

1 **Senate Bill No. 415**

2 (By Senators Kessler (Mr. President) and Hall,

3 By Request of the Executive)

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5 [Introduced January 25, 2012; referred to the Committee on  
6 Education.]

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10 A BILL to amend and reenact §18-5-13 of the Code of West Virginia,  
11 1931, as amended, relating to authorizing a county board of  
12 education to use the services of a bus operator from another  
13 county under certain circumstances.

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

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

17 **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

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

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

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

24 (1) Requiring schools to keep records regarding funds

1 connected with the school or school interests, including all  
2 receipts and disbursements of all funds collected or received by:

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

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

7 (C) Any organization or body directly connected with the  
8 school;

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

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

14 (B) Designate for this purpose the funds generated.

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

20 (b) Establish:

21 (1) Schools, from preschool through high school;

22 (2) Vocational schools; and

23 (3) Schools and programs for post-high school instruction,  
24 subject to approval of the state board.

1 (c) Close any school:

2 (1) Which is unnecessary and assign the students to other  
3 schools. The closing shall occur pursuant to official action of  
4 the county board. Except in emergency situations when the timing  
5 and manner of notification are subject to approval by the state  
6 superintendent, the county board shall notify the affected teachers  
7 and service personnel of the county board action not later than the  
8 first Monday in April. The board shall provide notice in the same  
9 manner as set forth in section four of this article; or

10 (2) Pursuant to the provisions of subsection (e) of this  
11 section;

12 (d) Consolidate schools;

13 (e) Close any elementary school whose average daily attendance  
14 falls below twenty students for two consecutive months. The county  
15 board may assign the students to other schools in the district or  
16 to schools in adjoining districts. If the teachers in the closed  
17 school are not transferred or reassigned to other schools, they  
18 shall receive one month's salary;

19 (f) Provide transportation according to rules established by  
20 the county board, as follows:

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

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

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

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

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

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

16 (3) Any school bus owned by the county board may be operated  
17 only by a bus operator regularly employed by the county board,  
18 except as provided in subsection (g) of this section;

19 (4) Pursuant to rules established by the state board, the  
20 county board may provide for professional employees to be certified  
21 to drive county board-owned vehicles that have a seating capacity  
22 of fewer than ten passengers. These employees may use the vehicles  
23 to transport students for school-sponsored activities, but may not  
24 use the vehicles to transport students between school and home.

1 Not more than one of these vehicles may be used for any  
2 school-sponsored activity;

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

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

12 (A) The state board shall promulgate a rule to establish  
13 requirements for:

14 (i) Automobile insurance coverage;

15 (ii) Vehicle safety specifications;

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

17 (iv) Driver training, certification and criminal history  
18 record check; and

19 (B) The vehicle owner shall provide to the county board proof  
20 that the vehicle and driver satisfy the requirements of the state  
21 board rule; and

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

1 (g) Lease school buses pursuant to rules established by the  
2 county board.

3 (1) Leased buses may be operated only by bus operators  
4 regularly employed by the county board, except that these buses may  
5 be operated by bus operators regularly employed by another county  
6 board in this state if bus operators from the owning county are  
7 unavailable.

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 program of  
19 training for a service person assigned duties as a teacher aide in  
20 an exceptional children program. The four-clock-hour program shall  
21 consist of training in areas specifically related to the education  
22 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 of this code, with its  
21 employees, subject 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), section two, article  
19 sixteen, chapter five of this code; 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.

NOTE: The purpose of this bill is to permit a county board of education to use bus operators regularly employed by the county board of a different county to operate buses leased by the county, if bus operators from the owning county are unavailable.

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