

HB 4406

FILED

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008



ENROLLED

House Bill No. 4406

(By Delegates DeLong, Shaver, Williams, Rodighiero, Rowan,
Eldridge, Sobonya, Sumner, Fragale and C. Miller)



Passed March 8, 2008

In Effect July 1, 2008

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H. B. 4406

OFFICE OF THE CLERK
WEST VIRGINIA
DEPT. OF STATE

(BY DELEGATES DELONG, SHAVER, WILLIAMS,
RODIGHERO, ROWAN, ELDRIDGE, SOBONYA,
SUMNER, FRAGALE AND C. MILLER)

[Passed March 8, 2008; in effect July 1, 2008.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated section §18-2E-5d; and to amend and reenact §18-9D-2 and §18-9D-16 of said code, all relating generally to the School Building Authority and to state board standards for the recommended duration of school bus transportation times for students to and from school; modifying definitions and qualifications for construction projects and major improvement projects; limiting county board authority to establish new routes for certain students to certain schools unless certain requirements met; providing for state board to permit new routes in excess of limit up to certain limit; requiring state board to provide certain technical assistance; requiring countywide comprehensive facilities plans required by School Building Authority to address providing facility infrastructure that avoids excessive transportation times; requiring guidelines for update of transportation times in approved facilities plans; prohibiting project approval by authority when transportation route times for certain students exceed limits unless state board permission is granted.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated section §18-2E-5d; and that §18-9D-2 and §18-9D-16 of said code be amended and reenacted, all to read as follows:

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-5d. Standards for the duration of school bus transportation times for students to and from school.

1 (a) The high quality standards for transportation adopted
2 by the state board pursuant to section five of this article shall
3 include standards for the recommended duration of the
4 one-way school bus transportation time for students to and
5 from school under normal weather and operating conditions
6 as follows:

7 (1) For elementary school students, thirty minutes;

8 (2) For middle school, intermediate school and junior
9 high school students, forty-five minutes; and

10 (3) For high school students, sixty minutes.

11 (b) A county board may not create a new bus route for the
12 transportation of students in any of the grade levels
13 prekindergarten through grade five to and from any school
14 included in a school closure, consolidation or new
15 construction project approved after the first day of July, two
16 thousand eight, which exceeds by more than fifteen minutes
17 the recommended duration of the one-way school bus
18 transportation time for elementary students adopted by the

19 state board in accordance with subsection (a) of this section
20 unless:

21 (1) The county board adopts a separate motion to approve
22 creation of the route and request written permission of the
23 state board to create the route; and

24 (2) Receives the written permission of the state board to
25 create the route.

26 (c) A county board may not create, nor may the state
27 board permit, the creation of a new bus route for the
28 transportation of students in any of the grade levels
29 prekindergarten through grade five to and from any school
30 included in a school closure, consolidation or new
31 construction project approved after the first day of July, two
32 thousand eight, which exceeds by more than thirty minutes
33 the recommended duration of the one-way school bus
34 transportation time for elementary students adopted by the
35 state board in accordance with subsection (a) of this section.

36 (d) The state board shall provide technical assistance to
37 county boards with the objective of achieving school bus
38 transportation routes for students which are within the
39 recommended time durations established by the state board.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-2. Definitions.

1 For the purposes of this article, unless a different
2 meaning clearly appears from the context:

3 (1) "Authority" means the School Building Authority of
4 West Virginia;

5 (2) "Bonds" means bonds issued by the authority
6 pursuant to this article;

7 (3) "Construction project" means a project in the
8 furtherance of a facilities plan with a cost greater than one
9 million dollars for the new construction, expansion or major
10 renovation of facilities, buildings and structures for school
11 purposes, including:

12 (A) The acquisition of land for current or future use in
13 connection with the construction project;

14 (B) New or substantial upgrading of existing equipment,
15 machinery and furnishings;

16 (C) Installation of utilities and other similar items related
17 to making the construction project operational.

18 (D) Construction project does not include such items as
19 books, computers or equipment used for instructional
20 purposes; fuel; supplies; routine utility services fees; routine
21 maintenance costs; ordinary course of business
22 improvements; other items which are customarily considered
23 to result in a current or ordinary course of business operating
24 charge or a major improvement project;

25 (4) "Cost of project" means the cost of construction,
26 expansion, renovation, repair and safety upgrading of
27 facilities, buildings and structures for school purposes; the
28 cost of land, equipment, machinery, furnishings, installation
29 of utilities and other similar items related to making the
30 project operational; and the cost of financing, interest during
31 construction, professional service fees and all other charges
32 or expenses necessary, appurtenant or incidental to the
33 foregoing, including the cost of administration of this article;

34 (5) "Facilities plan" means the ten-year countywide
35 comprehensive educational facilities plan established by a
36 county board in accordance with guidelines adopted by the
37 authority to meet the goals and objectives of this article that:

38 (A) Addresses the existing school facilities and facility
39 needs of the county to provide a thorough and efficient
40 education in accordance with the provisions of this code and
41 policies of the state board;

42 (B) Best serves the needs of individual students, the
43 general school population and the communities served by the
44 facilities, including, but not limited to, providing for a facility
45 infrastructure that avoids excessive school bus transportation
46 times for students consistent with sound educational policy
47 and within the budgetary constraints for staffing and
48 operating the schools of the county;

49 (C) Includes the school major improvement plan;

50 (D) Includes the county board's school access safety plan
51 required by section three, article nine-f of this chapter;

52 (E) Is updated annually to reflect projects completed,
53 current enrollment projections and new or continuing needs;
54 and

55 (F) Is approved by the state board and the authority prior
56 to the distribution of state funds pursuant to this article to any
57 county board or other entity applying for funds;

58 (6) "Project" means a construction project or a major
59 improvement project;

60 (7) "Region" means the area encompassed within and
61 serviced by a regional educational service agency established
62 pursuant to section twenty-six, article two of this chapter;

63 (8) "Revenue" or "revenues" means moneys:

64 (A) Deposited in the School Building Capital
65 Improvements Fund pursuant to section ten, article nine-a of
66 this chapter;

67 (B) Deposited in the School Construction Fund pursuant
68 to section thirty, article fifteen, chapter eleven of this code
69 and section eighteen, article twenty-two, chapter twenty-nine
70 of this code;

71 (C) Deposited in the School Building Debt Service Fund
72 pursuant to section eighteen, article twenty-two, chapter
73 twenty-nine of this code;

74 (D) Deposited in the School Major Improvement Fund
75 pursuant to section thirty, article fifteen, chapter eleven of
76 this code;

77 (E) Received, directly or indirectly, from any source for
78 use in any project completed pursuant to this article;

79 (F) Received by the authority for the purposes of this
80 article; and

81 (G) Deposited in the Excess Lottery School Building
82 Debt Services Fund pursuant to section eighteen-a, article
83 twenty-two, chapter twenty-nine of this code.

84 (9) "School major improvement plan" means a ten-year
85 school maintenance plan that:

86 (A) Is prepared by a county board in accordance with the
87 guidelines established by the authority and incorporated in its
88 Countywide Comprehensive Educational Facilities Plan, or
89 is prepared by the state board or the administrative council of

90 an area vocational educational center in accordance with the
91 guidelines if the entities seek funding from the authority for
92 a major improvement project;

93 (B) Addresses the regularly scheduled maintenance for
94 all school facilities of the county or under the jurisdiction of
95 the entity seeking funding;

96 (C) Includes a projected repair and replacement schedule
97 for all school facilities of the county or of entity seeking
98 funding;

99 (D) Addresses the major improvement needs of each
100 school within the county or under the jurisdiction of the
101 entity seeking funding; and

102 (E) Is required prior to the distribution of state funds for
103 a major improvement project pursuant to this article to the
104 county board, state board or administrative council; and

105 (10) "School major improvement project" means a project
106 with a cost greater than fifty thousand dollars and less than
107 one million dollars for the renovation, expansion, repair and
108 safety upgrading of existing school facilities, buildings and
109 structures, including the substantial repair or upgrading of
110 equipment, machinery, building systems, utilities and other
111 similar items related to the renovation, repair or upgrading in
112 the furtherance of a school major improvement plan. A
113 major improvement project does not include such items as
114 books, computers or equipment used for instructional
115 purposes; fuel; supplies; routine utility services fees; routine
116 maintenance costs; ordinary course of business
117 improvements; or other items which are customarily
118 considered to result in a current or ordinary course of
119 business operating charge.

§18-9D-16. Authority to establish guidelines and procedures for facilities and major improvement plans; guidelines for modifications and updates, etc.; guidelines for project evaluation; submission of certified list of projects to be funded; department on-site inspection of facilities; enforcement of required changes or additions to project plans.

1 (a) The authority shall establish guidelines and
2 procedures to promote the intent and purposes of this article
3 and assure the prudent and resourceful expenditure of state
4 funds for projects under this article including, but not limited
5 to, the following:

6 (1) Guidelines and procedures for the facilities plans,
7 school major improvement plans and projects submitted in
8 the furtherance of the plans that address, but are not limited
9 to, the following:

10 (A) All of the elements of the respective plans as defined
11 in section two of this article;

12 (B) The procedures for a county to submit a preliminary
13 plan, a plan outline or a proposal for a plan to the authority
14 prior to the submission of the facilities plan. The preliminary
15 plan, plan outline or proposal for a plan shall be the basis for
16 a consultation meeting between representatives of the county
17 and members of the authority, including at least one citizen
18 member, which shall be held promptly following submission
19 of the preliminary plan, plan outline or proposal for a plan to
20 assure understanding of the general goals of this article and
21 the objective criteria by which projects will be evaluated, to
22 discuss ways the plan may be structured to meet those goals,
23 and to assure efficiency and productivity in the project
24 approval process;

25 (C) The manner, time line and process for the submission
26 of each plan and annual plan updates to the authority;

27 (D) The requirements for public hearings, comments or
28 other means of providing broad-based input on plans and
29 projects under this article within a reasonable time period as
30 the authority may consider appropriate. The submission of
31 each plan must be accompanied by a synopsis of all
32 comments received and a formal comment by the county
33 board, the state board or the administrative council of an area
34 vocational educational center submitting the plan;

35 (E) Any project specifications and maintenance
36 specifications considered appropriate by the authority
37 including, but not limited to, such matters as energy
38 efficiency, preferred siting, construction materials,
39 maintenance plan and any other matter related to how the
40 project is to proceed;

41 (F) A prioritization by the county board, the state board
42 or the administrative council submitting the plan of each
43 project contained in the plan. In prioritizing the projects, the
44 county board, the state board or the administrative council
45 submitting the plan shall make determinations in accordance
46 with the objective criteria formulated by the School Building
47 Authority in accordance with this section. The priority list is
48 one of the criteria that shall be considered by the authority
49 deciding how the available funds should be expended;

50 (G) The objective means to be set forth in the plan and
51 used in evaluating implementation of the overall plan and
52 each project included in the plan. The evaluation must
53 measure how the plan addresses the goals of this article and
54 any guidelines adopted under this article, and how each
55 project is in furtherance of the facilities plan and school
56 major improvement plan, as applicable, as well as the

57 importance of the project to the overall success of the
58 facilities plan or school major improvement plan and the
59 overall goals of the authority; and

60 (H) Any other matters considered by the authority to be
61 important reflections of how a construction project or a major
62 improvement project or projects will further the overall goals
63 of this article.

64 (2) Guidelines and procedures which may be adopted by
65 the authority for requiring that a county board modify,
66 update, supplement or otherwise submit changes or additions
67 to an approved facilities plan or for requiring that a county
68 board, the state board or the administrative council of an area
69 vocational educational center modify, update, supplement or
70 otherwise submit changes or additions to an approved school
71 major improvement plan. The authority shall provide
72 reasonable notification and sufficient time for the change or
73 addition as delineated in guidelines developed by the
74 authority. The guidelines shall require an update of the
75 estimated duration of school bus transportation times for
76 students associated with any construction project under
77 consideration by the authority that includes the closure,
78 consolidation or construction of a school or schools.

79 (3) Guidelines and procedures for evaluating project
80 proposals that are submitted to the authority that address, but
81 are not limited to, the following:

82 (A) Any project funded by the authority must be in
83 furtherance of the facilities plan or school major
84 improvement plan and in compliance with the guidelines
85 established by the authority;

86 (B) If a project is to benefit more than one county in the
87 region, the facilities plan must state the manner in which the

88 cost and funding of the project will be apportioned among the
89 counties;

90 (C) If a county board proposes to finance a construction
91 project through a lease with an option to purchase pursuant
92 to an investment contract as described in subsection (f),
93 section fifteen of this article, the specifications for the project
94 must include the term of the lease, the amount of each lease
95 payment, including the payment due upon exercise of the
96 option to purchase, and the terms and conditions of the
97 proposed investment contract; and

98 (D) The objective criteria for the evaluation of projects
99 which shall include, but are not limited to, the following:

100 (i) How the current facilities do not meet and how the
101 plan and any project under the plan meets the following:

102 (I) Student health and safety including, but not limited to,
103 critical health and safety needs;

104 (II) Economies of scale, including compatibility with
105 similar schools that have achieved the most economical
106 organization, facility use and pupil-teacher ratios;

107 (III) Reasonable travel time and practical means of
108 addressing other demographic considerations. The authority
109 may not approve a project after the first day of July, two
110 thousand eight, that includes a school closure, consolidation
111 or new construction for which a new bus route will be created
112 for the transportation of students in any of the grade levels
113 prekindergarten through grade five to and from any school
114 included in the project, which new bus route exceeds by more
115 than fifteen minutes the recommended duration of the
116 one-way school bus transportation time for elementary
117 students adopted by the state board as provided in section

118 five-d, article two-e of this chapter, unless the county has
119 received the written permission of the state board to create
120 the route in accordance with said section five-d;

121 (IV) Multicounty and regional planning to achieve the
122 most effective and efficient instructional delivery system;

123 (V) Curriculum improvement and diversification,
124 including the use of instructional technology, distance
125 learning and access to advanced courses in science,
126 mathematics, language arts and social studies;

127 (VI) Innovations in education;

128 (VII) Adequate space for projected student enrollments;

129 (VIII) The history of efforts taken by the county board to
130 propose or adopt local school bond issues or special levies to
131 the extent Constitutionally permissible; and

132 (IX) Regularly scheduled preventive maintenance; and

133 (ii) How the project will assure the prudent and
134 resourceful expenditure of state funds and achieve the
135 purposes of this article for constructing, expanding,
136 renovating or otherwise improving and maintaining school
137 facilities for a thorough and efficient education.

138 (4) Guidelines and procedures for evaluating projects for
139 funding that address, but are not limited to, the following:

140 (A) Requiring each county board's facilities plan and
141 school major improvement plan to prioritize all the
142 construction projects or major improvement projects,
143 respectively, within the county. A school major
144 improvement plan submitted by the state board or the

145 administrative council of an area vocational educational
146 center shall prioritize all the school improvement projects
147 contained in the plan. The priority list shall be one of the
148 criteria to be considered by the authority in determining how
149 available funds shall be expended. In prioritizing the
150 projects, the county board, the state board or the
151 administrative council submitting a plan shall make
152 determinations in accordance with the objective criteria
153 formulated by the School Building Authority;

154 (B) The return to each county submitting a project
155 proposal an explanation of the evaluative factors underlying
156 the decision of the authority to fund or not to fund the
157 project; and

158 (C) The allocation and expenditure of funds in
159 accordance with this article, subject to the availability of
160 funds.

161 (b) Prior to final action on approving projects for funding
162 under this article, the authority shall submit a certified list of
163 the projects to the Joint Committee on Government and
164 Finance.

165 (c) The State Department of Education shall conduct
166 on-site inspections, at least annually, of all facilities which
167 have been funded wholly or in part by moneys from the
168 authority or state board to ensure compliance with the county
169 board's facilities plan and school major improvement plan as
170 related to the facilities; to preserve the physical integrity of
171 the facilities to the extent possible; and to otherwise extend
172 the useful life of the facilities: *Provided*, That the state board
173 shall submit reports regarding its on-site inspections of
174 facilities to the authority within thirty days of completion of
175 the on-site inspections: *Provided, however*, That the state
176 board shall promulgate rules regarding the on-site inspections

177 and matters relating thereto, in consultation with the
178 authority, as soon as practical and shall submit proposed rules
179 for legislative review no later than the first day of December,
180 one thousand nine hundred ninety-four.

181 (d) Based on its on-site inspection or notification by the
182 authority to the state board that the changes or additions to a
183 county's board facilities plan or school major improvement
184 plan required by the authority have not been implemented
185 within the time period prescribed by the authority, the state
186 board shall restrict the use of the necessary funds or
187 otherwise allocate funds from moneys appropriated by the
188 Legislature for those purposes set forth in section nine, article
189 nine-a of this chapter.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



Chairman House Committee

Originating in the House.

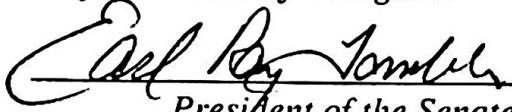
In effect July 1, 2008.




Clerk of the Senate



Clerk of the House of Delegates

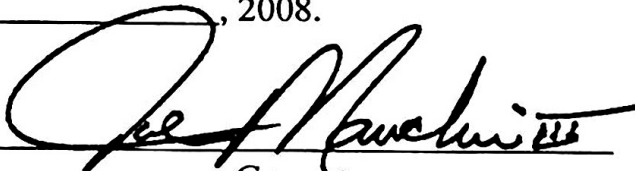


President of the Senate



Speaker of the House of Delegates

The within is approved this the 28th
day of March, 2008.



Governor

PRESENTED TO THE
GOVERNOR

MAR 25 2008

Time 10:20am