

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 3020

BY DELEGATE ESPINOSA

[Introduced February 12, 2019; Referred
to the Committee on Education.]

1 A BILL to amend and reenact §18B-5-3 of the Code of West Virginia, 1931, as amended, relating
2 to the authority of the Higher Education Policy Commission, the Council for Community
3 and Technical College Education, and institutional governing boards to enter into contracts
4 for programs, services and facilities; and providing for specified flexibility entering into
5 agreements with certain affiliated nonprofit corporations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.

§18B-5-3. Authority to contract for programs, services and facilities.

1 (a) The governing boards, the commission, and the council are authorized and
2 empowered to enter into contracts and expend funds for programs, services and facilities provided
3 by public and private education institutions, associations, boards, agencies, consortia,
4 corporations, partnerships, individuals and local, state and federal governmental bodies within
5 and outside of West Virginia in order that maximum higher education opportunities of high quality
6 may be provided to the citizens of the state in the most economical manner. In no event may a
7 contract for such services and facilities be entered into unless the commission, the council, or the
8 governing boards have determined that such services and facilities are necessary and would be
9 at a savings to the state.

10 (b) When a governing board, the commission, or the council determines that a contract for
11 materials, goods, equipment, services, printing, facilities, or financial services, including, but not
12 limited to, a lease purchase or a direct issue of special revenue bonds, is necessary and proper,
13 it may enter into such a contract with an affiliated nonprofit corporation under such financial terms
14 as the governing board, commission, or council determines are reasonable and proper in the
15 sound administration of their financial responsibilities to the state. In so doing, the affiliated
16 nonprofit corporation shall be deemed a sole source in respect to any applicable law or regulation
17 relating to expenditures of public funds.

18 (c) As used in this section, “affiliated nonprofit corporation” means a West Virginia
19 nonprofit, nonstock corporation which:

20 (1) Is organized as for charitable, educational, and scientific purposes, or for similar
21 purposes;

22 (2) Is recognized by the Internal Revenue Service as a Section 501(c)3, or successor
23 provision of federal law, tax-exempt organization;

24 (3) Is organized solely to support and contribute to the respective institution of higher
25 education, or to the commission, or to the council, as applicable; and

26 (4) Has annually independently audited financial statements, which have been included
27 and presented, for at least the preceding five fiscal years, in the audited financial statements of
28 the respective governing board, or of the respective institution of higher education under the
29 authority of a governing board, or of the commission or council.

NOTE: The purpose of this bill is to allow the Higher Education Policy Commission, the Council for Community and Technical College Education and institutional governing boards to enter into sole source contracts for goods and services with nonprofit corporations affiliated with the respective education institutions.

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