

**Senate Bill No. 280**

(By Senators Plymale, Barnes, Foster, Wells and Beach)

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[Introduced January 26, 2011; referred to the Committee on  
Education.]  
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10 A BILL to amend and reenact §18A-2-6, §18A-2-7 and §18A-2-8a of the  
11 Code of West Virginia, 1931, as amended, all relating to  
12 changing certain deadlines associated with the termination and  
13 resignation of service personnel, transfer of school personnel  
14 and rehiring of probationary employees.

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

16 That §18A-2-6, §18A-2-7 and §18A-2-8a of the Code of West  
17 Virginia, 1931, as amended, be amended and reenacted all to read as  
18 follows:

19 **ARTICLE 2. SCHOOL PERSONNEL.**

20 **§18A-2-6. Continuing contract status for service personnel;**  
21 **termination.**

22 (a) After three years of acceptable employment, each service  
23 personnel employee who enters into a new contract of employment with  
24 the board shall be granted continuing contract status: *Provided,*  
25 That a service personnel employee holding continuing contract status  
26 with one county shall be granted continuing contract status with any

1 other county upon completion of one year of acceptable employment  
2 if such employment is during the next succeeding school year or  
3 immediately following an approved leave of absence extending no more  
4 than one year. The continuing contract of any such employee shall  
5 remain in full force and effect except as modified by mutual consent  
6 of the school board and the employee, unless and until terminated  
7 with written notice, stating cause or causes, to the employee, by  
8 a majority vote of the full membership of the board before ~~February~~  
9 May 1 of the then current year, or by written resignation of the  
10 employee on or before that date. The affected employee has the  
11 right of a hearing before the board, if requested, before final  
12 action is taken by the board upon the termination of such  
13 employment.

14 (b) Those employees who have completed three years of  
15 acceptable employment as of the effective date of this legislation  
16 shall be granted continuing contract status.

17 **§18A-2-7. Assignment, transfer, promotion, demotion, suspension  
18 and recommendation of dismissal of school personnel  
19 by superintendent; preliminary notice of transfer;  
20 hearing on the transfer; proof required.**

21 (a) The superintendent, subject only to approval of the board,  
22 may assign, transfer, promote, demote or suspend school personnel  
23 and recommend their dismissal pursuant to provisions of this  
24 chapter. However, an employee shall be notified in writing by the  
25 superintendent on or before ~~February~~ April 1 if he or she is being  
26 considered for transfer or to be transferred. Only those employees

1 whose consideration for transfer or intended transfer is based upon  
2 known or expected circumstances which will require the transfer of  
3 employees shall be considered for transfer or intended for transfer  
4 and the notification shall be limited to only those employees. Any  
5 teacher or employee who desires to protest the proposed transfer may  
6 request in writing a statement of the reasons for the proposed  
7 transfer. The statement of reasons shall be delivered to the  
8 teacher or employee within ten days of the receipt of the request.  
9 Within ten days of the receipt of the statement of the reasons, the  
10 teacher or employee may make written demand upon the superintendent  
11 for a hearing on the proposed transfer before the county board of  
12 education. The hearing on the proposed transfer shall be held on  
13 or before ~~March~~ May 15. At the hearing, the reasons for the  
14 proposed transfer must be shown.

15 (b) The superintendent at a meeting of the board on or before  
16 ~~March~~ May 15 shall furnish in writing to the board a list of  
17 teachers and other employees to be considered for transfer and  
18 subsequent assignment for the next ensuing school year. An employee  
19 who was not provided notice and an opportunity for a hearing  
20 pursuant to subsection (a) of this section may not be included on  
21 the list. All other teachers and employees not so listed shall be  
22 considered as reassigned to the positions or jobs held at the time  
23 of this meeting. The list of those recommended for transfer shall  
24 be included in the minute record of the meeting and all those so  
25 listed shall be notified in writing, which notice shall be delivered  
26 in writing, by certified mail, return receipt requested, to the

1 persons' last known addresses within ten days following the board  
2 meeting, of their having been so recommended for transfer and  
3 subsequent assignment and the reasons therefor.

4 (c) The superintendent's authority to suspend school personnel  
5 shall be temporary only pending a hearing upon charges filed by the  
6 superintendent with the board of Education and the period of  
7 suspension may not exceed thirty days unless extended by order of  
8 the board.

9 (d) The provisions of this section respecting hearing upon  
10 notice of transfer is not applicable in emergency situations where  
11 the school building becomes damaged or destroyed through an  
12 unforeseeable act and which act necessitates a transfer of the  
13 school personnel because of the aforementioned condition of the  
14 building.

15 **§18A-2-8a. Notice to probationary personnel of rehiring or**  
16 **nonrehiring; hearing.**

17 (a) The superintendent at a meeting of the board on or before  
18 ~~March 15~~ May 30 of each year shall provide in writing to the board  
19 a list of all probationary teachers that he or she recommends to be  
20 rehired for the next ensuing school year. The board shall act upon  
21 the superintendent's recommendations at that meeting in accordance  
22 with section one of this article. The board at this same meeting  
23 shall also act upon the retention of other probationary employees  
24 as provided in sections two and five of this article. Any such  
25 probationary teacher or other probationary employee who is not  
26 rehired by the board at that meeting shall be notified in writing,

1 by certified mail, return receipt requested, to such persons' last  
2 known addresses within ten days following said board meeting, of  
3 their not having been rehired or not having been recommended for  
4 rehiring.

5       **(b)** Any probationary teacher who receives notice that he or she  
6 has not been recommended for rehiring or other probationary employee  
7 who has not been reemployed may within ten days after receiving the  
8 written notice request a statement of the reasons for not having  
9 been rehired and may request a hearing before the board. The  
10 hearing shall be held at the next regularly scheduled board of  
11 education meeting or a special meeting of the board called within  
12 thirty days of the request for hearing. At the hearing, the reasons  
13 for the nonrehiring must be shown.

NOTE: The purpose of this bill is to to change certain  
deadlines associated with the termination and resignation of service  
personnel, transfer of school personnel and rehiring of probationary  
employees.

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