

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

Senate Bill 677

BY SENATORS TAKUBO, ASHLEY, GAUNCH, MAYNARD,

WALTERS AND PLYMALE

[Originating in the Committee on Education; reported

on February 28, 2016]

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 higher education institutional governing boards; allowing increase in
3 tuition for undergraduate and graduate students taking more than sixteen and twelve
4 hours, respectively, a semester; requiring the Higher Education Policy Commission and
5 the Council for Community and Technical College Education to promulgate rules in
6 accordance with this amendment; and allowing the fixing of different tuition and fees for
7 summer terms, nontraditional time periods and online 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 other provision of this code to the contrary, starting with the fall
41 term 2016, undergraduate students taking more than sixteen 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 other 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 and council shall update their tuition and fees rules no later than
49 October 1, 2016, to reflect the amendment to this subsection: *Provided*, That the governing
50 boards may implement the charge prior to the promulgation of the rule: *Provided, however*, That
51 implementing an additional pro rata charge as provided by this subsection is not subject to
52 subsection (k) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

112 (k) Tuition and fee increases of the governing boards, including the governing boards of
113 Marshall University and West Virginia University, are subject to rules adopted by the commission
114 and council pursuant to this section and in accordance with article three-a, chapter twenty-nine-a

115 of this code. The commission or council, as appropriate, shall examine individually each request
116 from a governing board for an increase and make its determinations as follows:

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

119 (2) A fee used solely for the purpose of complying with the athletic provisions of 20 U. S.
120 C. 1681, *et seq.*, known as Title IX of the Education Amendment of 1972, is exempt from the
121 limitations on fee increases set forth in this subsection for three years from the effective date of
122 the section.

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

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

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

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

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

137 (E) Demonstrates to the satisfaction of the commission or council that the governing board
138 is making adequate progress toward achieving the goals for education established by the
139 Southern Regional Education Board;

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

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

145 (4) This section does not require equal increases among governing boards nor does it
146 require any level of increase by a governing board.

147 (5) The commission and council shall report to the Legislative Oversight Commission on
148 Education Accountability regarding the basis for approving or denying each request as
149 determined using the criteria established in this subsection.