

**H. B. 2743**

(By Delegates Walters, Nelson, E., Raines and Frich)  
[Introduced February 27, 2013; referred to the  
Committee on Education then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §18-5-13 of the Code of West Virginia,  
1931, as amended, relating to consolidating purchasing by  
county boards of education through the regional education  
service agency serving their areas.

*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.**

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

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

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

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

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

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

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

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

15          (B) Designate for this purpose the funds generated;

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

21          (b) Establish:

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

23           (2) Vocational schools; and

24           (3) Schools and programs for post-high school instruction,

1 subject to approval of the state board;

2 (c) Close any school:

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

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

13 (d) Consolidate schools;

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

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

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

24 (A) For all children of school age who live more than two

1 miles distance from school by the nearest available road;

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

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

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

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

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

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

1 use the vehicles to transport students between school and home.  
2 Not more than one of these vehicles may be used for any school-  
3 sponsored activity;

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

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

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

15 (i) Automobile insurance coverage;

16 (ii) Vehicle safety specifications;

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

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

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

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

1 by this section is in effect;

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

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

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

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

12 (A) Public and private nonprofit organizations and private  
13 corporations to transport school-age children for camps or  
14 educational activities;

15 (B) Any college, university or officially recognized campus  
16 organization for transporting students, faculty and staff to and  
17 from the college or university. Only college and university  
18 students, faculty and staff may be transported pursuant to this  
19 paragraph. The lease shall include provisions for:

20 (i) Compensation for bus operators;

21 (ii) Consideration for insurance coverage, repairs and other  
22 costs of service; and

23 (iii) Any rules concerning student behavior;

24 (C) Public and private nonprofit organizations, including

1 education employee organizations, for transportation associated  
2 with fairs, festivals and other educational and cultural events.  
3 The county board may charge fees in addition to those charges  
4 otherwise required by this subsection;

5       (h) To provide at public expense for insurance coverage  
6 against negligence of the drivers of school buses, trucks or other  
7 vehicles operated by the county board. Any contractual agreement  
8 for transportation of students shall require the vehicle owner to  
9 maintain insurance coverage against negligence in an amount  
10 specified by the county board;

11       (i) Provide for the full cost or any portion thereof for group  
12 plan insurance benefits not provided or available under the West  
13 Virginia Public Employees Insurance Act. Any of these benefits  
14 shall be provided:

15       (1) Solely from county board funds; and

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

17       (j) Employ teacher aides; to provide in-service training for  
18 the aides pursuant to rules established by the state board; and,  
19 prior to assignment, to provide a four-clock-hour program of  
20 training for a service person assigned duties as a teacher aide in  
21 an exceptional children program. The four-clock-hour program shall  
22 consist of training in areas specifically related to the education  
23 of exceptional children;

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

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

3 (2) Persons employed to teach in the high school or post high  
4 school program;

5 (1) At the county board's discretion, employ, contract with or  
6 otherwise engage legal counsel in lieu of using the services of the  
7 prosecuting attorney to advise, attend to, bring, prosecute or  
8 defend, as the case may be, any matters, actions, suits and  
9 proceedings in which the county board is interested;

10 (m) Provide appropriate uniforms for school service personnel;

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

15 (o) Allow designated employees to use publicly provided  
16 carriage to travel from their residences to their workplace and  
17 return. The use:

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

19 (2) Shall be directly connected with, required by and  
20 essential to the performance of the employee's duties and  
21 responsibilities;

22 (p) Provide at public expense adequate public liability  
23 insurance, including professional liability insurance, for county  
24 board employees;



1           (q) Enter into cooperative agreements with other county boards  
2 to provide improvements to the instructional needs of each  
3 district. The cooperative agreements may be used to employ  
4 specialists in a field of academic study or for support functions  
5 or services for the field. The agreements are subject to approval  
6 by the state board;

7           (r) Provide information about vocational and higher education  
8 opportunities to exceptional students. The county board shall  
9 provide in writing to the students and their parents or guardians  
10 information relating to programs of vocational education and to  
11 programs available at state institutions of higher education. The  
12 information may include sources of available funding, including  
13 grants, mentorships and loans for students who wish to attend  
14 classes at institutions of higher education;

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

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

23           (1) A job-sharing arrangement shall meet all the requirements  
24 relating to posting, qualifications and seniority, as provided in

1 article four, chapter eighteen-a of this code;

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

6 (A) Shall provide insurance coverage to the one employee  
7 mutually agreed upon by the employees participating in that  
8 arrangement; and

9 (B) May not provide insurance benefits of any type to more  
10 than one of the job-sharing employees, including any group plan  
11 available under the state Public Employees Insurance Act;

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

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

21 (5) When entering into a job-sharing agreement, the county  
22 board and the participating employees shall consider issues such as  
23 retirement benefits, termination of the job-sharing agreement and  
24 any other issue the parties consider appropriate. Any provision in

1 the agreement relating to retirement benefits may not cause any  
2 cost to be incurred by the retirement system that is more than the  
3 cost that would be incurred if a single employee were filling the  
4 position; and

5 (u) Under rules it establishes for each child, expend an  
6 amount not to exceed the proportion of all school funds of the  
7 district that each child would be entitled to receive if all the  
8 funds were distributed equally among all the children of school age  
9 in the district upon a per capita basis.

10 (v) In the interest of providing economies of scale and  
11 reducing costs, all purchases by county boards of education made  
12 after July 1, 2013, may be made through the regional education  
13 service agency, provided in section twenty-six, article two,  
14 chapter eighteen of this code, serving that county.

NOTE: The purpose of this bill is to consolidate purchasing by county boards of education through the regional education service agency serving their area.

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