

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 499

By Senators Smith (Mr. President) and Woelfel

[Introduced February 14, 2025; referred
to the Committee on Education]

1 A BILL to amend and reenact §18B-12-2, §18B-12-3, and §18B-12-4 of the Code of West Virginia,
2 1931, as amended; and to repeal §18B-12-10, relating to agreements for institutions of
3 higher education with private corporations established to benefit institutions of higher
4 education; providing legislative findings and purposes; authorizing institutions of higher
5 education to contract with one or more private corporations authorized to conduct
6 operational, economic, fiscal, and educational development activities and services related
7 to intercollegiate athletics; limiting the voting corporate directors of private corporations
8 who have entered into agreements to conduct operational, economic, fiscal, and
9 educational development activities and services related to intercollegiate athletics on
10 behalf of an institution of higher education; authorizing institutions of higher education to
11 transfer real and personal property to qualifying private corporations; clarifying that the
12 activities of private corporations who have entered into agreements to conduct operational,
13 economic, fiscal, and educational development activities and services related to
14 intercollegiate athletics are exempt from state requirements and procedures; and
15 authorizing private corporations who have entered into agreements to conduct operational,
16 economic, fiscal, and educational development activities and services related to
17 intercollegiate athletics to undertake activities authorized by the West Virginia Nonprofit
18 Corporation Act.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 12. RESEARCH AND DEVELOPMENT AND ATHLETICS AGREEMENTS
FOR STATE INSTITUTIONS OF HIGHER EDUCATION.**

§18B-12-2. Legislative findings and purpose.

1 (a) The Legislature finds and determines that the future economic development in the state
2 will depend in part upon research developed at the state institutions of higher education, and
3 enhanced research opportunities for state institutions of higher education will promote the general

4 economic welfare of the citizens of the state. In order to enhance the competitive position of state
5 institutions of higher education in the current environment for research and development,
6 expenditures for equipment and material for research projects must be handled in an expeditious
7 fashion, and the acquisition and utilization of research grants can be simplified and expedited
8 through the utilization of private corporations.

9 (b) The interest of the citizens of the state will be best met by agreements entered into and
10 carried out by the governing boards and corporations to provide research assistance for state
11 institutions of higher education. Therefore, in order to facilitate research and development grants
12 and opportunities for state institutions of higher education, it is appropriate to authorize the
13 governing boards to contract with private corporations organized for the purpose of providing such
14 services to state institutions of higher education.

15 (c) The Legislature further finds and determines that in order to foster and enhance the
16 operational success and competitive nature of intercollegiate athletics in the current environment,
17 the state institutions of higher education will benefit from utilization of private corporations to
18 conduct operational, economic, fiscal, and educational development activities and services
19 related to intercollegiate athletics' programs.

§18B-12-3. Boards authorized to contract with corporations; characteristics of corporations.

1 Each governing board for a state institution of higher education may enter into agreements
2 and any other contractual relationships with one or more corporations formed with respect to such
3 state institution of higher education, but only if each such corporation meets the following
4 descriptions:

5 (1) The president and the president's appointees from the institution shall constitute a
6 majority of the voting corporate directors: Provided, That the voting corporate directors of any
7 entity established to conduct operational, economic, fiscal, and educational development activities
8 and services related to intercollegiate athletics shall consist solely of employees of the institution

9 of higher education or an employee of an affiliate of the institution of higher education.

10 (2) The corporation shall be organized as a nonprofit, nonstock corporation under the
11 general corporation laws of the state exclusively for charitable, educational or scientific purposes
12 within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to
13 engage in one or more of the following: (a) to foster and support research and economic
14 development efforts at the respective state institution of higher education; and (b) to provide
15 evaluation, development, patenting, management and marketing services for inventions of the
16 faculty, staff and students of such state institution of higher education; and (c) to conduct
17 operational economic, fiscal, and educational development activities and services related to
18 intercollegiate athletics' programs at state institutions of higher education.

19 (3) The meetings of the corporate directors shall be subject to §6-9A-3 of this code:
20 Provided, however, that matters relating to the conduct of operational, economic, fiscal and
21 educational development activities and services related to intercollegiate athletics' programs are
22 exempt from § 6-9A-3 and § 29B-1-1, et seq. of this code.

23 (4) Notwithstanding any other provision of this code to the contrary, institutional boards of
24 governors may assign rights and delegate obligations and provide and transfer funding and
25 property, both real and personal, to corporations as defined in section one of this article, and with
26 which the institution under its jurisdiction has contracted pursuant to the provisions of this article,
27 and any such transfers shall be exempt from the provisions of §18B-19-1 et seq. of this code.

28 (5) Upon dissolution of the corporation, the assets of the corporation shall be transferred to
29 such entity as the appropriate governing board shall designate for the benefit of the state
30 institution of higher education: Provided, That such recipient shall be an organization operated
31 exclusively for charitable, educational, or scientific purposes as shall at such time qualify as an
32 exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

§18B-12-4. Agreement; required provisions.

1 (a) With respect to entities engaged in activities contemplated by the provisions of §18B-

2 12-3(2)(a) and (b) of this code: Notwithstanding §12-3-10 of this code or any other provision of law
3 to the contrary, each governing board is hereby authorized to enter into an agreement with one or
4 more private corporations, which agreement shall be for the benefit of the state institution of higher
5 education and contain the following provisions, subject to further specification as is mutually
6 agreed upon by the governing board and the corporation:

7 (1) On the effective date of the agreement, the corporation is charged with the
8 responsibility of serving as fiscal agent for sponsored projects conducted by the faculty, staff and
9 students of the state institution of higher education, and grants shall be accepted by the
10 corporation on behalf of the institution and assigned to the corporation for fiscal management.

11 (2) The corporation shall provide evaluation, development, patenting, licensing,
12 management, and marketing services for inventions, processes, trademarks, except institutional
13 trademarks an institution's governing board elects to retain, copyrights or any other intellectual
14 property developed by faculty, staff, and students of any state institution of higher education.

15 (3) The corporation may determine the application of the proceeds from any invention,
16 process, trademark, except institutional trademarks an institution's governing board elects to
17 retain, copyright or any other intellectual property developed by the faculty, staff, or students of an
18 institution among the corporation, the inventor or developer, and the institution.

19 (4) The corporation may receive, purchase, hold, lease, use, sell, and dispose of real and
20 personal property of all classes subject to the provisions of section ten of this article.

21 (5) The corporation has such additional responsibilities related to the administration of
22 research and development at the institution or the fostering of economic development as are
23 necessary or desirable.

24 (b) With respect to entities engaged in activities contemplated by the provisions of §18B-
25 12-3(2)(c) of this code: Notwithstanding §12-3-10 of this code or any other provision of law to the
26 contrary, each governing board is hereby authorized to enter into an agreement with one or more
27 private corporations, which agreement shall be for the benefit of the state institution of higher

28 education, to conduct operational, economic, fiscal, and educational development activities and
29 services related to intercollegiate athletics' programs and shall contain the following provisions,
30 subject to further specification as is mutually agreed upon by the governing board and the
31 corporation:

32 (1) On the effective date of the agreement, the corporation is charged with the
33 responsibility of serving as the operational and fiscal agent for the athletics-related endeavors or
34 other educational development activities as specified by the state institution of higher education.

35 (2) The corporation shall provide services for the benefit of the state institution of higher
36 education as outlined in the agreement.

37 (3) The corporation may receive, purchase, hold, lease, use, sell, and dispose of real and
38 personal property of all classes; may own membership or ownership interests in legal entities; and
39 has all powers and authorities to undertake any activities allowable by corporations organized
40 pursuant to §31E-1-1 et seq. of this code.

41 (4) The corporation has such additional responsibilities related to conducting operational,
42 economic, fiscal, and educational development activities and services related to intercollegiate
43 athletics' programs of the state institution of higher education, as are necessary or desirable.

44 (b)(c) Upon termination of the agreement, the funds or grants paid or held by the
45 corporation, and all other property held by the corporation, shall be transferred to the institution or
46 its designee as the governing board directs.

47 (e)(d) A corporation may utilize both corporation employees and personnel of the
48 institution. The corporation may pay the costs incurred by the institution including personnel
49 funded on grants and contracts, fringe benefits of personnel funded on grants and contracts,
50 administrative support costs and other costs which may require reimbursement. The corporation
51 may include as costs any applicable overhead and fringe benefit assessments necessary to
52 recover the costs expended by the institution, pursuant to the terms of the agreement, and that a
53 board may be reimbursed for expenses incurred by it pursuant to the agreement.

§18B-12-10. Assignment or transfer of property to certain corporations.

1 [Repealed.]

NOTE: The purpose of this bill is to authorize institutions of higher education to contract with a private corporation to operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics' programs of the state institution of higher education.

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