

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 677

BY SENATORS TAKUBO, ASHLEY, GAUNCH, MAYNARD,

WALTERS AND PLYMALE

[Introduced February 22, 2016;

Referred to the Committee on Education.]

1 A BILL to amend and reenact §18B-10-1 of the Code of West Virginia, 1931, as amended, relating
 2 to tuition rates set by the Higher Education Policy Commission; allowing increase in tuition
 3 for undergraduate and graduate students taking more than fifteen and twelve hours,
 4 respectively, a semester; and allowing the fixing of different tuition and fees for online
 5 course delivery.

Be it enacted by the Legislature of West Virginia:

1 That §18B-10-1 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

**ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE INSTITUTIONS OF
 HIGHER EDUCATION.**

§18B-10-1. Enrollment, tuition and other fees at education institutions; refund of fees.

1 (a) Each governing board shall fix tuition and other fees for each academic term for the
 2 different classes or categories of students enrolling at the state institution of higher education
 3 under its jurisdiction, including the fixing of different tuition and fees for online course delivery,
 4 and may include among the tuition and fees any one or more of the following as defined in section
 5 one-b of this article:

- 6 (1) Tuition and required educational and general fees;
- 7 (2) Auxiliary and auxiliary capital fees; and
- 8 (3) Required educational and general capital fees.

9 (b) A governing board may establish a single special revenue account for each of the
 10 following classifications of fees:

- 11 (1) All tuition and required educational and general fees collected;
- 12 (2) All auxiliary and auxiliary capital fees collected; and
- 13 (3) All required educational and general capital fees collected to support existing
 14 systemwide and institutional debt service and future systemwide and institutional debt service,

15 capital projects and campus renewal for educational and general facilities.

16 (4) Subject to any covenants or restrictions imposed with respect to revenue bonds
17 payable from the accounts, a governing board may expend funds from each special revenue
18 account for any purpose for which funds were collected within that account regardless of the
19 original purpose for which the funds were collected.

20 (c) The purposes for which tuition and fees may be expended include, but are not limited
21 to, health services, student activities, recreational, athletic and extracurricular activities.
22 Additionally, tuition and fees may be used to finance a students' attorney to perform legal services
23 for students in civil matters at the institutions. The legal services are limited to those types of
24 cases, programs or services approved by the president of the institution where the legal services
25 are to be performed.

26 (d) By October 1, 2011, the commission and council each shall propose a rule for
27 legislative approval in accordance with article three-a, chapter twenty-nine-a of this code to
28 govern the fixing, collection and expenditure of tuition and other fees by the governing boards
29 under their respective jurisdictions.

30 (e) The schedule of all tuition and fees, and any changes in the schedule, shall be entered
31 in the minutes of the meeting of the appropriate governing board and the board shall file with the
32 commission or council, or both, as appropriate, and the Legislative Auditor a certified copy of the
33 schedule and changes.

34 (f) (1) The governing boards shall establish the rates to be charged full-time students, as
35 defined in section one-b of this article, who are enrolled during a regular academic term.

36 ~~(4)~~ (A) Undergraduate students taking fewer than twelve credit hours in a regular term
37 shall have their fees reduced pro rata based upon one twelfth of the full-time rate per credit hour
38 and graduate students taking fewer than nine credit hours in a regular term shall have their fees
39 reduced pro rata based upon one ninth of the full-time rate per credit hour.

40 (B) (i) Notwithstanding any another provision of this code to the contrary, starting with the

41 fall term 2016, undergraduate students taking more than fifteen credit hours in a regular term may
42 have their tuition increased by a pro rata amount based upon one twelfth of the full time rate per
43 credit hour.

44 (ii) Notwithstanding any another provision of this code to the contrary, starting with the fall
45 term 2016, graduate students taking more than twelve credit hours in a regular term may have
46 their tuition increased by a pro rata amount based upon one ninth of the full time rate per credit
47 hour.

48 (iii) The commission shall update its fee rule no later than July 1, 2016, to reflect this
49 amendment to this subsection: *Provided*, That the governing boards may implement the charge
50 prior to the promulgation of the rule and provided further implementing an additional pro rata
51 charge as provided by this subsection is not subject to subsection (k) of this section.

52 ~~(2)~~ (C) Fees for students enrolled in summer terms or other nontraditional time periods
53 shall be prorated based upon the number of credit hours for which the student enrolls in
54 accordance with this subsection. *Provided*, That a governing board may establish rates applicable
55 to tuition and fees per credit hour that are less than would be required pursuant to the provisions
56 of this subparagraph.

57 (2) The governing boards may establish rates applicable to tuition and fees for online
58 course delivery without regard to the limitations contained in this subsection.

59 (g) All fees are due and payable by the student upon enrollment and registration for
60 classes except as provided in this subsection:

61 (1) The governing boards shall permit fee payments to be made in installments over the
62 course of the academic term. All fees shall be paid prior to awarding course credit at the end of
63 the academic term.

64 (2) The governing boards also shall authorize the acceptance of credit cards or other
65 payment methods which may be generally available to students for the payment of fees. The
66 governing boards may charge the students for the reasonable and customary charges incurred in

67 accepting credit cards and other methods of payment.

68 (3) If a governing board determines that a student's finances are affected adversely by a
69 legal work stoppage, it may allow the student an additional six months to pay the fees for any
70 academic term. The governing board shall determine on a case-by-case basis whether the
71 finances of a student are affected adversely.

72 (4) The commission and council jointly shall propose a rule in accordance with article
73 three-a, chapter twenty-nine-a of this code defining conditions under which a governing board
74 may offer tuition and fee deferred payment plans itself or through third parties.

75 (5) A governing board may charge interest or fees for any deferred or installment payment
76 plans.

77 (h) In addition to the other fees provided in this section, each governing board may impose,
78 collect and distribute a fee to be used to finance a nonprofit, student-controlled public interest
79 research group if the students at the institution demonstrate support for the increased fee in a
80 manner and method established by that institution's elected student government. The fee may
81 not be used to finance litigation against the institution.

82 (i) Governing boards shall retain tuition and fee revenues not pledged for bonded
83 indebtedness or other purposes in accordance with the tuition rules proposed by the commission
84 and council pursuant to this section. The tuition rules shall address the following areas:

85 (1) Providing a basis for establishing nonresident tuition and fees;

86 (2) Allowing governing boards to charge different tuition and fees for different programs;

87 (3) Authorizing a governing board to propose to the commission, council or both, as
88 appropriate, a mandatory auxiliary fee under the following conditions:

89 (A) The fee shall be approved by the commission, council or both, as appropriate, and
90 either the students below the senior level at the institution or the Legislature before becoming
91 effective;

92 (B) Increases may not exceed previous state subsidies by more than ten percent;

93 (C) The fee may be used only to replace existing state funds subsidizing auxiliary services
94 such as athletics or bookstores;

95 (D) If the fee is approved, the amount of the state subsidy shall be reduced annually by
96 the amount of money generated for the institution by the fees. All state subsidies for the auxiliary
97 services shall cease five years from the date the mandatory auxiliary fee is implemented;

98 (E) The commission or council or both, as appropriate, shall certify to the Legislature
99 annually by October 1 the amount of fees collected for each of the five years;

100 (4) Establishing methodology, where applicable, to ensure that, within the appropriate time
101 period under the compact, community and technical college tuition rates for students in all
102 community and technical colleges will be commensurate with the tuition and fees charged by their
103 peer institutions.

104 (j) A penalty may not be imposed by the commission or council upon any governing board
105 based upon the number of nonresidents who attend the institution unless the commission or
106 council determines that admission of nonresidents to any institution or program of study within
107 the institution is impeding unreasonably the ability of resident students to attend the institution or
108 participate in the programs of the institution. The governing boards shall report annually to the
109 commission or council on the numbers of nonresidents and any other enrollment information the
110 commission or council may request.

111 (k) Tuition and fee increases of the governing boards, including the governing boards of
112 Marshall University and West Virginia University, are subject to rules adopted by the commission
113 and council pursuant to this section and in accordance with article three-a, chapter twenty-nine-a
114 of this code. The commission or council, as appropriate, shall examine individually each request
115 from a governing board for an increase and make its determinations as follows:

116 (1) A tuition and fee increase greater than five percent for resident students proposed by
117 a governing board requires the approval of the commission or council, as appropriate.

118 (2) A fee used solely for the purpose of complying with the athletic provisions of 20 U.S.C.

119 1681, *et seq.*, known as Title IX of the Education Amendment of 1972, is exempt from the
120 limitations on fee increases set forth in this subsection for three years from the effective date of
121 the section.

122 (3) In determining whether to approve or deny a governing board's request for a tuition
123 and/or fee increase for resident students greater than the increases granted pursuant to
124 subdivision (1) of this subsection, the commission or council shall determine the progress the
125 governing board has made toward meeting the conditions outlined in this subsection and shall
126 make this determination the predominate factor in its decision. The commission or council shall
127 consider the degree to which each governing board has met the following conditions:

128 (A) Maximizes resources available through nonresident tuition and fee charges to the
129 satisfaction of the commission or council;

130 (B) Consistently achieves the benchmarks established in the compact pursuant to article
131 one-d of this chapter;

132 (C) Continuously pursues the statewide goals for post-secondary education and the
133 statewide compact established in this chapter;

134 (D) Demonstrates to the satisfaction of the commission or council that an increase will be
135 used to maintain high-quality programs at the institution;

136 (E) Demonstrates to the satisfaction of the commission or council that the governing board
137 is making adequate progress toward achieving the goals for education established by the
138 southern regional education board;

139 (F) Demonstrates to the satisfaction of the commission or council that the governing board
140 has considered the average per capita income of West Virginia families and their ability to pay for
141 any increases; and

142 (G) Demonstrates to the satisfaction of the commission or council that base appropriation
143 increases have not kept pace with recognized nation-wide inflationary benchmarks;

144 (4) This section does not require equal increases among governing boards nor does it

145 require any level of increase by a governing board.

146 (5) The commission and council shall report to the Legislative Oversight Commission on

147 Education Accountability regarding the basis for approving or denying each request as

148 determined using the criteria established in this subsection.

NOTE: The purpose of this bill is to allow the Higher Education Policy Commission to increase tuition for undergraduate and graduate students taking more than fifteen and twelve hours, respectively, a semester, and allowing the fixing of different tuition and fees for online course delivery.

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