

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 602

FISCAL
NOTE

By Senators Grady, Tarr, Trump, and Swope

[Introduced February 10, 2023; referred
to the Committee on Education; and then to the
Committee on Finance]

1 A BILL to a to amend and reenact §18B-1-1f of the Code of West Virginia, 1931, as amended,
 2 relating to enabling Bluefield State University and West Virginia State University to offer
 3 associate degrees on their campus.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GOVERNANCE.

§18B-1-1f. State college and university exemption status.

1 (a) The Legislature finds that:

2 (1) Efficiencies, entrepreneurialism, and the effectiveness of governing boards in fulfilling
 3 certain goals can be incentivized through the accountability and autonomy associated with
 4 exemption status for state colleges and universities based on meeting certain criteria; and

5 (2) Leading higher education authorities in the nation identify common, key performance
 6 indicators as an important measure of institutional effectiveness, including, but not limited to,
 7 enrollment benchmarks, fiscal benchmarks, and student success benchmarks.

8 (b) The following definitions apply to terms used in this section:

9 (1) "Administratively exempted schools" means state colleges and universities:

10 (A) That achieve and maintain three out of five of the following:

11 (i) Graduation rates: A three-year average graduation rate of not less than 45 percent;

12 (ii) Retention rates: A three-year average retention rate of not less than 60 percent; and

13 (iii) Credit head count enrollment: A three-year credit head count enrollment increase, or a
 14 decrease of not more than five percent over the same period;

15 (iv) Days of cash reserved: A three-year average of not less than 50 days cash reserved;

16 and

17 (v) Composite Financial Index: A Composite Financial Index of not less than one as
 18 reported in the college and university's audited financial statements; or

19 (B) Whose governing board requests a review by the chancellor of any special
 20 circumstances and the commission grants administratively exempted status based on those

21 special circumstances as verified by the chancellor after his or her review.

22 (2) "Composite Financial Index" means the benchmarking tool used by the Higher
23 Learning Commission as a financial indicator and developed specifically for the higher education
24 industry and is a combination of several different ratios, each of which is comprised of data that,
25 when analyzed further, can provide insight into an institution's financial health, and inform
26 decision-making processes;

27 (3) "Credit headcount enrollment" means the total number of unique students, but not
28 counting dual-enrolled high school students, who enrolled in credit-bearing classes during the fall,
29 spring, and summer terms in a given academic year at a specific institution;

30 (4) "Days of cash reserved" means the audited end of fiscal year cash balance, multiplied
31 by 365, and then divided by the audited total expenses less depreciation, and less other post-
32 employment benefit and pension liability expenses;

33 (5) "Graduation rates" means the proportion of first time in college students who obtain a
34 bachelor's degree within six years, as further defined by and reported to the commission;

35 (6) "Retention rates" means the proportion of first-time, fall term, full-time freshmen
36 students who are in continuing enrollment in the fall term of the next succeeding year; and

37 (7) "State college and university" shall have the same meaning as provided in §18B-1-2 of
38 this code.

39 (c) Any state college and university may apply to the commission for designation as an
40 administratively exempted school. The commission shall make its determination as to whether to
41 grant or deny exemption designation based on the definition of administratively exempted school.
42 The commission shall propose rules for legislative approval pursuant to §29A-3A-1 *et seq.* of this
43 code to implement the provisions of this section and that addresses loss of an administratively
44 exempted designation. The rule shall at least include the following:

45 (1) After the first year an administratively exempted school fails to meet three of the five
46 criteria under the definition of administratively exempted schools, the commission may advise the

47 institution on strategies that may be implemented in order to meet three of the five criteria before
48 the following year;

49 (2) An institution may not lose its designation as an administratively exempted school until
50 it has failed to meet three of the five criteria under the definition of administratively exempted
51 schools for two consecutive years;

52 (3) If an institution is administratively exempt based on special circumstances, the
53 commission may revoke the administratively exempted status of a state college and university if it
54 determines that the special circumstance that the state college and university's administratively
55 exempted status is based on no longer exists; and

56 (4) The commission shall provide notice to the institution at least 30 days before revoking
57 the institution's administratively exempted status.

58 (d) Notwithstanding any other provision of this code to the contrary:

59 (1) West Virginia University, including West Virginia University Potomac State College and
60 West Virginia University Institute of Technology; Marshall University; and the West Virginia School
61 of Osteopathic Medicine, which are statutorily exempted schools under §18B-1-2 of this code, are
62 institutions of unique characteristics and their continuing inclusion as a statutorily exempted
63 school is confirmed; and

64 (2) No other state institution of higher education maintains exempted school status
65 pursuant to any other provision of this code except any exempted school status designated by the
66 commission pursuant to this section. ~~Provided, That notwithstanding~~

67 (A) Notwithstanding any provision of this section to the contrary, any college or university
68 shall be exempt from the requirement that the commission approve the establishment of new four-
69 year programs on their own campuses for programs incentivized within the funding formula
70 established in §18B-1B-4 of this code if the state appropriation to that school is less than 40
71 percent of their operating expenses for three consecutive years; and

72 (B) Due to the need to fulfill their historical mission as historically black colleges, Bluefield

73 State University and West Virginia State University shall be authorized to offer associate degrees
74 on their campus as were permitted prior to the establishment of the current system of higher
75 education.

76 (e) Notwithstanding any other provision of this code to the contrary, any state college and
77 university that applies and is designated by the commission as an administratively exempted
78 school is exempt from the following:

79 (1) The required approval of capital projects to ensure that capital projects and facility
80 needs are managed effectively pursuant to §18B-1B-4(a)(10) of this code;

81 (2) The development and approval of institutional mission definitions pursuant to §18B-1B-
82 4(a)(34) of this code;

83 (3) The program approval required pursuant to §18B-1B-4(a)(35) of this code;

84 (4) The rules providing guidance to the governing boards in filling vacancies in the office of
85 the president pursuant to §18B-1B-6(d) of this code;

86 (5) The commission's rule governing and controlling acquisitions and purchases pursuant
87 to §18B-5-4 of this code, upon adoption by the board of governors of said school of its own rule
88 governing and controlling acquisitions and purchases pursuant to §18B-5-4 of this code, following
89 the procedures for adoption of rules provided for in this code;

90 (6) The required approval of capital improvement projects exceeding \$3 million pursuant to
91 §18B-19-6 of this code;

92 (7) The required approval of lease-purchase agreements for capital improvements and
93 equipment of \$1.5 million or greater pursuant to §18B-19-11 of this code; and

94 (8) The required approval of real estate transactions, lease purchase, and new building
95 construction exceeding \$1 million pursuant to §18B-19-13 of this code.

96 (g) Not later than the January interims of each year, the commission shall submit a report to
97 the Legislative Oversight Commission on Education Accountability relating to the administratively
98 exempted school's eligibility criteria established by this section, providing the data for each of the

99 three preceding years, as available, and the three-year average thereof, for each of the state
100 institutions of higher education under its jurisdiction. The commission shall share the report with
101 the institutions.

NOTE: The purpose of this bill is to enable Bluefield State University and West Virginia State University to offer associate degrees on their campus.

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