

H. B. 2211

(By Delegate Walters)

[Introduced January 12, 2011; referred to the
Committee on Education then Finance.]

A BILL to amend and reenact §18-5-13 of the Code of West Virginia,
1931, as amended, relating to providing that county boards of
education may, in cooperation with local public or regional
transit authorities study the feasibility of entering into
cooperative agreements to transport students to and from
school; and setting certain requirements for the proposed
cooperative agreements.

Be it enacted by the Legislature of West Virginia:

That §18-5-13 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-13. Authority of boards generally.

Subject to the provisions of this chapter and the rules of the
state board, each county board may:

1 (a) Control and manage all of the schools and school interests
2 for all school activities and upon all school property owned or
3 leased by the county, including:

4 (1) Requiring schools to keep records regarding funds
5 connected with the school or school interests, including all
6 receipts and disbursements of all funds collected or received by:

7 (A) Any principal, teacher, student or other person in
8 connection with the schools and school interests;

9 (B) Any program, activity or other endeavor of any nature
10 operated or conducted by or in the name of the school; and

11 (C) Any organization or body directly connected with the
12 school;

13 (2) Allowing schools to expend funds for student, parent,
14 teacher and community recognition programs. A school may use only
15 funds it generates through a fund-raising or donation-soliciting
16 activity. Prior to commencing the activity, the school shall:

17 (A) Publicize the activity as intended for this purpose; and

18 (B) Designate for this purpose the funds generated;

19 (3) Auditing the records and conserving the funds, including
20 securing surety bonds by expending board moneys. The funds
21 described in this subsection are quasipublic funds, which means the
22 moneys were received for the benefit of the school system as a
23 result of curricular or noncurricular activities;

24 (b) Establish:

- 1 (1) Schools, from preschool through high school;
- 2 (2) Vocational schools; and
- 3 (3) Schools and programs for post-high school instruction,
4 subject to approval of the state board;
- 5 (c) Close any school:
- 6 (1) Which is unnecessary and assign the students to other
7 schools. The closing shall occur pursuant to official action of
8 the county board. Except in emergency situations when the timing
9 and manner of notification are subject to approval by the state
10 superintendent, the county board shall notify the affected teachers
11 and service personnel of the county board action not later than the
12 first Monday in April. The board shall provide notice in the same
13 manner as set forth in section four of this article; or
- 14 (2) Pursuant to the provisions of subsection (e) of this
15 section;
- 16 (d) Consolidate schools;
- 17 (e) Close any elementary school whose average daily attendance
18 falls below twenty students for two consecutive months. The county
19 board may assign the students to other schools in the district or
20 to schools in adjoining districts. If the teachers in the closed
21 school are not transferred or reassigned to other schools, they
22 shall receive one month's salary;
- 23 (f) Provide transportation according to rules established by
24 the county board, as follows:

1 (1) To provide at public expense adequate means of
2 transportation:

3 (A) For all children of school age who live more than two
4 miles distance from school by the nearest available road;

5 (B) For school children participating in county board-approved
6 curricular and extracurricular activities;

7 (C) Across county lines for students transferred from one
8 district to another by mutual agreement of both county boards. The
9 agreement shall be recorded in the meeting minutes of each
10 participating county board and is subject to the provisions of
11 subsection (h) of this section; and

12 (D) Within available revenues, for students within two miles
13 distance of the school; and

14 (2) To provide transportation for participants in projects
15 operated, financed, sponsored or approved by the Bureau of Senior
16 Services. This transportation shall be provided at no cost to the
17 county board. All costs and expenses incident in any way to this
18 transportation shall be borne by the bureau or the local or county
19 affiliate of the bureau;

20 (3) Any school bus owned by the county board may be operated
21 only by a bus operator regularly employed by the county board;

22 (4) Pursuant to rules established by the state board, the
23 county board may provide for professional employees to be certified
24 to drive county board-owned vehicles that have a seating capacity

1 of fewer than ten passengers. These employees may use the vehicles
2 to transport students for school-sponsored activities, but may not
3 use the vehicles to transport students between school and home.
4 Not more than one of these vehicles may be used for any school-
5 sponsored activity;

6 (5) Students may not be transported to a school-sponsored
7 activity in any county-owned or leased vehicle that does not meet
8 school bus or public transit ratings. This section does not
9 prohibit a parent from transporting ten or fewer students in a
10 privately-owned vehicle;

11 (6) Students may be transported to a school-sponsored activity
12 in a vehicle that has a seating capacity of sixteen or more
13 passengers which is not owned and operated by the county board only
14 as follows:

15 (A) The state board shall promulgate a rule to establish
16 requirements for:

17 (i) Automobile insurance coverage;

18 (ii) Vehicle safety specifications;

19 (iii) School bus or public transit ratings; and

20 (iv) Driver training, certification and criminal history
21 record check; and

22 (B) The vehicle owner shall provide to the county board proof
23 that the vehicle and driver satisfy the requirements of the state
24 board rule; and

1 (7) Buses shall be used for extracurricular activities as
2 provided in this section only when the insurance coverage required
3 by this section is in effect;

4 (g) Lease school buses pursuant to rules established by the
5 county board.

6 (1) Leased buses may be operated only by bus operators
7 regularly employed by the county board.

8 (2) The lessee shall bear all costs and expenses incurred by,
9 or incidental to the use of, the bus.

10 (3) The county board may lease buses to:

11 (A) Public and private nonprofit organizations and private
12 corporations to transport school-age children for camps or
13 educational activities;

14 (B) Any college, university or officially recognized campus
15 organization for transporting students, faculty and staff to and
16 from the college or university. Only college and university
17 students, faculty and staff may be transported pursuant to this
18 paragraph. The lease shall include provisions for:

19 (i) Compensation for bus operators;

20 (ii) Consideration for insurance coverage, repairs and other
21 costs of service; and

22 (iii) Any rules concerning student behavior;

23 (C) Public and private nonprofit organizations, including
24 education employee organizations, for transportation associated

1 with fairs, festivals and other educational and cultural events.

2 The county board may charge fees in addition to those charges
3 otherwise required by this subsection;

4 (h) To provide at public expense for insurance coverage
5 against negligence of the drivers of school buses, trucks or other
6 vehicles operated by the county board. Any contractual agreement
7 for transportation of students shall require the vehicle owner to
8 maintain insurance coverage against negligence in an amount
9 specified by the county board;

10 (i) Provide for the full cost or any portion thereof for group
11 plan insurance benefits not provided or available under the West
12 Virginia Public Employees Insurance Act. Any of these benefits
13 shall be provided:

14 (1) Solely from county board funds; and

15 (2) For all regular full-time employees of the county board;

16 (j) Employ teacher aides; to provide in-service training for
17 the aides pursuant to rules established by the state board; and,
18 prior to assignment, to provide a ~~four-clock-hour~~ four-hour program
19 of training for a service person assigned duties as a teacher aide
20 in an exceptional children program. The ~~four-clock-hour~~ four-hour
21 program shall consist of training in areas specifically related to
22 the education of exceptional children;

23 (k) Establish and operate a self-supporting dormitory for:

24 (1) Students attending a high school or participating in a

1 post high school program; and

2 (2) Persons employed to teach in the high school or post high
3 school program;

4 (1) At the county board's discretion, employ, contract with or
5 otherwise engage legal counsel in lieu of using the services of the
6 prosecuting attorney to advise, attend to, bring, prosecute or
7 defend, as the case may be, any matters, actions, suits and
8 proceedings in which the county board is interested;

9 (m) Provide appropriate uniforms for school service personnel;

10 (n) Provide at public expense for payment of traveling
11 expenses incurred by any person invited to appear to be interviewed
12 concerning possible employment by the county board, subject to
13 rules established by the county board;

14 (o) Allow designated employees to use publicly provided
15 carriage to travel from their residences to their workplace and
16 return. The use:

17 (1) Is subject to the supervision of the county board; and

18 (2) Shall be directly connected with, required by and
19 essential to the performance of the employee's duties and
20 responsibilities;

21 (p) Provide at public expense adequate public liability
22 insurance, including professional liability insurance, for county
23 board employees;

24 (q) Enter into cooperative agreements with other county boards

1 to provide improvements to the instructional needs of each
2 district. The cooperative agreements may be used to employ
3 specialists in a field of academic study or for support functions
4 or services for the field. The agreements are subject to approval
5 by the state board;

6 (r) Provide information about vocational and higher education
7 opportunities to exceptional students. The county board shall
8 provide in writing to the students and their parents or guardians
9 information relating to programs of vocational education and to
10 programs available at state institutions of higher education. The
11 information may include sources of available funding, including
12 grants, mentorships and loans for students who wish to attend
13 classes at institutions of higher education;

14 (s) Enter into agreements with other county boards for the
15 transfer and receipt of any funds determined to be fair when
16 students are permitted or required to attend school in a district
17 other than the district of their residence. These agreements are
18 subject to the approval of the state board; and

19 (t) Enter into job-sharing arrangements, as defined in section
20 one, article one, chapter eighteen-a, with its employees, subject
21 to the following provisions:

22 (1) A job-sharing arrangement shall meet all the requirements
23 relating to posting, qualifications and seniority, as provided for
24 in article four, chapter eighteen-a of this code;

1 (2) Notwithstanding any contrary provision of this code or
2 legislative rule and specifically the provisions of article
3 sixteen, chapter five of this code, a county board that enters into
4 a job-sharing arrangement:

5 (A) Shall provide insurance coverage to the one employee
6 mutually agreed upon by the employees participating in that
7 arrangement; and

8 (B) May not provide insurance benefits of any type to more
9 than one of the job-sharing employees, including any group plan
10 available under the state Public Employees Insurance Act;

11 (3) Each job-sharing agreement shall be in writing on a form
12 prescribed and furnished by the county board. The agreement shall
13 designate specifically one employee only who is entitled to the
14 insurance coverage. Any employee who is not designated is not
15 eligible for state public employees insurance coverage regardless
16 of the number of hours he or she works;

17 (4) All employees involved in the job-sharing agreement shall
18 meet the requirements of ~~subdivision (3)~~ an employee set forth in
19 section two, article sixteen, chapter five; and

20 (5) When entering into a job-sharing agreement, the county
21 board and the participating employees shall consider issues such as
22 retirement benefits, termination of the job-sharing agreement and
23 any other issue the parties consider appropriate. Any provision in
24 the agreement relating to retirement benefits may not cause any

1 cost to be incurred by the retirement system that is more than the
2 cost that would be incurred if a single employee were filling the
3 position ; and

4 (u) Under rules it establishes for each child, expend an
5 amount not to exceed the proportion of all school funds of the
6 district that each child would be entitled to receive if all the
7 funds were distributed equally among all the children of school age
8 in the district upon a per capita basis.

9 (v) Study and determine the appropriateness and cost-
10 effectiveness to enter into a cooperative agreement with a local
11 public or regional transit authority to transport school-age
12 children to and from school. Prior to entering into a cooperative
13 agreement, the county board must submit the proposed cooperative
14 agreement to the Department of Transportation for review and
15 approval. The Department of Transportation may not approve any
16 proposal for a cooperative agreement that does not comply with
17 minimum federal safety standards for transportation of school-age
18 children. In the event of approval and implementation of a
19 cooperative agreement as described herein, the county board shall
20 submit an annual written report to the West Virginia Legislature's
21 Joint Committee on Government and Finance detailing the costs and
22 benefits of the agreement. The Secretary of the Department of
23 Transportation shall propose legislative rules in accordance with
24 article three, chapter twenty-nine-a of this code to be used in

- 1 assessing whether cooperative agreements proposed by a county board
2 should be approved.

NOTE: The purpose of this bill is to provide that county boards of education may, in cooperation with local public or regional transit authorities study the feasibility of entering into cooperative agreements to transport students to and from school. The bill also requires that county boards submit proposed cooperative agreements to the Department of Transportation for approval prior to implementation. In addition, the bill requires county boards to submit reports to the Legislatures' Joint Committee on Government and Finance on the cost-effectiveness of cooperative agreements that have been implemented. Under the bill, the Secretary of Transportation is required to propose legislative rules to be used as guidelines for approval of proposed cooperative agreements.

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