

Summary of HB 2815 “Institution Freedom Bill”
Key Provisions Reducing HEPC Oversight
Effective April 8, 2017

- 18B-1A-3 -- Repeals selection of peer institutions for institutions
- 18B-1B-13 -- Repeals studies of issues affecting higher education employees

- 18B-1-2 -- Definitions
 - “Approve” or “approval” when used by HEPC and CTC means giving **“due consideration” to the BOG** rationale for the action and whether BOG action is consistent with law and established policy and is an “appropriate advancement of the public interest.”

 - “Confirm” or “confirmation” when used by the HEPC means when **“substantial deference” is allocated to a BOG action** and HEPC review is only to determine whether proposed action of the BOG is consistent with law and established policy

 - **Exempted schools (“EEs”) are WVU, MU and WVSOM**

- 18B-1-6 -- Rule-making.
 - Rule-making authority by the **HEPC cannot overrule or limit rule-making** authority of EEs

 - HEPC to promulgate rule to guide development of rules by the non-EEs. **EEs promulgate their own rule-making rules.**

- 18B-1B-6 -- Establishment of HEPC
 - HEPC to be made responsible for providing shared services upon request by state college and universities, CTC and CTC schools when requested. **EEs not included in that language.**

 - **HEPC authority** to “oversee” public policy agenda for higher education **removed**

 - HEPC to work **collaboratively with the governing boards to gain consensus** on public agenda

- 18B-1B-2 -- Composition of HEPC
 - Deletes requirement that four at-large members be interviewed by Legislative leadership

 - Adds three at-large members designated as higher education representatives from which Governor is to choose, **based on recommendations of the HEPC institutions.**

Summary of HB 2815 “Institution Freedom Bill”
Key Provisions Reducing HEPC Oversight
Effective April 8, 2017

- 18B-1B-4 -- Powers and duties of HEPC
 - HEPC to provide shared services upon request of all bodies **but the EEs** and undertake certain statewide and regional initiatives such as financial aid
 - **Deletes HEPC requirement to “oversee” public policy agenda**
 - **Deletes requirement for “implementation” of master plan**
 - **Exempts EEs from financing rule**
 - HEPC must collaborate with BOGs in public policy agenda
 - Repeals requirement to adopt institutional compacts: must only “confirm” compact of non-EES
 - Changes HEPC from *the* accountability point to state policy makers to “a point of contact”
 - **Removes duty to establish peer groups**
 - **Removes authority to establish benchmarks and performance indicators for EEs**
 - HEPC now only “confirms” presidential selections of non-EEs. **Removes authority of HEPC over selection of EEs presidents.**
 - **Removes HEPC approval of EEs presidential compensation**
 - Presidential increase of same percentage as other staff need not be approved by HEPC
 - **Removes HEPC requirement** to establish a policy to assure students and parents have sufficient information for academic decisions
 - Remedial standards set by HEPC only have to be uniform at an institution and not throughout higher education system
 - **Removes authority of managing system wide technology over EEs**

Summary of HB 2815 “Institution Freedom Bill”
Key Provisions Reducing HEPC Oversight
Effective April 8, 2017

- Requires cooperation with governing boards to establish policies granting credit for various work or training
- **HEPC authority over capital rule deleted regarding EEs.** Substantial deference of “value judgments” of other BOGs must be included in rule.
- HEPC ability to assess institutions for funding of statewide initiatives under only until July 1, 2018. **All institutions, including EEs no longer pay the “HERA” assessment to support the HEPC.**
- Removes language requiring HEPC and CTC to promulgate rule standardizing personnel administration under articles 7, 8, 9 and 9A
- **HEPC tuition rule not to apply to EEs.**
- HEPC may not implement disease awareness initiatives
- **Removes HEPC requirement for planning and policy leadership and setting state’s policy agenda**
- HEPC to no longer implement institutional mission definitions
- **Limits program approval by HEPC over EEs to programs being offered at new locations**
- Sets new criteria for program approval:
 - Does not change institutional mission
 - Significant expenses will be addressed by reallocation or spread over future years from net revenues
 - Undergrad programs similar to another program in geographic service area not approved unless compelling need
 - **Programs of EEs not to be taken into consideration**
- HEPC to set format for program approval to be requested. **Chancellor to determine within two weeks whether submission meets requirements. After format is proper HEPC must approve or disapprove within 30 days.**
- Removes authority for establishing and implementing information, assessment accountability and personnel systems for state colleges and universities

Summary of HB 2815 “Institution Freedom Bill”
Key Provisions Reducing HEPC Oversight
Effective April 8, 2017

- Removes authority for implementing projects related to postsecondary education at the baccalaureate level from federal or other incentive funds
- Removes requirement to provide quality assurance in areas of research, data collection and analysis, personnel administration, planning, program review, budgeting, etc.
- **Removes authority to develop budgets and allocate resources for BOGs**
- **Except for EEs**, HEPC to review institutional operating budgets, review and approve capital budgets
- HEPC may not withdraw BOG powers for failure to have approved compact for two years
- **HEPC to examine general revenue appropriations per student, credit hour and other measures and deliver report to Joint Committee on Government and LOCEA by January 1, 2018. Shall make recommendations on a formula for allocation. (Funding formula requirement)**
- 18B-1B-6 -- Appointment of Presidents
 - For the non-EEs **HEPC only confirms selection of a president. EEs appoint a president without HEPC confirmation or approval.**
 - **Legislative rules of commission and council regarding presidents not applicable to EEs**
- 18B-1D-2 -- Definitions
 - “Institutional compact” deleted
 - **“Institutions under the jurisdiction of the commission” deletes MU, WVU and WVSOM**
- 18B-1D-4 -- Responsibilities of HEPC and CTC
 - **Deletes HEPC responsibility** to align state goals with the non-EEs
 - **EEs not required to report to HEPC** on plans, accomplishments and recommendations to implement goals and objectives of compacts

Summary of HB 2815 “Institution Freedom Bill”
Key Provisions Reducing HEPC Oversight
Effective April 8, 2017

- 18B-1D-7 -- Institutional compacts
 - **EEs relieved of duties to prepare compacts**
 - Removes language that makes compacts contracts between HEPC and CTC and institutions
 - **Compacts to be updated biannually instead of annually**
 - **HEPC to only confirm compacts** and not approve them
 - HEPC to assign geographic areas of responsibility **except to EEs.**
 - HEPC to develop data-based measures regarding education services **except for EEs**
 - Benchmarks and performance indicators **do not apply against EEs**
 - HEPC to confirm compacts **except for EEs**

- 18B-2A-3. Oversight
 - BOGs subject to **“oversight” of HEPC instead of “supervision”**
 - **Authority of HEPC over EEs limited** to specific authority granted under chapter

- 18B-2A-4. Powers and duties of BOGs.
 - **HEPC approval not needed** for master plans of EEs
 - HEPC may review degree programs but only to extent allowed in code under HEPC powers
 - Master plans for EEs updated biannually. **EEs to submit master plans to LOCEA**
 - Any **personnel rules** adopted by HEPC or CTC because of certain code sections **do not apply to EEs**

Summary of HB 2815 “Institution Freedom Bill”
Key Provisions Reducing HEPC Oversight
Effective April 8, 2017

- **HEPC may not revoke delegation of authority by BOGs to president** regarding EEs.
- 18B-3-1 -- Additional Powers of EEs
 - **Deletes requirement that EEs perform their duties consistent with HEPC** and CTC and not in conflict with them
- 18B-4-7 -- Accreditation
 - **Removes power of HEPC** or CTC to remove power to confer degrees if institution refuses or willfully fails to disclose requested information
- 18B-5-4 -- Purchasing
 - **EEs to adopt own purchasing rules**
 - Joint rules for other institutions must show appropriate deference to the value judgments of BOGs
- 18B-5-6. Other purchasing provisions
 - Institutions may use design-build contracts **without having to get approval** and may use other commonly accepted methods of procurement if:
 - Employs one LEED administrator;
 - Employs one CFM or one PMP
- 18B-10-1 -- Tuition and fees
 - BOGs may set separate fees for online course delivery and those are **not subject to any limitation**
 - **EEs may place all categories of tuition and fees** into a single special revenue account
 - **Strikes HEPC and CTC requirement** to promulgate rule regarding deferred payment plans
 - **EEs to not be subject of HEPC tuition and fee rules**
 - **Only tuition and fee increases above 7 percent a year, based on a three-year rolling average must be approved by HEPC or CTC.** Can be up to 10 percent without approval if it stays within the 7 percent average.

Summary of HB 2815 “Institution Freedom Bill”
Key Provisions Reducing HEPC Oversight
Effective April 8, 2017

- In approving tuition and fees, **HEPC must examine benchmarks of master plans of EEs**
- 18B-10-8 -- Bonds
 - **Removes HEPC approval of revenue bonds for EEs**
 - EEs revenue bonds issued by BOGs and signed by Governor
 - HEPC confirms bonds for non-EEs
- 18B10-16 -- Disposition of funds
 - **EEs may deposit all fees into a single account.**
- 18B-19-3 -- System capital planning
 - Process to be in place for BOGs to get **confirmation of institutional capital plans from HEPC.**
- 18B-19-4 -- Campus development plans
 - Campus plans must be **confirmed by HEPC** and **not addressed for EEs**
 - Only requires a list of major deferred maintenance projects exceeding \$75,000
 - Updates of campus plan subject **only to HEPC confirmation**
 - **EEs may implement plan without confirmation of HEPC**
- 18B-19-5 -- Capital appropriation request
 - Prioritized capital request only prepared by HEPC and CTC, **not approved**
 - Major maintenance projects lists only prepared by HEPC and CTC and **not approved**
 - HEPC and CTC to provide a “recommended” building renewal calculation
- 18B-19-6. Capital financing
 - **EEs need not seek approval of HEPC for capital financing**

Summary of HB 2815 “Institution Freedom Bill”
Key Provisions Reducing HEPC Oversight
Effective April 8, 2017

- **Projects over \$3 million under jurisdiction of HEPC other than EEs** must be approved by HEPC.

- 18B-19-7 -- Capital project management
 - **BOGs under jurisdiction of HEPC exempt from provisions of capital management** if they employ one LEED-certified administrator and one Certified Facilities Manager or one Project Management Professional

 - BOGs to promulgate capital management rule but need not be consistent with rule of the HEPC or CTC

 - **BOGs need not use state standard contracts**

- 18B-19-9 -- Facilities Information System
 - Capital facilities information system to be maintained for institutions by HEPC and CTC **except for EEs.**

 - Cannot use this to burden or interfere with BOGs

- 18B-19-11 -- Authorization to lease-purchase
 - **EEs may enter into these agreements without approval of HEPC**
 - Other BOGs must get HEPC approval for lease-purchase over \$1.5 million

- 18B-19-13 -- Real property contracts
 - Purchase of real estate over \$1 million must be approved by HEPC, **except EEs**, or CTC and provided to Joint Committee on Government and Finance

- 18B-19-14 -- Sale lease-back
 - Institutions may sell property, then lease it back with CTC approval or HEPC confirmation, **except for the EEs**