

H. B. 4655

(BY DELEGATES M. POLING AND PAXTON)

(Originating in the House Committee on Education.)
[February 24, 2012]

A BILL to amend and reenact §18A-4-8e of the Code of West Virginia, 1931, as amended, relating to school service personnel certification; modifying the conditions for issuance and revocation of certain certification; and specifying authority of county board regarding issues not related to certification.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-8e. Competency testing for service personnel; and recertification testing for bus operators.

- 1 (a) The State Board of Education shall develop and make
- 2 available competency tests for all of the classification titles
- 3 defined in section eight of this article and listed in section
- 4 eight-a of this article for service personnel. Each

5 classification title defined and listed is considered a separate
6 classification category of employment for service personnel
7 and has a separate competency test, except for those class
8 titles having Roman numeral designations, which are
9 considered a single classification of employment and have a
10 single competency test.

11 (1) The cafeteria manager class title is included in the
12 same classification category as cooks and has the same
13 competency test.

14 (2) The executive secretary class title is included in the
15 same classification category as secretaries and has the same
16 competency test.

17 (3) The classification titles of chief mechanic, mechanic
18 and assistant mechanic are included in one classification title
19 and have the same competency test.

20 (b) The purpose of these tests is to provide county boards
21 a uniform means of determining whether school service
22 personnel who do not hold a classification title in a particular
23 category of employment meet the definition of the
24 classification title in another category of employment as
25 defined in section eight of this article. Competency tests may

26 not be used to evaluate employees who hold the classification
27 title in the category of their employment.

28 (c) The competency test consists of an objective written
29 or performance test, or both. Applicants may take the written
30 test orally if requested. Oral tests are recorded mechanically
31 and kept on file. The oral test is administered by persons
32 who do not know the applicant personally.

33 (1) The performance test for all classifications and
34 categories other than bus operator is administered by an
35 employee of the county board or an employee of a
36 multicounty vocational school that serves the county at a
37 location designated by the superintendent and approved by
38 the board. The location may be a vocational school that
39 serves the county.

40 (2) A standard passing score is established by the state
41 Department of Education for each test and is used by county
42 boards.

43 (3) The subject matter of each competency test is
44 commensurate with the requirements of the definitions of the
45 classification titles as provided in section eight of this article.
46 The subject matter of each competency test is designed in
47 such a manner that achieving a passing grade does not

48 require knowledge and skill in excess of the requirements of
49 the definitions of the classification titles. Achieving a
50 passing score conclusively demonstrates the qualification of
51 an applicant for a classification title.

52 (4) Once an employee passes the competency test of a
53 classification title, the applicant is fully qualified to fill
54 vacancies in that classification category of employment as
55 provided in section eight-b of this article and may not be
56 required to take the competency test again.

57 (d) An applicant who fails to achieve a passing score is
58 given other opportunities to pass the competency test when
59 ~~making application~~ applying for another vacancy within the
60 classification category.

61 (e) Competency tests are administered to applicants in a
62 uniform manner under uniform testing conditions. County
63 boards are responsible for scheduling competency tests,
64 notifying applicants of the date and time of the one day of
65 training prior to taking the test, and the date and time of the
66 test. County boards may not use a competency test other
67 than the test authorized by this section.

68 (f) When scheduling of the competency test conflicts with
69 the work schedule of a school employee who has applied for

70 a vacancy, the employee is excused from work to take the
71 competency test without loss of pay.

72 (g) A minimum of one day of appropriate in-service
73 training is provided to employees to assist them in preparing
74 to take the competency tests.

75 (h) Competency tests are used to determine the
76 qualification of new applicants seeking initial employment in
77 a particular classification title as either a regular or substitute
78 employee.

79 (i) Notwithstanding any provisions in this code to the
80 contrary, once an employee holds or has held a classification
81 title in a category of employment, that employee is
82 considered qualified for the classification title even though
83 that employee no longer holds that classification.

84 (j) The requirements of this section do not alter the
85 definitions of class titles as provided in section eight of this
86 article or the procedure and requirements of section eight-b
87 of this article.

88 (k) Notwithstanding any other provision of this code to
89 the contrary and notwithstanding any rules of the School
90 Board concerning school bus operator certification, ~~in effect~~
91 ~~on the effective date of this section~~ the certification test for

92 school bus operators shall be required as follows, and school
93 bus operators ~~shall~~ may not be required to take the
94 certification test more frequently:

95 (1) For substitute school bus operators and for school bus
96 operators with regular employee status but on a probationary
97 contract, the certification test shall be administered annually;

98 (2) For school bus operators with regular employee status
99 and continuing contract status, the certification test shall be
100 administered triennially; and

101 (3) For substitute school bus operators who are retired
102 from a county board and who at the time of retirement had
103 ten years of experience as a regular full-time bus operator,
104 the certification test shall be administered triennially.

105 (4) A school bus operator certificate shall be issued to a
106 person who has completed the required training, has passed
107 the appropriate competency test, and meets the physical
108 requirements to operate a school bus pursuant to State Board
109 rule. The authority of the State Board to issue, deny or
110 revoke the certification is limited to the questions of whether
111 the applicant has completed the appropriate training, has
112 passed the appropriate competency test and possesses the
113 physical ability to operate a school bus. The State Board

114 may revoke certification or refuse certification to an
115 individual who has met all certification criteria only for
116 conviction of a felony or revocation of a commercial driver's
117 license.

118 (5) Resolution of any issue concerning conduct, before or
119 after employment and on or off duty, is reserved to the
120 authority of the county board which seeks to employ or
121 continue the employment of an individual as a school bus
122 operator.

123 (6) The State Board shall promulgate in accordance with
124 article three-b, chapter twenty-nine-a of this code, revised
125 rules in compliance with this subsection.