

H. B. 4299

(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)
[BY REQUEST OF THE EXECUTIVE]

[Introduced January 25, 2012; 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 authorizing a county board of education to use the services of a bus operator from another county in certain circumstances.

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.

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

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

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

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

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

14 (C) Any organization or body directly connected with the
15 school;

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

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

22 and

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

24 (3) Auditing the records and conserving the funds,
25 including securing surety bonds by expending board moneys.

26 The funds described in this subsection are quasipublic funds,
27 which means the moneys were received for the benefit of the
28 school system as a result of curricular or noncurricular
29 activities;

30 (b) Establish:

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

32 (2) Vocational schools; and

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

35 (c) Close any school:

36 (1) Which is unnecessary and assign the students to other
37 schools. The closing shall occur pursuant to official action
38 of the county board. Except in emergency situations when

39 the timing and manner of notification are subject to approval
40 by the state superintendent, the county board shall notify the
41 affected teachers and service personnel of the county board
42 action not later than the first Monday in April. The board
43 shall provide notice in the same manner as set forth in
44 section four of this article; or

45 (2) Pursuant to the provisions of subsection (e) of this
46 section;

47 (d) Consolidate schools;

48 (e) Close any elementary school whose average daily
49 attendance falls below twenty students for two consecutive
50 months. The county board may assign the students to other
51 schools in the district or to schools in adjoining districts. If
52 the teachers in the closed school are not transferred or
53 reassigned to other schools, they shall receive one month's
54 salary;

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

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

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

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

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

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

70 (2) To provide transportation for participants in projects
71 operated, financed, sponsored or approved by the Bureau of
72 Senior Services. This transportation shall be provided at no
73 cost to the county board. All costs and expenses incident in
74 any way to this transportation shall be borne by the bureau or
75 the local or county affiliate of the bureau;

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

80 (4) Pursuant to rules established by the state board, the
81 county board may provide for professional employees to be
82 certified to drive county board-owned vehicles that have a
83 seating capacity of fewer than ten passengers. These
84 employees may use the vehicles to transport students for
85 school-sponsored activities, but may not use the vehicles to
86 transport students between school and home. Not more than
87 one of these vehicles may be used for any school-sponsored
88 activity;

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

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

98 (A) The state board shall promulgate a rule to establish
99 requirements for:

100 (i) Automobile insurance coverage;

101 (ii) Vehicle safety specifications;

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

103 (iv) Driver training, certification and criminal history
104 record check; and

105 (B) The vehicle owner shall provide to the county board
106 proof that the vehicle and driver satisfy the requirements of
107 the state board rule; and

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

111 (g) Lease school buses pursuant to rules established by
112 the county board.

113 (1) Leased buses may be operated only by bus operators
114 regularly employed by the county board, except that these
115 buses may be operated by bus operators regularly employed
116 by another county board in this state if bus operators from the
117 owning county are unavailable.

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

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

121 (A) Public and private nonprofit organizations and
122 private corporations to transport school-age children for
123 camps or educational activities;

124 (B) Any college, university or officially recognized campus
125 organization for transporting students, faculty and staff to and
126 from the college or university. Only college and university
127 students, faculty and staff may be transported pursuant to this
128 paragraph. The lease shall include provisions for:

- 129 (i) Compensation for bus operators;
- 130 (ii) Consideration for insurance coverage, repairs and
131 other costs of service; and
- 132 (iii) Any rules concerning student behavior;
- 133 (C) Public and private nonprofit organizations, including
134 education employee organizations, for transportation
135 associated with fairs, festivals and other educational and
136 cultural events. The county board may charge fees in
137 addition to those charges otherwise required by this
138 subsection;
- 139 (h) To provide at public expense for insurance coverage
140 against negligence of the drivers of school buses, trucks or
141 other vehicles operated by the county board. Any contractual
142 agreement for transportation of students shall require the
143 vehicle owner to maintain insurance coverage against
144 negligence in an amount specified by the county board;
- 145 (i) Provide for the full cost or any portion thereof for
146 group plan insurance benefits not provided or available under

147 the West Virginia Public Employees Insurance Act. Any of
148 these benefits shall be provided:

149 (1) Solely from county board funds; and

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

152 (j) Employ teacher aides; to provide in-service training
153 for the aides pursuant to rules established by the state board;
154 and, prior to assignment, to provide a four-clock-hour
155 program of training for a service person assigned duties as a
156 teacher aide in an exceptional children program. The
157 four-clock-hour program shall consist of training in areas
158 specifically related to the education of exceptional children;

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

160 (1) Students attending a high school or participating in a
161 post high school program; and

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

164 (l) At the county board's discretion, employ, contract with
165 or otherwise engage legal counsel in lieu of using the services of
166 the prosecuting attorney to advise, attend to, bring, prosecute or
167 defend, as the case may be, any matters, actions, suits and
168 proceedings in which the county board is interested;

169 (m) Provide appropriate uniforms for school service
170 personnel;

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

175 (o) Allow designated employees to use publicly provided
176 carriage to travel from their residences to their workplace
177 and return. The use:

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

179 (2) Shall be directly connected with, required by and
180 essential to the performance of the employee's duties and
181 responsibilities;

182 (p) Provide at public expense adequate public liability
183 insurance, including professional liability insurance, for
184 county board employees;

185 (q) Enter into cooperative agreements with other county
186 boards to provide improvements to the instructional needs of
187 each district. The cooperative agreements may be used to
188 employ specialists in a field of academic study or for support
189 functions or services for the field. The agreements are
190 subject to approval by the state board;

191 (r) Provide information about vocational and higher
192 education opportunities to exceptional students. The county
193 board shall provide in writing to the students and their
194 parents or guardians information relating to programs of
195 vocational education and to programs available at state
196 institutions of higher education. The information may
197 include sources of available funding, including grants,
198 mentorships and loans for students who wish to attend
199 classes at institutions of higher education;

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

205 (t) Enter into job-sharing arrangements, as defined in
206 section one, article one, chapter eighteen-a of this code, with
207 its employees, subject to the following provisions:

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

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

216 (A) Shall provide insurance coverage to the one
217 employee mutually agreed upon by the employees
218 participating in that arrangement; and

219 (B) May not provide insurance benefits of any type to
220 more than one of the job-sharing employees, including any
221 group plan available under the State Public Employees
222 Insurance Act;

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

230 (4) All employees involved in the job-sharing agreement
231 shall meet the requirements of subdivision (3), section two,
232 article sixteen, chapter five of this code; and

233 (5) When entering into a job-sharing agreement, the
234 county board and the participating employees shall consider
235 issues such as retirement benefits, termination of the
236 job-sharing agreement and any other issue the parties

237 consider appropriate. Any provision in the agreement
238 relating to retirement benefits may not cause any cost to be
239 incurred by the retirement system that is more than the cost
240 that would be incurred if a single employee were filling the
241 position; and

242 (u) Under rules it establishes for each child, expend an
243 amount not to exceed the proportion of all school funds of
244 the district that each child would be entitled to receive if all
245 the funds were distributed equally among all the children of
246 school age 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.