

1 **Senate Bill No. 294**

2 (By Senators Cole (Mr. President) and Kessler,

3 By Request of the Executive)

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5 [Introduced February 23, 2015; referred to the Committee on Government Organization; and then

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to the Committee on the Judiciary.]

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10 A BILL to repeal §5B-2-3a and §5B-2-7 of the Code of West Virginia, 1931, as amended; to amend

11 and reenact §5B-2-2, §5B-2-3, §5B-2-4, §5B-2-5 and §5B-2-6 of said code; to amend and

12 reenact §15-5-28 of said code; to amend and reenact §18A-3-2c of said code; and to amend

13 and reenact §33-16D-16 of said code, all relating to eliminating unnecessary, inactive or

14 redundant councils, committees and boards; terminating the Council for Community and

15 Economic Development and transferring powers and duties to the Executive Director of the

16 West Virginia Development Office; terminating the Statewide Intrastate Mutual Aid

17 Committee and making technical corrections to the code to reference a state of preparedness;

18 terminating the Principals Standards Advisory Council; and terminating the West Virginia

19 Health Insurance Plan Board.

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

21 That §5B-2-3a and §5B-2-7 of the Code of West Virginia, 1931, as amended, be repealed; that

1 §5B-2-2, §5B-2-3, §5B-2-4, §5B-2-5 and §5B-2-6 of said code be amended and reenacted; that
2 §15-5-28 of said code be amended and reenacted; that §18A-3-2c of said code be amended and
3 reenacted; and that §33-16D-16 of said code be amended and reenacted, all to read as follows:

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

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

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

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

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

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

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

21 ~~(4) The chair, or his or her designee, of the Tourism Commission created pursuant to the~~

1 provisions of section eight of this article.

2 ~~In addition, the President of the Senate and the Speaker of the House of Delegates, or his or~~
3 ~~her designee, shall serve as ex officio nonvoting members.~~

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

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

15 ~~(d)~~ (a) The Governor shall appoint an the Executive Director of the West Virginia
16 Development Office who is qualified for the position by reason of his or her extensive education and
17 experience in the field of professional economic development. The executive director ~~shall serve~~
18 serves at the will and pleasure of the Governor. ~~The salary of the director shall annually be fixed by~~
19 ~~the council.~~ The executive director shall have overall management responsibility and administrative
20 control and supervision within the West Virginia Development Office. It is the intention of the
21 Legislature that the executive director provide professional and technical expertise in the field of

1 professional economic and tourism development. ~~in order to support the policy-making functions~~
2 ~~of the council, but that the director not be a public officer, agent, servant or contractor within the~~
3 ~~meaning of section thirty-eight, article VI of the constitution of West Virginia and not be a statutory~~
4 ~~officer within the meaning of section one, article two, chapter five-f of this code.~~ Subject to the
5 provisions of the contract provided in section four of this article, the executive director may hire and
6 fire economic development representatives employed pursuant to the provisions of section five of
7 this article.

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

14 **§5B-2-3. Powers and duties of the executive director.**

15 ~~The council for community and economic development~~ executive director shall enhance
16 economic growth and development through the development of a comprehensive economic
17 development strategy for West Virginia. “Comprehensive economic development strategy” means
18 a plan that outlines strategies and activities designed to continue, diversify or expand the economic
19 base of the state as a whole; create jobs; develop a highly skilled workforce; facilitate business
20 access to capital, including venture capital; advertise and market the resources offered by the state
21 with respect to the needs of business and industry; facilitate cooperation among local, regional and

1 private economic development enterprises; improve infrastructure on a state, regional and
2 community level; improve the business climate generally; and leverage funding from sources other
3 than the state, including federal and private sources.

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

5 The West Virginia Development Office is authorized to enter into contractual or joint venture
6 agreements with a nonprofit corporation organized pursuant to the corporate laws of the state,
7 organized to permit qualification pursuant to section 501(c) of the Internal Revenue Code and for
8 purposes of the economic development of West Virginia, and funded from sources other than the
9 state. ~~Members of the council are authorized to sit on the board of directors of the private nonprofit~~
10 ~~corporation.~~ The contract shall include provisions relating to the employment of economic
11 development representatives assigned to the West Virginia Development Office to be paid a base
12 salary by the state and performance-based economic incentives from private funds of the nonprofit
13 corporation. Provisions relating to hiring practices with respect to economic development
14 representatives, job descriptions, accountability, public-private liaison and performance standards
15 may be the subject of contract negotiations. The contract shall include provision for continuing
16 education and certification in the field of economic or industrial development for persons employed
17 as economic development representatives. Agreements providing for the payment of
18 performance-based incentives to the Executive Director of the West Virginia Development Office
19 are authorized. Agreements providing for the payment of travel and expenses to the Executive
20 Director of the West Virginia Development Office or to economic development representatives from
21 private funds by the nonprofit corporation are authorized. The prohibitions of subdivisions (b) and

1 (d), section five, article two, chapter six-b of this code are not applicable to the receipt by economic
2 development representatives or by the executive director of performance-based incentives and other
3 payments made by the nonprofit corporation and specifically authorized pursuant to this section.

4 From time to time the ~~council~~ executive director may enter into joint ventures wherein the
5 West Virginia Development Office and the nonprofit corporation share in the development and
6 funding of economic development programs.

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

13 **§5B-2-5. Economic development representatives.**

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

1 entered into pursuant to section four of this article.

2 (b) Notwithstanding any provision of this code to the contrary, economic development
3 representatives employed within the West Virginia Development Office are not subject to the
4 procedures and protections provided by articles six and six-a, chapter twenty-nine of this code. Any
5 employee of the West Virginia Development Office on the effective date of this article who applies
6 for employment as an economic development representative is not entitled to the protections of
7 article six, chapter twenty-nine with respect to hiring procedures and qualifications; and upon
8 accepting employment as an economic development representative, the employee relinquishes the
9 protections provided for in article two, chapter six-c and article six, chapter twenty-nine of this code.

10 **§5B-2-6. Transition; savings provision.**

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

19 **CHAPTER 15. PUBLIC SAFETY.**

20 **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY**
21 **MANAGEMENT.**

1 **§15-5-28. Statewide mutual aid system.**

2 (a) The Legislature hereby finds that emergencies transcend political jurisdictional boundaries
3 and that intergovernmental coordination is essential for the protection of lives and property and for
4 the best use of available assets, both public and private. The purpose of this section is to create a
5 system of intrastate mutual aid between participating political subdivisions in the state. The system
6 shall provide for mutual assistance among the participating political subdivisions in the prevention
7 of, response to and recovery from any disaster that results in a formal state of emergency or state of
8 preparedness in a participating political subdivision, subject to that participating political
9 subdivision's criteria for declaration. The system shall provide for mutual cooperation among the
10 participating subdivisions in conducting disaster-related exercises, testing or other training activities
11 outside actual declared emergency periods. This section provides no immunity, rights or privileges
12 for any individual responding to a state of emergency or state of preparedness that is not requested
13 or authorized to respond by a participating political subdivision. Participating political subdivisions
14 will be ensured, to the fullest extent possible, eligibility for state and federal disaster funding.

15 ~~(b) The Statewide Intrastate Mutual Aid Committee is hereby created. The committee shall~~
16 ~~consist of eleven members from various different public safety entities and other governmental~~
17 ~~entities who shall be appointed by the Governor. The Director of the Division of Homeland Security~~
18 ~~and Emergency Management, or his or her designee, shall chair the committee. This committee shall~~
19 ~~be multidisciplinary and representative of emergency management and response disciplines as well~~
20 ~~as local government. It shall be the committee's responsibility to hold, at a minimum, annual~~
21 ~~meetings to review the progress and status of statewide mutual aid, assist in developing methods to~~

1 ~~track and evaluate activation of the system and to examine issues facing participating political~~
2 ~~subdivisions regarding the implementation of this legislation. The committee may prepare an annual~~
3 ~~report on the condition and effectiveness of mutual aid in the state, make recommendations for~~
4 ~~correcting any deficiencies and submit that report to the appropriate legislative committee or other~~
5 ~~governing body. Members of the committee shall serve a maximum two-year term.~~

6 (☞) (b) Upon the enactment of this legislation, all political subdivisions within the state are
7 members of the statewide mutual aid system: *Provided*, That a political subdivision within the state
8 may elect not to participate or to withdraw from the system upon the enactment of an appropriate
9 resolution by its governing body declaring that it elects not to participate in the statewide mutual aid
10 system. A copy of any such resolution shall be provided to the Division of Homeland Security and
11 Emergency Management.

12 (☞) (c) This section does not preclude participating political subdivisions from entering into
13 supplementary agreements with another political subdivision and does not affect any other agreement
14 to which a political subdivision may currently be a party to, or decide to be a party to.

15 (☞) (d) “Emergency responder”, as used in this article, shall mean anyone with special skills,
16 qualifications, training, knowledge and experience in the public or private sectors that would be
17 beneficial to a participating political subdivision in response to a locally declared emergency as
18 defined in any applicable law or ordinance or authorized drill or exercises; and who is requested and
19 authorized to respond. Under this definition, an emergency responder may be required to possess
20 a license, certificate, permit or other official recognition for his or her expertise in a particular field
21 or area of knowledge. An emergency responder could include, but is in no way limited to, the

1 following: Law-enforcement officers, firefighters, emergency medical services personnel, physicians,
2 nurses, other public health personnel, emergency management personnel, public works personnel,
3 local emergency debris removal teams, those persons with specialized equipment operations skills
4 or training or any other skills needed to provide aid in a declared emergency.

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

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

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

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

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

17 ~~(g)~~ (f) A participating political subdivision may request assistance of other participating
18 political subdivisions in preventing, mitigating, responding to and recovering from disasters that
19 result in locally declared emergencies or in concert with authorized drills or exercises as allowed
20 under this section. Requests for assistance shall be made to the Division of Homeland Security and
21 Emergency Management through the designated county emergency management director by the chief

1 executive officer of a participating political subdivision, or his or her designee, for response.
2 Requests may be verbal or in writing. Verbal requests will be followed up with a written request as
3 soon as is practical or such number of days as the state, in its discretion, may dictate.

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

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

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

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

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

20 ~~(f)~~ (h) If a person or entity holds a license, certificate or other permit issued by a participating
21 political subdivision or the state evidencing qualification in a professional, mechanical or other skill

1 and the assistance of that person or entity is requested by a participating political subdivision, the
2 person or entity shall be deemed to be licensed, certified or permitted in the political subdivision
3 requesting assistance for the duration of the declared emergency or authorized drills or exercises and
4 subject to any limitations and conditions the chief executive of the participating political subdivision
5 receiving the assistance may prescribe by executive order or otherwise.

6 ~~(j)~~ (i) (1) Any requesting political subdivision shall reimburse the participating political
7 subdivision rendering aid under this system ~~and in accordance with procedures developed by the~~
8 ~~Statewide Intrastate Mutual Aid Committee~~ provided the request for aid is authorized by the
9 Division of Homeland Security and Emergency Management. A participating political subdivision
10 providing assistance may determine to donate assets of any kind to a receiving participating political
11 subdivision. ~~Requests for reimbursement shall be in accordance with procedures developed by the~~
12 ~~Statewide Intrastate Mutual Aid Committee.~~

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

19 ~~(k) The Statewide Intrastate Mutual Aid Committee shall develop comprehensive guidelines~~
20 ~~and procedures that address, including, but not limited to, the following: Projected or anticipated~~
21 ~~costs, checklists for requesting and providing assistance, recordkeeping for all participating political~~

1 ~~subdivisions, reimbursement procedures and other necessary implementation elements along with~~
2 ~~the necessary forms for requests and other records documenting deployment and return of assets.~~

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

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

12 ~~(n)~~ (l) Whenever the law-enforcement officials of any political subdivision are rendering
13 outside aid pursuant their lawful authority, and with the approval of the Director of the West Virginia
14 Division of Homeland Security and Emergency Management, and under the authority of a state of
15 emergency or state of preparedness as officially proclaimed by the Governor, such law-enforcement
16 officials shall have the same authority, powers, duties, rights, privileges and immunities as if they
17 were performing their law-enforcement duties in the political subdivisions in which they are
18 normally employed. The authority vested in the law-enforcement official, in accordance with this
19 section, shall vest upon reporting in person to the Emergency Management Agency official in charge
20 and on duty at the county or city of destination assignment. The law-enforcement official shall act
21 under the authority, supervision and control of the highest ranking law-enforcement official within

1 the assigned outside jurisdiction. Law enforcement and powers of arrest authority will not attach to
2 the law-enforcement official while in transit from his or her jurisdiction of origin en route to his or
3 her assigned jurisdiction under intrastate mutual aid assistance.

4 **CHAPTER 18A. SCHOOL PERSONNEL.**

5 **ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL**
6 **DEVELOPMENT.**

7 **§18A-3-2c. Training through the principals academy.**

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

12 (b) *Principal training and professional development through the academy.* -- The academy
13 and the persons required to complete training and professional development through the academy
14 shall adhere to the following guidelines:

15 (1) All persons assigned as a principal for the first time in a West Virginia school after July
16 1, 2002, shall complete specialized training and professional development for newly appointed
17 principals through the academy within the first twelve months following assignment;

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

1 designation;

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

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

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

14 (c) *Academy and requirements to complete training and professional development subject*
15 *to funding.* -- The requirement that principals complete training and professional development
16 through the academy shall be subject to the availability of funds for the principals academy from
17 legislative appropriation and from other sources. If these funds are insufficient to provide for the
18 total cost of the training and professional development required by subsection (b) of this section, then
19 the academy shall provide training and professional development for the persons described in
20 subdivisions (1) through (5), inclusive, subsection (b) of this section according to the priority in
21 which the subdivisions appear in said subsection. If such funds are insufficient to provide for the

1 training and professional development of all the persons described in one or more of subdivisions
2 (1) through (5), inclusive, subsection (b) of this section, the academy is authorized to determine
3 which persons described within the subdivision or subdivisions shall be admitted and which shall
4 not be admitted: *Provided*, That the principals academy shall make every effort to ensure that all
5 principals receive training and professional development through the academy at least once every
6 six years effective July1, 2002, and thereafter: *Provided, however*, That nothing in this section shall
7 be construed to require any specific level of funding by the Legislature.

8 ~~(d) *Principals standards advisory council.* -- To assist the state board in the performance of~~
9 ~~the duties described in subsection (c) of this section, there is hereby created a “Principals Standards~~
10 ~~Advisory Council”, which shall consist of nine persons, as follows: The executive director of the~~
11 ~~center for professional development, who shall serve as the ex officio chair; three principals, one~~
12 ~~from an elementary school and one from a middle school or a junior high school selected by the~~
13 ~~West Virginia association of elementary and middle school principals, and one from a high school~~
14 ~~selected by the West Virginia association of secondary school principals; one county school~~
15 ~~superintendent selected by the West Virginia association of school administrators; and two~~
16 ~~representatives from higher education who teach in principal preparation programs selected by the~~
17 ~~teacher education advisory council; and two citizen representatives who are knowledgeable on issues~~
18 ~~addressed in this section, appointed by the governor. Members of the principals standards advisory~~
19 ~~council who are public employees shall be granted release time from their employment for attending~~
20 ~~meetings of the council. Members may be reimbursed for reasonable and necessary expenses~~
21 ~~actually incurred in the performance of their official duties by the center for professional~~

1 development. The terms of all members appointed to the principals standards advisory council under
2 the prior enactment of this section shall terminate on the thirty-first day of August, two thousand
3 two. The principals standards advisory council as amended on the effective date of this section shall
4 become effective on the first day of September, two thousand two.

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

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

14 (2) School community leadership qualities, including, but not limited to, the ability to
15 organize and leverage community initiative, communicate effectively, work effectively with local
16 school improvement councils, manage change, resolve conflict and reflect the highest personal
17 values;

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

21 (4) Administrative skills, including, but not limited to, organizational, fiscal, public policy

1 and total quality management skills and techniques.

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

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

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

13 ~~(i)~~ (h) *Payment of reasonable and necessary expenses and stipends.* -- The center for
14 professional development shall reimburse persons attending the academy for reasonable and
15 necessary expenses. A person may not be required to complete training and professional
16 development through the principals academy before September 15, and after June 1, of the school
17 year. The center for professional development shall utilize alternative methods of instructional
18 delivery and scheduling, including electronic delivery, as considered appropriate to minimize the
19 amount of time principals completing training and professional development through the academy
20 are required to be away from their school duties. Nothing in this section shall be construed to require
21 any specific level of funding by the Legislature.

1 **CHAPTER 33. INSURANCE.**

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

3 **§33-16D-16. Authorization of uninsured small group health benefit plans.**

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

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

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

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

19 (4) The commissioner shall promulgate emergency rules under the provisions of article three,
20 chapter twenty-nine-a of this code on or before September 1, 2004, to place additional restrictions
21 upon the eligibility requirements for health benefit plans authorized by this section in order to

1 prevent manipulation of eligibility criteria by small employers and otherwise implement the
2 provisions of this section;

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

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

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

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

13 (B) The carrier's network of health care providers, as well as any health care provider which
14 provides health care goods or services to beneficiaries of any departments or divisions of the state,
15 as identified in article twenty-nine-d, chapter sixteen of this code, shall accept the health care
16 provider reimbursement rates set pursuant to this section unless the health care provider gives written
17 refusal to the West Virginia Health Care Authority between May 1 and June 1 that the provider will
18 not participate in this program for the next calendar year. Notwithstanding any provision of this code
19 to the contrary, health care providers may not be mandated to participate in this program except
20 under the opt-out provisions of subdivision (5), subsection (a) of this section and therefore the health
21 care provider shall annually have the ability to file with the West Virginia Health Care Authority

1 written notice that the health care provider will not participate with products issued pursuant to this
2 section. Once a health care provider has filed a notice of refusal with the West Virginia Health Care
3 Authority, the notice shall remain effective until rescinded by the provider and the provider shall not
4 be required to renew the notice each year;

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

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

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

14 (6) With respect to the health benefit plans authorized by this section, the carrier shall
15 reimburse network health care providers at the same health care provider reimbursement rates in
16 effect for the managed care and health maintenance organization plans offered by the West Virginia
17 Public Employees Insurance Agency. Beginning in the year 2004, and in each year thereafter, the
18 health care provider reimbursement rates set under this section may not be lowered from the level
19 of the rates in effect on July 1 of that year for the managed care and health maintenance plans offered
20 by the Public Employees Insurance Agency. While it is the intent of this paragraph to govern rates
21 for plans offered pursuant to this section for annual periods, this subdivision in no way prevents the

1 Public Employees Insurance Agency from making provider reimbursement rate adjustments to
2 Public Employees Insurance Agency plans during the course of each year. If there is a dispute
3 regarding the determination of appropriate rates pursuant to this section, the Director of the Public
4 Employees Insurance Agency shall, in his or her sole discretion, specify the appropriate rate to be
5 applied;

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

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

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

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

21 (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.

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

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

10 ~~(e)~~ (d) To the extent that provisions of this section differ from those contained elsewhere in
11 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.)