

**H. B. 2128**

(By Delegate Paxton)  
[Introduced January 12, 2011; referred to the  
Committee on Education.]

A BILL to amend and reenact §18A-4-8 and §18A-4-8b of the Code of West Virginia, 1931, as amended, all relating to itinerant status for school service personnel; and information to be included in a notice of job vacancy.

*Be it enacted by the Legislature of West Virginia:*

That §18A-4-8 and §18A-4-8b of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

**§18A-4-8. Employment term and class titles of service personnel; definitions.**

(a) The purpose of this section is to establish an employment term and class titles for service personnel. The employment term for service personnel may not be less than ten months. A month is defined as twenty employment days. ~~Provided, That~~ The county board may contract with all or part of these service personnel for a

1 longer term. The beginning and closing dates of the ten-month  
2 employment term may not exceed forty-three weeks.

3 (b) Service personnel employed on a yearly or twelve-month  
4 basis may be employed by calendar months. Whenever there is a  
5 change in job assignment during the school year, the minimum pay  
6 scale and any county supplement are applicable.

7 (c) Service personnel employed in the same classification for  
8 more than the two hundred-day minimum employment term shall be paid  
9 for additional employment at a daily rate of not less than the  
10 daily rate paid for the two hundred-day minimum employment term.

11 (d) A service person may not be required to report for work  
12 more than five days per week without his or her agreement, and no  
13 part of any working day may be accumulated by the employer for  
14 future work assignments, unless the employee agrees thereto.

15 (e) If a service person whose regular work week is scheduled  
16 from Monday through Friday agrees to perform any work assignments  
17 on a Saturday or Sunday, the service person shall be paid for at  
18 least one-half day of work for each day he or she reports for work.  
19 If the service person works more than three and one-half hours on  
20 any Saturday or Sunday, he or she shall be paid for at least a full  
21 day of work for each day.

22 (f) A custodian, aide, maintenance, office and school lunch  
23 service person required to work a daily work schedule that is  
24 interrupted ~~shall be~~ or has itinerant status is paid additional

1 compensation.

2 (1) A maintenance person is defined as a person who holds a  
3 classification title other than in a custodial, aide, school lunch,  
4 office or transportation category as provided in section one,  
5 article one of this chapter.

6 (2) A service person's schedule is considered to be  
7 interrupted if he or she does not work a continuous period in one  
8 day. Aides are not regarded as working an interrupted schedule  
9 when engaged exclusively in the duties of transporting students;

10 (3) The additional compensation provided for in this  
11 subsection:

12 (A) Is equal to at least one eighth of a service person's  
13 total salary as provided by the state minimum pay scale and any  
14 county pay supplement; and

15 (B) Is payable entirely from county board funds.

16 (4) A service person is considered to hold itinerant status if  
17 he or she has bid upon a position posted as itinerant or has agreed  
18 to accept this status. A service person with itinerant status may  
19 be assigned to a different work site upon written notice ten days  
20 prior to the reassignment without the consent of the employee and  
21 without posting the vacancy. A service person with itinerant  
22 status may be involuntarily reassigned no more than twice during  
23 the school year. At the conclusion of each school year the county  
24 board of education shall post and fill, pursuant to section eight-b

1 of this article, all positions that have been filled without  
2 posting by a service person with itinerant status.

3 (5) Any service person, who is assigned to a beginning and  
4 ending work site and travels at the expense of the Board of  
5 Education to other work sites during the daily schedule, shall not  
6 be considered to hold itinerant status.

7 (g) When there is a change in classification or when a service  
8 person meets the requirements of an advanced classification, his or  
9 her salary shall be made to comply with the requirements of this  
10 article and any county salary schedule in excess of the minimum  
11 requirements of this article, based upon the service person's  
12 advanced classification and allowable years of employment.

13 (h) A service person's, contract as provided in section five,  
14 article two of this chapter, shall state the appropriate monthly  
15 salary the employee is to be paid, based on the class title as  
16 provided in this article and on any county salary schedule in  
17 excess of the minimum requirements of this article.

18 (i) The column heads of the state minimum pay scale and class  
19 titles, set forth in section eight-a of this article, are defined  
20 as follows:

21 (1) "Pay grade" means the monthly salary applicable to class  
22 titles of service personnel;

23 (2) "Years of employment" means the number of years which an  
24 employee classified as a service person has been employed by a

1 county board in any position prior to or subsequent to the  
2 effective date of this section and includes service in the Armed  
3 Forces of the United States, if the employee was employed at the  
4 time of his or her induction. For the purpose of section eight-a  
5 of this article, years of employment is limited to the number of  
6 years shown and allowed under the state minimum pay scale as set  
7 forth in section eight-a of this article;

8 (3) "Class title" means the name of the position or job held  
9 by a service person;

10 (4) "Accountant I" means a person employed to maintain payroll  
11 records and reports and perform one or more operations relating to  
12 a phase of the total payroll;

13 (5) "Accountant II" means a person employed to maintain  
14 accounting records and to be responsible for the accounting process  
15 associated with billing, budgets, purchasing and related  
16 operations;

17 (6) "Accountant III" means a person employed in the county  
18 board office to manage and supervise accounts payable, payroll  
19 procedures, or both;

20 (7) "Accounts payable supervisor" means a person employed in  
21 the county board office who has primary responsibility for the  
22 accounts payable function and who either has completed twelve  
23 college hours of accounting courses from an accredited institution  
24 of higher education or has at least eight years of experience

1 performing progressively difficult accounting tasks.

2 Responsibilities of this class title may include supervision of  
3 other personnel;

4 (8) "Aide I" means a person selected and trained for a  
5 teacher-aide classification such as monitor aide, clerical aide,  
6 classroom aide or general aide;

7 (9) "Aide II" means a service person referred to in the "Aide  
8 I" classification who has completed a training program approved by  
9 the state board, or who holds a high school diploma or has received  
10 a general educational development certificate. Only a person  
11 classified in an Aide II class title may be employed as an aide in  
12 any special education program;

13 (10) "Aide III" means a service person referred to in the  
14 "Aide I" classification who holds a high school diploma or a  
15 general educational development certificate; and

16 (A) Has completed six semester hours of college credit at an  
17 institution of higher education; or

18 (B) Is employed as an aide in a special education program and  
19 has one year's experience as an aide in special education;

20 (11) "Aide IV" means a service person referred to in the "Aide  
21 I" classification who holds a high school diploma or a general  
22 educational development certificate; and

23 (A) Has completed eighteen hours of state board-approved  
24 college credit at a regionally accredited institution of higher

1 education, or

2 (B) Has completed fifteen hours of state board-approved  
3 college credit at a regionally accredited institution of higher  
4 education; and has successfully completed an in-service training  
5 program determined by the state board to be the equivalent of three  
6 hours of college credit;

7 (12) "Audiovisual technician" means a person employed to  
8 perform minor maintenance on audiovisual equipment, films, and  
9 supplies and who fills requests for equipment;

10 (13) "Auditor" means a person employed to examine and verify  
11 accounts of individual schools and to assist schools and school  
12 personnel in maintaining complete and accurate records of their  
13 accounts;

14 (14) "Autism mentor" means a person who works with autistic  
15 students and who meets standards and experience to be determined by  
16 the state board. A person who has held or holds an aide title and  
17 becomes employed as an autism mentor shall hold a  
18 multiclassification status that includes both aide and autism  
19 mentor titles, in accordance with section eight-b of this article;

20 (15) "Braille or sign language specialist" means a person  
21 employed to provide braille and/or sign language assistance to  
22 students. A service person who has held or holds an aide title and  
23 becomes employed as a braille or sign language specialist shall  
24 hold a multiclassification status that includes both aide and

1 braille or sign language specialist title, in accordance with  
2 section eight-b of this article;

3       (16) "Bus operator" means a person employed to operate school  
4 buses and other school transportation vehicles as provided by the  
5 state board;

6       (17) "Buyer" means a person employed to review and write  
7 specifications, negotiate purchase bids and recommend purchase  
8 agreements for materials and services that meet predetermined  
9 specifications at the lowest available costs;

10       (18) "Cabinetmaker" means a person employed to construct  
11 cabinets, tables, bookcases and other furniture;

12       (19) "Cafeteria manager" means a person employed to direct the  
13 operation of a food services program in a school, including  
14 assigning duties to employees, approving requisitions for supplies  
15 and repairs, keeping inventories, inspecting areas to maintain high  
16 standards of sanitation, preparing financial reports and keeping  
17 records pertinent to food services of a school;

18       (20) "Carpenter I" means a person classified as a carpenter's  
19 helper;

20       (21) "Carpenter II" means a person classified as a journeyman  
21 carpenter;

22       (22) "Chief mechanic" means a person employed to be  
23 responsible for directing activities which ensure that student  
24 transportation or other county board-owned vehicles are properly



1 and safely maintained;

2       (23) "Clerk I" means a person employed to perform clerical  
3 tasks;

4       (24) "Clerk II" means a person employed to perform general  
5 clerical tasks, prepare reports and tabulations and operate office  
6 machines;

7       (25) "Computer operator" means a qualified person employed to  
8 operate computers;

9       (26) "Cook I" means a person employed as a cook's helper;

10       (27) "Cook II" means a person employed to interpret menus and  
11 to prepare and serve meals in a food service program of a school.  
12 This definition includes a service person who has been employed as  
13 a "Cook I" for a period of four years;

14       (28) "Cook III" means a person employed to prepare and serve  
15 meals, make reports, prepare requisitions for supplies, order  
16 equipment and repairs for a food service program of a school  
17 system;

18       (29) "Crew leader" means a person employed to organize the  
19 work for a crew of maintenance employees to carry out assigned  
20 projects;

21       (30) "Custodian I" means a person employed to keep buildings  
22 clean and free of refuse;

23       (31) "Custodian II" means a person employed as a watchman or  
24 groundsman;

1           (32) "Custodian III" means a person employed to keep buildings  
2 clean and free of refuse, to operate the heating or cooling systems  
3 and to make minor repairs;

4           (33) "Custodian IV" means a person employed as head  
5 custodians. In addition to providing services as defined in  
6 "custodian III," duties may include supervising other custodian  
7 personnel;

8           (34) "Director or coordinator of services" means an employee  
9 of a county board who is assigned to direct a department or  
10 division.

11          (A) Nothing in this subdivision prohibits a professional  
12 person or a professional educator from holding this class title;

13          (B) Professional personnel holding this class title may not be  
14 defined or classified as service personnel unless the professional  
15 person held a service personnel title under this section prior to  
16 holding the class title of "director or coordinator of services."

17          (C) The director or coordinator of services shall be  
18 classified either as a professional person or a service person for  
19 state aid formula funding purposes; and

20          (D) Funding for the position of director or coordinator of  
21 services is based upon the employment status of the director or  
22 coordinator either as a professional person or a service person;

23           (35) "Draftsman" means a person employed to plan, design and  
24 produce detailed architectural/engineering drawings;

1           (36) "Electrician I" means a person employed as an apprentice  
2 electrician helper or one who holds an electrician helper license  
3 issued by the state Fire Marshal;

4           (37) "Electrician II" means a person employed as an  
5 electrician journeyman or one who holds a journeyman electrician  
6 license issued by the state Fire Marshal;

7           (38) "Electronic technician I" means a person employed at the  
8 apprentice level to repair and maintain electronic equipment;

9           (39) "Electronic technician II" means a person employed at the  
10 journeyman level to repair and maintain electronic equipment;

11           (40) "Executive secretary" means a person employed as  
12 secretary to the county school superintendent or as a secretary who  
13 is assigned to a position characterized by significant  
14 administrative duties;

15           (41) "Food services supervisor" means a qualified person who  
16 is not a professional person or professional educator as defined in  
17 section one, article one of this chapter. The food services  
18 supervisor is employed to manage and supervise a county school  
19 system's food service program. The duties include preparing in-  
20 service training programs for cooks and food service employees,  
21 instructing personnel in the areas of quantity cooking with economy  
22 and efficiency and keeping aggregate records and reports;

23           (42) "Foreman" means a skilled person employed to supervise  
24 personnel who work in the areas of repair and maintenance of school

1 property and equipment;

2       (43) "General maintenance" means a person employed as a helper  
3 to skilled maintenance employees and to perform minor repairs to  
4 equipment and buildings of a county school system;

5       (44) "Glazier" means a person employed to replace glass or  
6 other materials in windows and doors and to do minor carpentry  
7 tasks;

8       (45) "Graphic artist" means a person employed to prepare  
9 graphic illustrations;

10       (46) "Groundsman" means a person employed to perform duties  
11 that relate to the appearance, repair and general care of school  
12 grounds in a county school system. Additional assignments may  
13 include the operation of a small heating plant and routine cleaning  
14 duties in buildings;

15       (47) "Handyman" means a person employed to perform routine  
16 manual tasks in any operation of the county school system;

17       (48) "Heating and air conditioning mechanic I" means a person  
18 employed at the apprentice level to install, repair and maintain  
19 heating and air conditioning plants and related electrical  
20 equipment;

21       (49) "Heating and air conditioning mechanic II" means a person  
22 employed at the journeyman level to install, repair and maintain  
23 heating and air conditioning plants and related electrical  
24 equipment;

1           (50) "Heavy equipment operator" means a person employed to  
2 operate heavy equipment;

3           (51) "Inventory supervisor" means a person employed to  
4 supervise or maintain operations in the receipt, storage, inventory  
5 and issuance of materials and supplies;

6           (52) "Key punch operator" means a qualified person employed to  
7 operate key punch machines or verifying machines;

8           (53) "Licensed practical nurse" means a nurse, licensed by the  
9 West Virginia Board of Examiners for Licensed Practical Nurses,  
10 employed to work in a public school under the supervision of a  
11 school nurse;

12          (54) "Locksmith" means a person employed to repair and  
13 maintain locks and safes;

14          (55) "Lubrication man" means a person employed to lubricate  
15 and service gasoline or diesel-powered equipment of a county school  
16 system;

17          (56) "Machinist" means a person employed to perform machinist  
18 tasks which include the ability to operate a lathe, planer, shaper,  
19 threading machine and wheel press. A person holding this class  
20 title also should have the ability to work from blueprints and  
21 drawings;

22          (57) "Mail clerk" means a person employed to receive, sort,  
23 dispatch, deliver or otherwise handle letters, parcels and other  
24 mail;

1           (58) "Maintenance clerk" means a person employed to maintain  
2 and control a stocking facility to keep adequate tools and supplies  
3 on hand for daily withdrawal for all school maintenance crafts;

4           (59) "Mason" means a person employed to perform tasks  
5 connected with brick and block laying and carpentry tasks related  
6 to these activities;

7           (60) "Mechanic" means a person employed to perform skilled  
8 duties independently in the maintenance and repair of automobiles,  
9 school buses and other mechanical and mobile equipment to use in a  
10 county school system;

11          (61) "Mechanic assistant" means a person employed as a  
12 mechanic apprentice and helper;

13          (62) "Multiclassification" means a person employed to perform  
14 tasks that involve the combination of two or more class titles in  
15 this section. In these instances the minimum salary scale shall be  
16 the higher pay grade of the class titles involved;

17          (63) "Office equipment repairman I" means a person employed as  
18 an office equipment repairman apprentice or helper;

19          (64) "Office equipment repairman II" means a person  
20 responsible for servicing and repairing all office machines and  
21 equipment. A person holding this class title is responsible for  
22 the purchase of parts necessary for the proper operation of a  
23 program of continuous maintenance and repair;

24          (65) "Painter" means a person employed to perform duties

1 painting, finishing and decorating wood, metal and concrete  
2 surfaces of buildings, other structures, equipment, machinery and  
3 furnishings of a county school system;

4 (66) "Paraprofessional" means a person certified pursuant to  
5 section two-a, article three of this chapter to perform duties in  
6 a support capacity including, but not limited to, facilitating in  
7 the instruction and direct or indirect supervision of students  
8 under the direction of a principal, a teacher or another designated  
9 professional educator.

10 (A) A person employed on the effective date of this section in  
11 the position of an aide may not be subject to a reduction in force  
12 or transferred to create a vacancy for the employment of a  
13 paraprofessional;

14 (B) A person who has held or holds an aide title and becomes  
15 employed as a paraprofessional shall hold a multiclassification  
16 status that includes both aide and paraprofessional titles in  
17 accordance with section eight-b of this article; and

18 (C) When a service person who holds an aide title becomes  
19 certified as a paraprofessional and is required to perform duties  
20 that may not be performed by an aide without paraprofessional  
21 certification, he or she shall receive the paraprofessional title  
22 pay grade;

23 (67) "Payroll supervisor" means a person employed in the  
24 county board office who has primary responsibility for the payroll

1 function and who either has completed twelve college hours of  
2 accounting from an accredited institution of higher education or  
3 has at least eight years of experience performing progressively  
4 difficult accounting tasks. Responsibilities of this class title  
5 may include supervision of other personnel;

6 (68) "Plumber I" means a person employed as an apprentice  
7 plumber and helper;

8 (69) "Plumber II" means a person employed as a journeyman  
9 plumber;

10 (70) "Printing operator" means a person employed to operate  
11 duplication equipment, and to cut, collate, staple, bind and shelve  
12 materials as required;

13 (71) "Printing supervisor" means a person employed to  
14 supervise the operation of a print shop;

15 (72) "Programmer" means a person employed to design and  
16 prepare programs for computer operation;

17 (73) "Roofing/sheet metal mechanic" means a person employed to  
18 install, repair, fabricate and maintain roofs, gutters, flashing  
19 and duct work for heating and ventilation;

20 (74) "Sanitation plant operator" means a person employed to  
21 operate and maintain a water or sewage treatment plant to ensure  
22 the safety of the plant's effluent for human consumption or  
23 environmental protection;

24 (75) "School bus supervisor" means a qualified person employed



1 to assist in selecting school bus operators and routing and  
2 scheduling school buses, operate a bus when needed, relay  
3 instructions to bus operators, plan emergency routing of buses and  
4 promote good relationships with parents, students, bus operators  
5 and other employees;

6 (76) "Secretary I" means a person employed to transcribe from  
7 notes or mechanical equipment, receive callers, perform clerical  
8 tasks, prepare reports and operate office machines;

9 (77) "Secretary II" means a person employed in any elementary,  
10 secondary, kindergarten, nursery, special education, vocational or  
11 any other school as a secretary. The duties may include performing  
12 general clerical tasks; transcribing from notes, stenotype,  
13 mechanical equipment or a sound-producing machine; preparing  
14 reports; receiving callers and referring them to proper persons;  
15 operating office machines; keeping records and handling routine  
16 correspondence. Nothing in this subdivision prevents a service  
17 person from holding or being elevated to a higher classification;

18 (78) "Secretary III" means a person assigned to the county  
19 board office administrators in charge of various instructional,  
20 maintenance, transportation, food services, operations and health  
21 departments, federal programs or departments with particular  
22 responsibilities in purchasing and financial control or any person  
23 who has served for eight years in a position which meets the  
24 definition of "secretary II" or "secretary III";;

1           (79) "Supervisor of maintenance" means a skilled person who is  
2 not a professional person or professional educator as defined in  
3 section one, article one of this chapter. The responsibilities  
4 include directing the upkeep of buildings and shops, and issuing  
5 instructions to subordinates relating to cleaning, repairs and  
6 maintenance of all structures and mechanical and electrical  
7 equipment of a county board;

8           (80) "Supervisor of transportation" means a qualified person  
9 employed to direct school transportation activities properly and  
10 safely, and to supervise the maintenance and repair of vehicles,  
11 buses and other mechanical and mobile equipment used by the county  
12 school system;

13          (81) "Switchboard operator-receptionist" means a person  
14 employed to refer incoming calls, to assume contact with the  
15 public, to direct and to give instructions as necessary, to operate  
16 switchboard equipment and to provide clerical assistance;

17          (82) "Truck driver" means a person employed to operate light  
18 or heavy duty gasoline and diesel-powered vehicles;

19          (83) "Warehouse clerk" means a person employed to be  
20 responsible for receiving, storing, packing and shipping goods;

21          (84) "Watchman" means a person employed to protect school  
22 property against damage or theft. Additional assignments may  
23 include operation of a small heating plant and routine cleaning  
24 duties;

1 (85) "Welder" means a person employed to provide acetylene or  
2 electric welding services for a school system; and

3 (86) "WVEIS data entry and administrative clerk" means a  
4 person employed to work under the direction of a school principal  
5 to assist the school counselor or counselors in the performance of  
6 administrative duties, to perform data entry tasks on the West  
7 Virginia Education Information System, and to perform other  
8 administrative duties assigned by the principal.

9 (j) Notwithstanding any provision in this code to the  
10 contrary, and in addition to the compensation provided for service  
11 personnel in section eight-a of this article, each service person  
12 is, entitled to all service personnel employee rights, privileges  
13 and benefits provided under this or any other chapter of this code  
14 without regard to the employee's hours of employment or the methods  
15 or sources of compensation.

16 (k) A service person whose years of employment exceeds the  
17 number of years shown and provided for under the state minimum pay  
18 scale set forth in section eight-a of this article may not be paid  
19 less than the amount shown for the maximum years of employment  
20 shown and provided for in the classification in which he or she is  
21 employed.

22 (l) Each county board shall review each service person's job  
23 classification annually and shall reclassify all service persons as  
24 required by the job classifications. The state superintendent may

1 withhold state funds appropriated pursuant to this article for  
2 salaries for service personnel who are improperly classified by the  
3 county boards. Further, the state superintendent shall order a  
4 county board to correct immediately any improper classification  
5 matter and, with the assistance of the Attorney General, shall take  
6 any legal action necessary against any county board to enforce the  
7 order.

8 (m) Without his or her written consent, a service person may  
9 not be:

10 (1) Reclassified by class title; or

11 (2) Relegated to any condition of employment which would  
12 result in a reduction of his or her salary, rate of pay,  
13 compensation or benefits earned during the current fiscal year; or  
14 for which he or she would qualify by continuing in the same job  
15 position and classification held during that fiscal year and  
16 subsequent years.

17 (n) Any county board failing to comply with the provisions of  
18 this article may be compelled to do so by mandamus and is liable to  
19 any party prevailing against the board for court costs and the  
20 prevailing party's reasonable attorney fee, as determined and  
21 established by the court.

22 (o) Notwithstanding any provision of this code to the  
23 contrary, a service person who holds a continuing contract in a  
24 specific job classification and who is physically unable to perform

1 the job's duties as confirmed by a physician chosen by the  
2 employee, shall be given priority status over any employee not  
3 holding a continuing contract in filling other service personnel  
4 job vacancies if the service person is qualified as provided in  
5 section eight-e of this article.

6 (p) Any person employed in an aide position on the effective  
7 date of this section may not be transferred or subject to a  
8 reduction in force for the purpose of creating a vacancy for the  
9 employment of a licensed practical nurse.

10 (q) Without the written consent of the service person, a  
11 county board may not establish the beginning work station for a bus  
12 operator or transportation aide at any site other than a county  
13 board-owned facility with available parking. The workday of the  
14 bus operator or transportation aide commences at the bus at the  
15 designated beginning work station and ends when the employee is  
16 able to leave the bus at the designated beginning work station,  
17 unless he or she agrees otherwise in writing. The application or  
18 acceptance of a posted position may not be construed as the written  
19 consent referred to in this subsection.

20 **§18A-4-8b. Seniority rights for school service personnel.**

21 (a) A county board shall make decisions affecting promotions  
22 and the filling of any service personnel positions of employment or  
23 jobs occurring throughout the school year that are to be performed  
24 by service personnel as provided in section eight of this article,

1 on the basis of seniority, qualifications and evaluation of past  
2 service.

3       (b) Qualifications means that the applicant holds a  
4 classification title in his or her category of employment as  
5 provided in this section and shall be given first opportunity for  
6 promotion and filling vacancies. Other employees then shall be  
7 considered and shall qualify by meeting the definition of the job  
8 title as defined in section eight of this article, that relates to  
9 the promotion or vacancy. If requested by the employee, the county  
10 board shall show valid cause why a service person with the most  
11 seniority is not promoted or employed in the position for which he  
12 or she applies. Applicants shall be considered in the following  
13 order:

14       (1) Regularly employed service personnel;

15       (2) Service personnel whose employment has been discontinued  
16 in accordance with this section;

17       (3) Professional personnel who held temporary service  
18 personnel jobs or positions prior to June 9, 1982, and who apply  
19 only for these temporary jobs or positions;

20       (4) Substitute service personnel; and

21       (5) New service personnel.

22       (c) The county board may not prohibit a service person from  
23 retaining or continuing his or her employment in any positions or  
24 jobs held prior to the effective date of this section and

1 thereafter.

2 (d) A promotion is defined as any change in employment that  
3 the service person considers to improve his or her working  
4 circumstance within the classification category of employment.

5 (1) A promotion includes a transfer to another classification  
6 category or place of employment if the position is not filled by an  
7 employee who holds a title within that classification category of  
8 employment.

9 (2) Each class title listed in section eight of this article  
10 is considered a separate classification category of employment for  
11 service personnel, except for those class titles having Roman  
12 numeral designations, which shall be considered a single  
13 classification of employment:

14 (A) The cafeteria manager class title is included in the same  
15 classification category as cooks;

16 (B) The executive secretary class title is included in the  
17 same classification category as secretaries;

18 (C) Paraprofessional, autism mentor and braille or sign  
19 language specialist class titles are included in the same  
20 classification category as aides; and

21 (D) The mechanic assistant and chief mechanic class titles are  
22 included in the same classification category as mechanics.

23 (e) For purposes of determining seniority under this section  
24 an service person's seniority begins on the date that he or she

1 enters into the assigned duties.

2 (f) *Extra-duty assignments.* --

3 (1) For the purpose of this section, "extra-duty assignments"  
4 are defined as irregular jobs that occur periodically or  
5 occasionally such as, but not limited to, field trips, athletic  
6 events, proms, banquets and band festival trips.

7 (2) Notwithstanding any other provisions of this chapter to  
8 the contrary, decisions affecting service personnel with respect to  
9 extra-duty assignments shall be made in the following manner:

10 (A) A service person with the greatest length of service time  
11 in a particular category of employment shall be given priority in  
12 accepting extra duty assignments, followed by other fellow  
13 employees on a rotating basis according to the length of their  
14 service time until all such employees have had an opportunity to  
15 perform similar assignments. The cycle then shall be repeated.

16 (B) An alternative procedure for making extra-duty assignments  
17 within a particular classification category of employment may be  
18 used if the alternative procedure is approved both by the county  
19 board and by an affirmative vote of two thirds of the employees  
20 within that classification category of employment.

21 (g) County boards shall post and date notices of all job  
22 vacancies of established existing or newly created positions in  
23 conspicuous places for all school service personnel to observe for  
24 at least five working days.



1 (1) Posting locations shall include any website maintained by  
2 or available for the use of the county board.

3 (2) Notice of a job vacancy shall include the job description,  
4 the period of employment, the work site, the starting and ending  
5 time of the daily shift, the amount of pay and any benefits and  
6 other information that is helpful to prospective applicants to  
7 understand the particulars of the job. The notice of a job vacancy  
8 in the aide classification category shall include the program or  
9 primary assignment of the position. Job postings for vacancies  
10 made pursuant to this section shall be written so as to ensure that  
11 the largest possible pool of qualified applicants may apply. Job  
12 postings may not require criteria which are not necessary for the  
13 successful performance of the job and may not be written with the  
14 intent to favor a specific applicant.

15 (3) After the five-day minimum posting period, all vacancies  
16 shall be filled within twenty working days from the posting date  
17 notice of any job vacancies of established existing or newly  
18 created positions.

19 (4) The county board shall notify any person who has applied  
20 for a job posted pursuant to this section of the status of his or  
21 her application as soon as possible after the county board makes a  
22 hiring decision regarding the posted position.

23 (h) All decisions by county boards concerning reduction in  
24 work force of service personnel shall be made on the basis of

1 seniority, as provided in this section.

2 (i) The seniority of any service person shall be determined on  
3 the basis of the length of time the employee has been employed by  
4 the county board within a particular job classification. For the  
5 purpose of establishing seniority for a preferred recall list as  
6 provided in this section, when a service person has been employed  
7 in one or more classifications, the seniority accrued in each  
8 previous classification is retained by the employee.

9 (j) If a county board is required to reduce the number of  
10 service personnel within a particular job classification, the  
11 following conditions apply:

12 (1) The employee with the least amount of seniority within  
13 that classification or grades of classification shall be properly  
14 released and employed in a different grade of that classification  
15 if there is a job vacancy;

16 (2) If there is no job vacancy for employment within that  
17 classification or grades of classification, the service person  
18 shall be employed in any other job classification which he or she  
19 previously held with the county board if there is a vacancy and  
20 shall retain any seniority accrued in the job classification or  
21 grade of classification.

22 (k) Prior to August 1 after a reduction in force or transfer  
23 is approved:

24 (1) If the county board in its sole and exclusive judgment

1 determines that the reason for any particular reduction in force or  
2 transfer no longer exists, the board shall rescind the reduction in  
3 force or transfer and notify the affected employee in writing of  
4 the right to be restored to his or her former position of  
5 employment.

6 (2) Within five days of being notified, the affected employee  
7 shall notify the county board of his or her intent to return to the  
8 former position of employment or the right of restoration to the  
9 former position terminates:

10 (3) The county board shall not rescind the reduction in force  
11 of an employee until all service personnel with more seniority in  
12 the classification category on the preferred recall list have been  
13 offered the opportunity for recall to regular employment as  
14 provided in this section.

15 (4) If there are insufficient vacant positions to permit  
16 reemployment of all more senior employees on the preferred recall  
17 list within the classification category of the service person who  
18 was subject to reduction in force, the position of the released  
19 service person shall be posted and filled in accordance with this  
20 section.

21 (1) If two or more service persons accumulate identical  
22 seniority, the priority shall be determined by a random selection  
23 system established by the employees and approved by the county  
24 board.

1           (m) All service personnel whose seniority with the county  
2 board is insufficient to allow their retention by the county board  
3 during a reduction in work force shall be placed upon a preferred  
4 recall list and shall be recalled to employment by the county board  
5 on the basis of seniority.

6           (n) A service person placed upon the preferred list shall be  
7 recalled to any position openings by the county board within the  
8 classification(s) where he or she had previously been employed, or  
9 to any lateral position for which the service person is qualified  
10 or to a lateral area for which a service person has certification  
11 and/or licensure.

12           (o) A service person on the preferred recall list shall not  
13 forfeit the right to recall by the county board if compelling  
14 reasons require him or her to refuse an offer of reemployment by  
15 the county board.

16           (p) The county board shall notify all service personnel on the  
17 preferred recall list of all position openings that exist from time  
18 to time. The notice shall be sent by certified mail to the last  
19 known address of the service person. Each service person shall  
20 notify the county board of any change of address.

21           (q) No position openings may be filled by the county board,  
22 whether temporary or permanent, until all service personnel on the  
23 preferred recall list have been properly notified of existing  
24 vacancies and have been given an opportunity to accept

1 reemployment.

2       (r) A service person released from employment for lack of need  
3 as provided in sections six and eight-a, article two of this  
4 chapter shall be accorded preferred recall status on July 1 of the  
5 succeeding school year if the he or she has not been reemployed as  
6 a regular employee.

7       (s) A county board failing to comply with the provisions of  
8 this article may be compelled to do so by mandamus and is liable to  
9 any party prevailing against the board for court costs and the  
10 prevailing party's reasonable attorney fee, as determined and  
11 established by the court.

12       (1) A service person denied promotion or employment in  
13 violation of this section shall be awarded the job, pay and any  
14 applicable benefits retroactively to the date of the violation and  
15 shall be paid entirely from local funds.

16       (2) The county board is liable to any party prevailing against  
17 the board for any court reporter costs including copies of  
18 transcripts.

NOTE: The purpose of this bill is to establish itinerant status for school service personnel and provide for inclusion of certain information on a notice of job vacancy.

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