

1 **H. B. 2388**

2  
3 (By Delegate Caputo)

4 [Introduced February 13, 2013; referred to the  
5 Committee on Education then Finance.]

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10 A BILL to amend and reenact §18-5-16 of the Code of West Virginia,  
11 1931, as amended, relating to granting the State  
12 Superintendent of Schools, under certain circumstances, the  
13 authority to designate a geographical area as a school choice  
14 zone and permitting a student residing in that zone to  
15 transfer from the sending county to the receiving county.

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

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

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

20 **§18-5-16. Student transfers; legislative findings; appeals;**  
21 **calculating net enrollment; fees for transfer.**

22 (a) *County districts and school attendance.* -- The county  
23 board may divide the county into such districts as are necessary to

1 determine the schools the students of its county shall attend.  
2 Upon the written request of any parent or guardian, or person  
3 legally responsible for any student, or for reasons affecting the  
4 best interests of the schools, the superintendent may transfer  
5 students from one school to another within the county. Any  
6 aggrieved person may appeal the decision of the county  
7 superintendent to the county board, and the decision of the county  
8 board shall be final.

9 (b) *Transfers between counties; legislative findings.* --

10 (1) Transfers of students from one county to another may be  
11 made by the county board of the county in which the student  
12 desiring to be transferred resides. The transfer shall be subject  
13 to the approval of both the board of the county in which the  
14 student resides and the board to which the student wishes to be  
15 transferred.

16 (2) *Legislative findings.* -- Over the past several years,  
17 counties have been forced to close a number of schools because of  
18 declining student enrollment. School officials predict that an  
19 additional eighteen percent loss in enrollment may occur between  
20 2002 and 2012. This continued decrease in the number of students  
21 enrolled in the public schools of the state may result in more  
22 instances of consolidation which will increase the problem of long  
23 bus rides for students if they remain in a school in their county  
24 of residence.

1           Therefore, the Legislature makes the following findings:

2           (A) County lines may impede the effective and efficient  
3 delivery of education services;

4           (B) Students often must endure long bus rides to a school  
5 within their county of residence when a school in an adjacent  
6 county is a fraction of the distance away;

7           (C) The wishes of parents or guardians to have their children  
8 transferred to a county other than their county of residence should  
9 be considered by the county boards; and

10           (D) Where counties cannot agree, it is necessary to establish  
11 a process to determine when transfers are appropriate.

12           (3) The state board shall establish a process whereby a parent  
13 or guardian of a student may appeal the refusal of a county board  
14 to enter into an agreement to transfer or accept the transfer of  
15 the student.

16           (A) The process shall designate the state superintendent to  
17 hear the appeal. In determining whether to overturn a decision of  
18 a county board, the state superintendent shall consider such  
19 factors as the following:

20           (i) Travel time for the student;

21           (ii) Impact on levies or bonds;

22           (iii) Other financial impact on the county of residence; and

23           (iv) Such other factors as the state superintendent may  
24 determine.

1 (B) If, during the appeal process, the state superintendent  
2 discovers that the education and the welfare of students in the  
3 transferring county could be enhanced, the state superintendent may  
4 direct that students may be permitted to attend a school in another  
5 county.

6 (C) If multiple appeals are received from the same  
7 geographical area of a county, the state superintendent may ~~impose~~  
8 ~~on the receiving county restrictions including, but not limited to,~~  
9 ~~requiring the receiving county to accept all students in that~~  
10 ~~geographical area of the sending county who wish to transfer to the~~  
11 ~~receiving county~~ designate that geographical area a school choice  
12 zone, and any student residing in the school choice zone may  
13 transfer from the sending county to the receiving county if the  
14 student wishes.

15 (D) If a student is transferred on either a full-time or a  
16 part-time basis without the agreement of both boards by official  
17 action as reflected in the minutes of their respective meetings and  
18 if the student's parent or guardian fails to appeal or loses the  
19 appeal under the process established in subdivision (3) of this  
20 subsection, the student shall be counted only in the net enrollment  
21 of the county in which the student resides. If a student transfers  
22 to a receiving county after his or her area of residence has been  
23 designated a school choice zone, the student shall be counted in  
24 the net enrollment of the receiving county.

1           (4) If, after two county boards have agreed to a transfer  
2 arrangement for a student or after a student transferred pursuant  
3 to a school choice zone designation, that student chooses to return  
4 to a school in his or her county of residence after the second  
5 month of any school year, the following applies:

6           (A) The county of residence may issue an invoice to the county  
7 from which the student transferred for the amount, determined on a  
8 pro rata basis, that the county of residence otherwise would have  
9 received under the state basic foundation program established in  
10 article nine-a of this chapter; and

11           (B) The county from which the student transferred shall  
12 reimburse the county of residence for the amount of the invoice.

13           (c) *Transfers between high schools.* -- In any county where a  
14 high school is maintained, but topography, impassable roads, long  
15 bus rides or other conditions prevent the practicable  
16 transportation of any students to such high school, the board may  
17 transfer them to a high school in an adjoining county. In any such  
18 case, the county boards may enter into an agreement providing for  
19 the payment of the cost of transportation, if any, of the students.

20           (d) *Transfers between states.* -- Transfer of students from  
21 this state to another state shall be upon such terms as shall be  
22 mutually agreed upon by the board of the transferring county and  
23 the authorities of the school to which the transfer is made.

24           (e) ~~No~~ A parent, guardian or person acting as parent or

1 guardian ~~shall~~ may not be required to pay for the transfer of a  
2 student or for the tuition of the student after the transfer when  
3 such transfer is carried out under the terms of this section.

NOTE: The purpose of this bill is to permit, under specific conditions, the State Superintendent of Schools to designate certain geographical areas as a School Choice Zone which would enable students residing in the designated area to attend school in a neighboring county if they wish.

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