondary school principals; one county school~~
22 ~~superintendent selected by the West Virginia association of school administrators; and two~~

1 representatives from higher education who teach in principal preparation programs selected by the
 2 teacher education advisory council; and two citizen representatives who are knowledgeable on issues
 3 addressed in this section, appointed by the governor. Members of the principals standards advisory
 4 council who are public employees shall be granted release time from their employment for attending
 5 meetings of the council. Members may be reimbursed for reasonable and necessary expenses
 6 actually incurred in the performance of their official duties by the center for professional
 7 development. The terms of all members appointed to the principals standards advisory council under
 8 the prior enactment of this section shall terminate on the thirty-first day of August, two thousand
 9 two. The principals standards advisory council as amended on the effective date of this section shall
 10 become effective on the first day of September, two thousand two.

11 (e) (d) *Establishment of standards.* -- On or before October 1, 1996, the state board shall
 12 approve and promulgate rules regarding the minimum qualities, proficiencies and skills that will be
 13 required of principals after January 1, 1997. The state board shall promulgate and may from time
 14 to time amend such rules. ~~after consultation with the principals standards advisory council created~~
 15 ~~in subsection (d) of this section.~~ The rules promulgated by the state board shall address at least the
 16 following:

17 (1) Staff relations, including, but not limited to, the development and use of skills necessary
 18 to make a positive use of faculty senates, manage faculty and staff with courtesy and mutual respect,
 19 coach and motivate employees, and build consensus as a means of management;

20 (2) School community leadership qualities, including, but not limited to, the ability to
 21 organize and leverage community initiative, communicate effectively, work effectively with local
 22 school improvement councils, manage change, resolve conflict and reflect the highest personal

1 values;

2 (3) Educational proficiencies, including, but not limited to, knowledge of curriculum,
3 instructional techniques, student learning styles, student assessment criteria, school personnel
4 performance, evaluation skills and family issues; and

5 (4) Administrative skills, including, but not limited to, organizational, fiscal, public policy
6 and total quality management skills and techniques.

7 ~~(f)~~ (e) *Waivers.* -- Any person desiring to be relieved of the requirements of all or any part
8 of this section may apply in writing to the state board for a waiver. Upon a showing of reasonable
9 cause why relief should be granted, the state board may grant a waiver, upon such terms and
10 conditions as the state board shall determine proper, as to all or any part of this section.

11 ~~(g)~~ (f) *Failure to comply.* -- Any person who fails or refuses to complete training and
12 professional development through the academy, as required by the provisions of this section, and
13 who fails to obtain a waiver, as described in subsection ~~(f)~~(e) of this section, shall be ineligible to
14 be employed as, or serve in the capacity of, a principal.

15 ~~(h)~~ (g) *Tracking of requirement.* -- On or before January 1, 1997, the state board shall
16 establish a system to track the progress of each person required to complete training through the
17 academy and shall regularly advise such persons of their progress.

18 ~~(i)~~ (h) *Payment of reasonable and necessary expenses and stipends.* -- The center for
19 professional development shall reimburse persons attending the academy for reasonable and
20 necessary expenses. A person may not be required to complete training and professional
21 development through the principals academy before September 15, and after June 1, of the school
22 year. The center for professional development shall utilize alternative methods of instructional

1 delivery and scheduling, including electronic delivery, as considered appropriate to minimize the
2 amount of time principals completing training and professional development through the academy
3 are required to be away from their school duties. Nothing in this section shall be construed to require
4 any specific level of funding by the Legislature.

5 **CHAPTER 33. INSURANCE.**

6 **ARTICLE 16D. MARKETING AND RATE PRACTICES.**

7 **§33-16D-16. Authorization of uninsured small group health benefit plans.**

8 (a) Upon filing with and approval by the commissioner, any carrier licensed pursuant to this
9 chapter which accesses a health care provider network to deliver services may offer a health benefit
10 plan and rates associated with the plan to a small employer subject to the conditions of this section
11 and subject to the provisions of this article. The health benefit plan is subject to the following
12 conditions:

13 (1) The health benefit plan may be offered by the carrier only to small employers which have
14 not had a health benefit plan covering their employees for at least six consecutive months before the
15 effective date of this section. After the passage of six months from the effective date of this section,
16 the health benefit plan under this section may be offered by carriers only to small employers which
17 have not had a health benefit plan covering their employees for twelve consecutive months;

18 (2) If a small employer covered by a health benefit plan offered pursuant to this section no
19 longer meets the definition of a small employer as a result of an increase in eligible employees, that
20 employer shall remain covered by the health benefit plan until the next annual renewal date;

21 (3) The small employer shall pay at least fifty percent of its employees' premium amount for
22 individual employee coverage;

1 (4) The commissioner shall promulgate emergency rules under the provisions of article three,
2 chapter twenty-nine-a of this code on or before September 1, 2004, to place additional restrictions
3 upon the eligibility requirements for health benefit plans authorized by this section in order to
4 prevent manipulation of eligibility criteria by small employers and otherwise implement the
5 provisions of this section;

6 (5) Carriers must offer the health benefit plans issued pursuant to this section through one
7 of their existing networks of health care providers;

8 (A) The West Virginia Health Care Authority shall, on or before May 1, 2004, and each year
9 thereafter, by regular mail, provide a written notice to all known in-state health care providers that:

10 (i) Informs the health care provider regarding the provisions of this section; and

11 (ii) Notifies the health care provider that if the health care provider does not give written
12 refusal to the West Virginia Health Care Authority within thirty days from receipt of the notice or
13 the health care provider has not previously filed a written notice of refusal to participate, the health
14 care provider must participate with and accept the products and provider reimbursements authorized
15 pursuant to this section;

16 (B) The carrier's network of health care providers, as well as any health care provider which
17 provides health care goods or services to beneficiaries of any departments or divisions of the state,
18 as identified in article twenty-nine-d, chapter sixteen of this code, shall accept the health care
19 provider reimbursement rates set pursuant to this section unless the health care provider gives written
20 refusal to the West Virginia Health Care Authority between May 1, and June 1, that the provider will
21 not participate in this program for the next calendar year. Notwithstanding any provision of this code
22 to the contrary, health care providers may not be mandated to participate in this program except

1 under the opt-out provisions of subdivision (5), subsection (a) of this section and therefore the health
2 care provider shall annually have the ability to file with the West Virginia Health Care Authority
3 written notice that the health care provider will not participate with products issued pursuant to this
4 section. Once a health care provider has filed a notice of refusal with the West Virginia Health Care
5 Authority, the notice shall remain effective until rescinded by the provider and the provider shall not
6 be required to renew the notice each year;

7 (C) The West Virginia Health Care Authority is responsible for receiving the responses, if
8 any, from the health care providers that have elected not to participate and for providing a list to the
9 commissioner of those health care providers that have elected not to participate;

10 (D) Those health care providers that do not file a notice of refusal shall be considered to have
11 accepted participation in this program and to accept Public Employees Insurance Agency health care
12 provider reimbursement rates for their services as set by this section;

13 (E) Health care provider reimbursement rates used by the carrier for a health benefit plan
14 offered pursuant to this section shall have no effect on provider rates for other products offered by
15 the carrier and most-favored-nation clauses do not apply to the rates;

16 (6) With respect to the health benefit plans authorized by this section, the carrier shall
17 reimburse network health care providers at the same health care provider reimbursement rates in
18 effect for the managed care and health maintenance organization plans offered by the West Virginia
19 Public Employees Insurance Agency. Beginning in the year 2004, and in each year thereafter, the
20 health care provider reimbursement rates set under this section may not be lowered from the level
21 of the rates in effect on July 1, of that year for the managed care and health maintenance plans
22 offered by the Public Employees Insurance Agency. While it is the intent of this paragraph to govern

1 rates for plans offered pursuant to this section for annual periods, this paragraph in no way prevents
2 the Public Employees Insurance Agency from making provider reimbursement rate adjustments to
3 Public Employees Insurance Agency plans during the course of each year. If there is a dispute
4 regarding the determination of appropriate rates pursuant to this section, the Director of the Public
5 Employees Insurance Agency shall, in his or her sole discretion, specify the appropriate rate to be
6 applied;

7 (A) The health care provider reimbursement rates as authorized by this section shall be
8 accepted by the health care provider as payment in full for services or products provided to a person
9 covered by a product authorized by this section;

10 (B) Except for the health care provider rates authorized under this section, a carrier's payment
11 methodology, including copayments and deductibles and other conditions of coverage, remains
12 unaffected by this section;

13 (C) The provisions of this section do not require the Public Employees Insurance Agency to
14 give carriers access to the purchasing networks of the Public Employees Insurance Agency. The
15 Public Employees Insurance Agency may enter into agreements with carriers offering health benefit
16 plans under this section to permit the carrier, at its election, to participate in drug purchasing
17 arrangements pursuant to article sixteen-c, chapter five of this code, including the multistate drug
18 purchasing program. This paragraph provides authorization of the agreements pursuant to section
19 four of said article;

20 (7) Carriers may not underwrite products authorized by this section more strictly than other
21 small group policies governed by this article;

22 (8) With respect to health benefit plans authorized by this section, a carrier shall have a

1 minimum anticipated loss ratio of seventy-seven percent to be eligible to make a rate increase request
2 after the first year of providing a health benefit plan under this section;

3 (9) Products authorized under this section are exempt from the premium taxes assessed under
4 sections fourteen and fourteen-a, article three of this chapter;

5 (10) A carrier may elect to nonrenew any health benefit plan to an eligible employer if, at any
6 time, the carrier determines, by applying the same network criteria which it applies to other small
7 employer health benefit plans, that it no longer has an adequate network of health care providers
8 accessible for that eligible small employer. If the carrier makes a determination that an adequate
9 network does not exist, the carrier has no obligation to obtain additional health care providers to
10 establish an adequate network;

11 (11) Upon thirty days' advance notice to the commissioner, a carrier may, at any time, elect
12 to nonrenew all health benefit plans issued pursuant to this section. If a carrier nonrenews all its
13 business issued pursuant to this section for any reason other than the adequacy of the provider
14 network, the carrier may not offer this health benefit plan to any eligible small employer for a period
15 of at least two years after the last eligible small employer is nonrenewed; and

16 (12) The Insurance Commissioner may not approve any health benefit plan issued pursuant
17 to this section until it has obtained any necessary federal governmental authorizations or waivers.
18 The Insurance Commissioner shall apply for and obtain all necessary federal authorizations or
19 waivers.

20 (b) Health benefit plans authorized by this section are not intended to violate the prohibition
21 set out in subsection (a), section four of this article.

22 ~~(c) The commissioner shall appoint a policy advisory committee to provide advice to the~~

1 commissioner regarding providing health insurance to uninsureds and to monitor the effectiveness
2 of this section. The committee shall contain members the commissioner considers appropriate, but
3 shall have members representing at least the following interest groups: Labor, hospital providers,
4 physician providers, private business, local government, insurance carriers and the uninsured.

5 ~~(d)~~ (c) Carriers offering health benefit plans pursuant to this section shall annually or before
6 December 1, of each year report in a form acceptable to the commissioner the number of health
7 benefit plans written by the carrier and the number of individuals covered under the health benefit
8 plans.

9 ~~(e)~~ (d) To the extent that provisions of this section differ from those contained elsewhere in
10 this chapter, the provisions of this section control.

NOTE: This bill eliminates councils, committees, and boards that are unnecessary, inactive, or redundant, including the Council for Community and Economic Development; the Statewide Mutual Aid Committee; the Principals Standards Advisory Council; and the West Virginia Health Insurance Plan Board.

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