

1 **ENROLLED**

2 **H. B. 3160**

3
4 (By Delegates Walker, Stowers, Barill, Cooper, Campbell,
5 Lawrence, Young, Tomblin, Hamrick, Espinosa and Westfall)

6
7 [Passed April 13, 2013; in effect ninety days from passage.]
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11 AN ACT to amend and reenact §18-5-11 of the code of West
12 Virginia, 1931, as amended; to further amend said code by
13 adding thereto a new section, designated §18-5-11a; and to
14 further amend said code by adding thereto a new section,
15 designated §18-5A-2a; all relating to joint establishment,
16 maintenance and operation of school by two or more adjoining
17 counties; requiring formal agreement for apportionment of
18 acquisition costs; providing for operating costs; providing
19 net enrollment adjustment for certain costs; providing for
20 joint governing partnership board pilot initiative; making
21 findings with respect to pilot initiative and purpose;
22 establishing limitation and condition; providing features of
23 partnership board; authorizing adoption of separate and
24 requests of waivers; providing for modifications to local
25 school improvement council membership for jointly
26 established school; providing for modifications to local

1 school improvement council membership for jointly attended
2 school under certain conditions; and aligning authority of
3 improvement council for proposing alternatives and
4 requesting waivers.

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

6 That §18-5-11 of the code of West Virginia, 1931, as
7 amended, be amended and reenacted; that said code be further
8 amended by adding thereto a new section, designated §18-5-11a;
9 and that said code be further amended by adding thereto a new
10 section, designated §18-5A-2a; all to read as follows:

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

12 **§18-5-11. Joint establishment of schools.**

13 (a) The boards of two or more adjoining counties may jointly
14 establish and maintain schools. The title to the school shall be
15 vested in the board of the county in which the school is located.
16 The agreement by which the school is established shall be reduced
17 to writing and entered of record in the minutes of each board.

18 (b) The boards of the several districts shall determine the
19 site of the proposed school and the amount to be expended for its
20 establishment and equipment.

21 (1) The participating counties shall enter a formal
22 agreement regarding the manner in which the cost for the
23 acquisition of the property and equipment shall be apportioned.

24 (2) The board in the district in which the building is
25 located shall be vested with the control and management of the
26 school, except as may otherwise be provided in the agreement

1 between the counties.

2 (c) The annual operating costs shall be the responsibility
3 of the county in which the joint school is located and subject to
4 the allowance transfer set forth in section fourteen, article
5 nine-a of this chapter unless otherwise provided in the agreement
6 between the counties..

7 (d) For a county board that sends students to a jointly
8 established school in another county and that provides
9 transportation for those students or that otherwise contributes
10 to the support services or instructional program of the school,
11 the net enrollment of the county for the purposes of calculating
12 its basic foundation program as provided in article nine-a of
13 this chapter, only, shall be increased by fifteen one hundredths
14 multiplied by the number of full-time equivalent students from
15 the county who are enrolled in the jointly established school.

16 **§18-5-11a. Joint governing partnership board pilot initiative.**

17 (a) The Legislature finds that many examples exist across
18 the state of students who reside in one county, but who attend
19 the public schools in an adjoining county.

20 (1) These arrangements have been accommodated by the boards
21 of the adjoining counties and applicable statutes to serve best
22 the interests of the students by enabling them to attend a school
23 closer to their homes.

24 (2) Typically, these arrangements have evolved because
25 school closures or construction of new schools in the student's
26 county of residence have made a cross-county transfer to an

1 existing school in an adjoining county a more convenient,
2 practical and educationally sound option.

3 (b) The Legislature further finds that as population changes
4 continue to occur, the boards of adjoining counties may best
5 serve the interests of their students and families by
6 establishing a new school in partnership to be attended by
7 students residing in each of the counties. Particularly in the
8 case of elementary grade level schools established in partnership
9 between adjoining counties, the Legislature finds that each of
10 the county boards, as well as the parents of students from each
11 of the counties attending the school, have an interest in the
12 operation of the school and the preparation of the students for
13 success as they transition to the higher grade levels in the
14 other schools of their respective home counties. Therefore, in
15 the absence of a well defined governance structure that
16 accommodates these interests, the purpose of this section is to
17 provide for a joint governing partnership board pilot initiative.

18 (c) The pilot initiative is limited to the joint
19 establishment by two adjoining counties of a school including
20 elementary grade levels for which a memorandum of understanding
21 on the governance and operation of the school has been signed.
22 The pilot initiative is subject to amendment of the agreement as
23 may be necessary to incorporate at least the following features
24 of a joint governing partnership board:

25 (1) The joint governing partnership board is comprised of
26 the county superintendent of each county, the president of the

1 county board of each county or his or her designee, and a
2 designee of the state superintendent;

3 (2) The board shall elect a chair from among its membership
4 for a two-year term and may meet monthly or at the call of the
5 chair.

6 (A) Meetings of the board are subject to the open
7 governmental proceedings laws applicable to county boards.

8 (B) The boards of the respective counties are responsible
9 for the expenses of its members and shall apportion other
10 operational expenses of the board upon mutual agreement.

11 (C) Once the jointly established school is opened, the
12 meetings of the board shall be held at the school;

13 (3) All provisions of law applicable to the establishment,
14 operation and management of an inter-county school including, but
15 not limited to, section eleven, article five and section
16 fourteen, article nine-a of this chapter and article eight-i,
17 article four, chapter eighteen-a of this code apply, except that
18 the joint governing partnership board may exercise governing
19 authority for operation and management of the school in the
20 following areas:

21 (A) *Personnel.*

22 (1) Within the applicable laws for employment, evaluation,
23 mentoring, professional development, suspension and dismissal,
24 the powers and duties of the county superintendent are vested in
25 the joint governing partnership board with respect to the
26 employees employed by the county in which the school is located

1 or assigned to the school from the partner county.

2 (2) The employees are the employees of the employing county
3 board and the partnership board may make recommendations
4 concerning these employment matters to the employing board it
5 considers necessary and appropriate;

6 (B) *Curriculum.*

7 (1) The joint governing partnership board is responsible for
8 the formulation and execution of the school's strategic
9 improvement plan and technology plan to meet the goals for
10 student and school performance and progress.

11 (2) In its formulation of these plans, the partnership board
12 shall consider the curriculum and plans of the respective county
13 boards to ensure preparation of the students at the school for
14 their successful transition into the higher grade level schools
15 of the respective counties;

16 (C) *Finances.* The joint governing partnership board shall
17 control and may approve the expenditure of all funds allocated to
18 the school for the school budget from either county and may
19 solicit and receive donations, apply for and receive grants and
20 conduct fund raisers to supplement the budget; and

21 (D) *Facilities.* Consistent with the policies in effect
22 concerning liability insurance coverage, maintenance and
23 appropriate uses of school facilities for the schools of the
24 county in which the school is located, the joint governing
25 partnership board governs the use of the school facility and
26 ensures equitable opportunities for access and use by

1 organizations and groups from both counties.

2 (b) The joint governing partnership board may adopt policies
3 for the school that are separate from the policies of the
4 respective counties and, working in concert with its local school
5 improvement council, may propose alternatives to the operation of
6 the school which require the request of a waiver of policy,
7 interpretation or statute from either or both county boards, the
8 state board or the Legislature as appropriate.

9 (c) The superintendents and presidents of county boards of
10 adjoining counties that have in effect on the effective date of
11 this section a memorandum of understanding on the governance and
12 operation of a jointly established school shall report to the
13 Legislative Oversight Commission on Education Accountability on
14 or before November 1, 2013, on the status of implementation of
15 this section.

16 (1) Once established, the joint governing partnership board
17 established under this pilot initiative shall remain in effect
18 for five consecutive school years unless authority for the pilot
19 initiative is repealed.

20 (2) The Legislative Oversight Commission on Education
21 Accountability may request the superintendents and the presidents
22 of the county boards to provide periodic updates on this pilot
23 initiative. Also, at the conclusion of the five-year pilot
24 initiative, they shall report their recommendations on the
25 viability of the joint governing partnership board approach and
26 any recommended changes to the Legislative Oversight Commission

1 on Education Accountability.

2 (A) When the five-year period is concluded, by affirmative
3 vote of both boards, the joint governing partnership board shall
4 remain in effect; or

5 (B) The agreement between the boards for the governance and
6 operation of the school shall revert to the terms in effect on
7 the effective date of this section, subject to amendment by
8 agreement of the boards.

9 **ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.**

10 **§18-5A-2a. Local school improvement council modification for**
11 **certain jointly established and across county schools.**

12 (a) For the purposes of this section, "parent" or "parents"
13 means the person or persons who have legal responsibility for a
14 student, including parents, guardians or custodians.

15 (b) *Jointly established schools --*

16 (1) In the case of a school that is jointly established by
17 two or more adjoining counties as provided in section eleven,
18 article five of this chapter, the school's local school
19 improvement council shall be modified to include a composition of
20 parents and at-large members in its membership as follows,
21 notwithstanding subdivisions (4) and (5), subsection (a), section
22 two of this article:

23 (A) Five parents of students enrolled at the school elected
24 by the parent members of the school's parent teacher
25 organization. If there is no parent teacher organization, the
26 parent members shall be elected by the parents of students

1 enrolled at the school in such manner as may be determined by the
2 principal. No more than three parents may be residents of the
3 same county; and

4 (B) Four at-large members appointed by the principal:

5 (i) Two shall reside in the school's attendance area, but
6 may not be from the same county; and

7 (ii) Two shall represent business or industry and may not be
8 from the same county.

9 (C) None of the at-large members is eligible for membership
10 under any of the other elected classes of members.

11 (2) The local school improvement council shall meet at least
12 once each year with the advisory council as established in the
13 memorandum of understanding or with the joint governing
14 partnership board for the jointly established school as
15 applicable.

16 (3) Prior to commencing an authorized action under section
17 three of this article for the purpose of proposing alternatives
18 to the operation of the school and for the purpose of requesting
19 a waiver of policy, interpretation or statute if needed to
20 implement the alternative, the local school improvement council
21 shall seek advice from the jointly established school's advisory
22 council or joint governing partnership board.

23 (c) In the case of a school that is not a jointly
24 established school as provided in section eleven, article five of
25 this chapter, but whose net enrollment includes at least one
26 hundred fifty students whose parents are residents of an

1 adjoining county, upon a petition signed by a majority of the
2 parents of the students who are enrolled at the school, but who
3 reside in an adjoining county, the local school improvement
4 council of the school shall be modified as provided in
5 subdivisions (1) and (2), subsection (a) of this section.

6 (d) For local school improvement councils under this section
7 who are proposing alternatives to the operation of the school
8 which require the request of a waiver of policy, interpretation
9 or statute under the authority and procedures as set forth in
10 section three of this article, the terms "appropriate board" and
11 "affected board" as used in section three, mean the board or the
12 multiple boards from whom a waiver is necessary for the proposal
13 to be implemented.