

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 514

BY SENATORS LAIRD AND MILLER

[Introduced February 4, 2016;

Referred to the Committee on Education; and then to the
Committee on Government Organization.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §1-5A-1, §1-5A-2, §1-5A-3 and §1-5A-4, all relating to creating a procedure
 3 that must be followed when major institutional changes are proposed; stating the purpose
 4 of the article; defining terms; setting forth notice and hearing requirements prior to a major
 5 institutional change; stating the timeline for certain action in relation to a major institutional
 6 change; and requiring the Secretary of State to make certain documents accessible to the
 7 public with certain requirements.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §1-5A-1, §1-5A-2, §1-5A-3 and §1-5A-4, all to read as follows:

ARTICLE 5A. MAJOR INSTITUTIONAL CHANGE PROCEDURE.

§1-5A-1. Purpose.

1 The purpose of this article is to ensure that sufficient deliberation, public involvement and
 2 public notice occur prior to the state or any of its political subdivisions making a decision that
 3 results in the closure, failure to utilize, new construction or movement of a major publicly-owned
 4 institution or facility. The Legislature recognizes that difficult decisions must be made with regard
 5 to state resources, but believes that a process focused on public involvement and public notice
 6 will aid in the deliberations of the elected and nonelected leaders that make these decisions.

§1-5A-2. Definitions.

1 As used in this article, unless the context otherwise requires:

2 (1) "Major institutional change" means building, closing, moving, purchasing, selling,
 3 choosing to utilize, choosing not to utilize or making another similar decision with respect to a
 4 major publicly-owned institution or facility;

5 (2) "Major publicly-owned institution or facility" means any real property valued at more
 6 than \$5 million, including, but not limited to, a college or university, health facility, correctional
 7 facility or public safety facility, that is owned or will be owned, pursuant to the terms of the

8 proposed major institutional change, by the state, any of its political subdivisions or the federal
9 government: *Provided*, That this definition only applies to property owned by the federal
10 government if the state has an exclusive offer from the federal government to obtain ownership;
11 and

12 (3) "Political subdivision" includes the State of West Virginia, a county, municipality, city
13 or town in the state; any agency, authority, board, county board of education, commission or
14 instrumentality of a county or municipality; any separate corporation or instrumentality established
15 by one or more counties, municipalities, cities or towns, as permitted by law; any corporation or
16 instrumentality supported in most part by counties, municipalities, cities or towns; any public
17 corporation charged by law with the performance of a governmental function and whose
18 jurisdiction is coextensive with one or more counties, municipalities, cities or towns; and any
19 agency or organization established by or approved by the Department of Health and Human
20 Resources for the provision of community health or mental retardation services and which is
21 supported in part by state, county or municipal funds;

§1-5A-3. Notice and hearing required prior to major institutional change.

1 Before a political subdivision may finalize the decision to make a major institutional
2 change, the political subdivision, at a minimum, shall:

3 (1) Announce the proposed major institutional change along with a summary of the
4 reasons for the change and submit the announcement to the Secretary of State, who shall act
5 pursuant to section four of this article;

6 (2) Set a date, time and location, between ten and thirty days after the announcement in
7 subdivision (1) is made, for public hearing in the county where the major publicly-owned institution
8 or facility is located;

9 (3) Make a Class I-0 legal advertisement, as required by section two, article three, chapter
10 fifty-nine of this code, in the county where the major publicly-owned institution or facility is located
11 that provides at least seven days of notice of the public hearing and directs people to the

12 announcement with the Secretary of State for more information;

13 (4) Conduct a public hearing on the date and time set with all decision-makers present
14 and allow all members of the public who would like to speak to have equal time to present to the
15 decision-makers of the political subdivision; and

16 (5) Submit a final decision to the Secretary of State regarding the major institutional
17 change no sooner than twenty days following the public hearing required by this section.

§1-5A-4. Secretary of State’s duties.

1 The Secretary of State shall make all announced proposals and final decisions made
2 pursuant to section three of this article available to the public. The announced proposals and final
3 decisions shall be on the Secretary of State’s website in a manner that allows the public to obtain
4 a list of all, obtain a list by county, and search the text of the announced proposals and final
5 decisions. In addition, the Secretary of State shall provide copies, either on paper or
6 electronically, to any person who writes to request a copy or comes into the Secretary of State
7 office to view an announced proposal or final decision.

NOTE: The purpose of this bill is to ensure that sufficient deliberation, public involvement and public notice occur prior to the state or any of its political subdivisions making a decision that results in the closure, failure to utilize, new construction or movement of a major publicly-owned institution or facility.

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