

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 542

BY SENATOR BEACH

[Introduced January 20, 2020; referred
to the Committee on Education; and then to the
Committee on the Judiciary]

1 A BILL to amend and reenact §18-2-1 of the Code of West Virginia, 1931, as amended, relating
2 to prohibiting political activities by members of the state Board of Education.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-1. Creation; composition; appointment, qualifications, terms and removal of members; offices.

1 (a) There is a state Board of Education, to be known as the West Virginia Board of
2 Education, which is a corporation and as such may contract and be contracted with, plead and be
3 impleaded, sue and be sued, and have and use a common seal. The state board consists of 12
4 members, of whom one is the state Superintendent of Schools, ex officio; one of whom is the
5 chancellor of the Higher Education Policy Commission, ex officio; and one of whom is the
6 chancellor of the West Virginia Council for Community and Technical College Education, ex
7 officio, none of whom is entitled to vote. The other nine members are citizens of the state,
8 appointed by the Governor, by and with the advice and consent of the Senate, for overlapping
9 terms of nine years. Terms of office begin on November 5, of the appropriate year and end on
10 November 4, of the appropriate year. At least two, but not more than three, members are
11 appointed from each congressional district.

12 (b) No more than five of the appointive members may belong to the same political party.

13 (c) ~~and no~~ (1) A person is not eligible for appointment to membership on the state board
14 ~~who is a member of any political party executive committee or holds any other public office or~~
15 ~~public employment under the federal government or under the government of this state or any of~~
16 ~~its political subdivisions, or who is an appointee or employee of the board~~ if that person engages
17 in the following political activities:

18 (A) Become a candidate for or hold any other public office. The term "public office" as used
19 in this section does not include service on any other board, elected or appointed, profit or
20 nonprofit, under the following conditions:

- 21 (i) The person does not receive compensation; and
- 22 (ii) The primary scope of the board is not related to public schools.
- 23 (B) Become a candidate for, or serve as, an elected member of any political party
24 executive committee;
- 25 (C) Become a candidate for, or serve as, a delegate, alternate or proxy to a national
26 political party convention;
- 27 (D) Solicit or receive political contributions to support the election of, or to retire the
28 campaign debt of, any candidate for partisan office;
- 29 (2) A member of the state board may engage in any or all of the following political activities:
- 30 (A) Make campaign contributions to partisan or bipartisan candidates;
- 31 (B) Attend political fund raisers for partisan or bipartisan candidates;
- 32 (C) Serve as an unpaid volunteer on a partisan campaign;
- 33 (D) Politically endorse any candidate in a partisan or bipartisan election; or
- 34 (E) Attend a county, state or national political party convention.
- 35 (d) Members are eligible for reappointment. Any vacancy on the board shall be filled by
36 the Governor by appointment for the unexpired term.
- 37 (e) Notwithstanding the provisions of §6-6-4 of this code, a member of the state board may
38 not be removed from office by the Governor except for official misconduct, incompetence, neglect
39 of duty, or gross immorality and then only in the manner prescribed by law for the removal by the
40 Governor of state elective officers.
- 41 (f) Before exercising any authority or performing any duties as a member of the state
42 board, each member shall qualify as such by taking and subscribing to the oath of office
43 prescribed by section five, article IV of the Constitution of West Virginia, the certificate whereof
44 shall be filed with the Secretary of State. A suitable office in the state Department of Education at
45 the state Capitol shall be provided for use by the state board.

NOTE: The purpose of this bill is to prohibit political activities by members of the state school board.

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