

Senate Bill No. 471

(By Senator Stollings)

1
2
3
4
5
6
7
8
9

[Introduced March 7, 2013; referred to the Committee on Pensions;
and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §18A-4-8 of the Code of West Virginia,
1931, as amended, relating to clarifying the definition of
"years of employment" for retirement purposes from a county
board of education.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. SCHOOL PERSONNEL.

**§18A-4-8. Employment term and class titles of service personnel;
definitions.**

(a) The purpose of this section is to establish an employment
term and class titles for service personnel. The employment term
for service personnel may not be less than ten months. A month is

1 defined as twenty employment days. The county board may contract
2 with all or part of these service personnel for a longer term. The
3 beginning and closing dates of the ten-month employment term may
4 not exceed forty-three weeks.

5 (b) Service personnel employed on a yearly or twelve-month
6 basis may be employed by calendar months. Whenever there is a
7 change in job assignment during the school year, the minimum pay
8 scale and any county supplement are applicable.

9 (c) Service personnel employed in the same classification for
10 more than the two hundred-day minimum employment term shall be paid
11 for additional employment at a daily rate of not less than the
12 daily rate paid for the two hundred-day minimum employment term.

13 (d) A service person may not be required to report for work
14 more than five days per week without his or her agreement, and no
15 part of any working day may be accumulated by the employer for
16 future work assignments, unless the employee agrees thereto.

17 (e) If a service person whose regular work week is scheduled
18 from Monday through Friday agrees to perform any work assignments
19 on a Saturday or Sunday, the service person shall be paid for at
20 least one-half day of work for each day he or she reports for work.
21 If the service person works more than three and one-half hours on
22 any Saturday or Sunday, he or she shall be paid for at least a full
23 day of work for each day.

1 (f) A custodian, aide, maintenance, office and school lunch
2 service person required to work a daily work schedule that is
3 interrupted shall be paid additional compensation in accordance
4 with this subsection.

5 (1) A maintenance person means a person who holds a
6 classification title other than in a custodial, aide, school lunch,
7 office or transportation category as provided in section one,
8 article one of this chapter.

9 (2) A service person's schedule is considered to be
10 interrupted if he or she does not work a continuous period in one
11 day. Aides are not regarded as working an interrupted schedule
12 when engaged exclusively in the duties of transporting students;

13 (3) The additional compensation provided ~~for~~ in this
14 subsection:

15 (A) Is equal to at least one-eighth of a service person's
16 total salary as provided by the state minimum pay scale and any
17 county pay supplement; and

18 (B) Is payable entirely from county board funds.

19 (g) When there is a change in classification or when a service
20 person meets the requirements of an advanced classification, his or
21 her salary shall be made to comply with the requirements of this
22 article and any county salary schedule in excess of the minimum
23 requirements of this article, based upon the service person's

1 advanced classification and allowable years of employment.

2 (h) A service person's contract, as provided in section five,
3 article two of this chapter, shall state the appropriate monthly
4 salary the employee is to be paid, based on the class title as
5 provided in this article and on any county salary schedule in
6 excess of the minimum requirements of this article.

7 (i) The column heads of the state minimum pay scale and class
8 titles, set forth in section eight-a of this article, are defined
9 as follows:

10 (1) "Pay grade" means the monthly salary applicable to class
11 titles of service personnel;

12 (2) "Years of employment" means the number of years which an
13 employee classified as a service person or a person who has served
14 as a member of the board of education has been employed by a county
15 board in any position, including serving as a member of the board
16 of education, prior to or subsequent to the effective date of this
17 section and includes service in the Armed Forces of the United
18 States, if the employee was employed at the time of his or her
19 induction. For the purpose of section eight-a of this article,
20 years of employment is limited to the number of years shown and
21 allowed under the state minimum pay scale as set forth in section
22 eight-a of this article;

23 (3) "Class title" means the name of the position or job held

1 by a service person;

2 (4) "Accountant I" means a person employed to maintain payroll
3 records and reports and perform one or more operations relating to
4 a phase of the total payroll;

5 (5) "Accountant II" means a person employed to maintain
6 accounting records and to be responsible for the accounting process
7 associated with billing, budgets, purchasing and related
8 operations;

9 (6) "Accountant III" means a person employed in the county
10 board office to manage and supervise accounts payable, payroll
11 procedures, or both;

12 (7) "Accounts payable supervisor" means a person employed in
13 the county board office who has primary responsibility for the
14 accounts payable function and who either has completed twelve
15 college hours of accounting courses from an accredited institution
16 of higher education or has at least eight years of experience
17 performing progressively difficult accounting tasks.
18 Responsibilities of this class title may include supervision of
19 other personnel;

20 (8) "Aide I" means a person selected and trained for a
21 teacher-aide classification such as monitor aide, clerical aide,
22 classroom aide or general aide;

23 (9) "Aide II" means a service person referred to in the "Aide

1 I" classification who has completed a training program approved by
2 the state board, or who holds a high school diploma or has received
3 a general educational development certificate. Only a person
4 classified in an Aide II class title may be employed as an aide in
5 any special education program;

6 (10) "Aide III" means a service person referred to in the
7 "Aide I" classification who holds a high school diploma or a
8 general educational development certificate; and

9 (A) Has completed six semester hours of college credit at an
10 institution of higher education; or

11 (B) Is employed as an aide in a special education program and
12 has one year's experience as an aide in special education;

13 (11) "Aide IV" means a service person referred to in the "Aide
14 I" classification who holds a high school diploma or a general
15 educational development certificate; and

16 (A) Has completed eighteen hours of state board-approved
17 college credit at a regionally accredited institution of higher
18 education, or

19 (B) Has completed fifteen hours of state board-approved
20 college credit at a regionally accredited institution of higher
21 education; and has successfully completed an in-service training
22 program determined by the state board to be the equivalent of three
23 hours of college credit;

1 (12) "Audiovisual technician" means a person employed to
2 perform minor maintenance on audiovisual equipment, films, and
3 supplies and who fills requests for equipment;

4 (13) "Auditor" means a person employed to examine and verify
5 accounts of individual schools and to assist schools and school
6 personnel in maintaining complete and accurate records of their
7 accounts;

8 (14) "Autism mentor" means a person who works with autistic
9 students and who meets standards and experience to be determined by
10 the state board. A person who has held or holds an aide title and
11 becomes employed as an autism mentor shall hold a
12 multiclassification status that includes both aide and autism
13 mentor titles, in accordance with section eight-b of this article;

14 (15) "Braille or sign language specialist" means a person
15 employed to provide braille and/or sign language assistance to
16 students. A service person who has held or holds an aide title and
17 becomes employed as a braille or sign language specialist shall
18 hold a multiclassification status that includes both aide and
19 braille or sign language specialist title, in accordance with
20 section eight-b of this article;

21 (16) "Bus operator" means a person employed to operate school
22 buses and other school transportation vehicles as provided by the
23 state board;

1 (17) "Buyer" means a person employed to review and write
2 specifications, negotiate purchase bids and recommend purchase
3 agreements for materials and services that meet predetermined
4 specifications at the lowest available costs;

5 (18) "Cabinetmaker" means a person employed to construct
6 cabinets, tables, bookcases and other furniture;

7 (19) "Cafeteria manager" means a person employed to direct the
8 operation of a food services program in a school, including
9 assigning duties to employees, approving requisitions for supplies
10 and repairs, keeping inventories, inspecting areas to maintain high
11 standards of sanitation, preparing financial reports and keeping
12 records pertinent to food services of a school;

13 (20) "Carpenter I" means a person classified as a carpenter's
14 helper;

15 (21) "Carpenter II" means a person classified as a journeyman
16 carpenter;

17 (22) "Chief mechanic" means a person employed to be
18 responsible for directing activities which ensure that student
19 transportation or other county board-owned vehicles are properly
20 and safely maintained;

21 (23) "Clerk I" means a person employed to perform clerical
22 tasks;

23 (24) "Clerk II" means a person employed to perform general

1 clerical tasks, prepare reports and tabulations and operate office
2 machines;

3 (25) "Computer operator" means a qualified person employed to
4 operate computers;

5 (26) "Cook I" means a person employed as a cook's helper;

6 (27) "Cook II" means a person employed to interpret menus and
7 to prepare and serve meals in a food service program of a school.
8 This definition includes a service person who has been employed as
9 a "Cook I" for a period of four years;

10 (28) "Cook III" means a person employed to prepare and serve
11 meals, make reports, prepare requisitions for supplies, order
12 equipment and repairs for a food service program of a school
13 system;

14 (29) "Crew leader" means a person employed to organize the
15 work for a crew of maintenance employees to carry out assigned
16 projects;

17 (30) "Custodian I" means a person employed to keep buildings
18 clean and free of refuse;

19 (31) "Custodian II" means a person employed as a watchman or
20 groundsman;

21 (32) "Custodian III" means a person employed to keep buildings
22 clean and free of refuse, to operate the heating or cooling systems
23 and to make minor repairs;

1 (33) "Custodian IV" means a person employed as head
2 custodians. In addition to providing services as defined in
3 "custodian III," duties may include supervising other custodian
4 personnel;

5 (34) "Director or coordinator of services" means an employee
6 of a county board who is assigned to direct a department or
7 division.

8 (A) Nothing in this subdivision prohibits a professional
9 person or a professional educator from holding this class title;

10 (B) Professional personnel holding this class title may not be
11 defined or classified as service personnel unless the professional
12 person held a service personnel title under this section prior to
13 holding the class title of "director or coordinator of services."

14 (C) The director or coordinator of services shall be
15 classified either as a professional person or a service person for
16 state aid formula funding purposes;

17 (D) Funding for the position of director or coordinator of
18 services is based upon the employment status of the director or
19 coordinator either as a professional person or a service person;
20 and

21 (E) A person employed under the class title "director or
22 coordinator of services" may not be exclusively assigned to perform
23 the duties ascribed to any other class title as defined in this

1 subsection: *Provided*, That nothing in this paragraph prohibits a
2 person in this position from being multiclassified;

3 (35) "Draftsman" means a person employed to plan, design and
4 produce detailed architectural/engineering drawings;

5 (36) "Electrician I" means a person employed as an apprentice
6 electrician helper or one who holds an electrician helper license
7 issued by the State Fire Marshal;

8 (37) "Electrician II" means a person employed as an
9 electrician journeyman or one who holds a journeyman electrician
10 license issued by the State Fire Marshal;

11 (38) "Electronic technician I" means a person employed at the
12 apprentice level to repair and maintain electronic equipment;

13 (39) "Electronic technician II" means a person employed at the
14 journeyman level to repair and maintain electronic equipment;

15 (40) "Executive secretary" means a person employed as
16 secretary to the county school superintendent or as a secretary who
17 is assigned to a position characterized by significant
18 administrative duties;

19 (41) "Food services supervisor" means a qualified person who
20 is not a professional person or professional educator as defined in
21 section one, article one of this chapter. The food services
22 supervisor is employed to manage and supervise a county school
23 system's food service program. The duties include preparing

1 in-service training programs for cooks and food service employees,
2 instructing personnel in the areas of quantity cooking with economy
3 and efficiency and keeping aggregate records and reports;

4 (42) "Foreman" means a skilled person employed to supervise
5 personnel who work in the areas of repair and maintenance of school
6 property and equipment;

7 (43) "General maintenance" means a person employed as a helper
8 to skilled maintenance employees and to perform minor repairs to
9 equipment and buildings of a county school system;

10 (44) "Glazier" means a person employed to replace glass or
11 other materials in windows and doors and to do minor carpentry
12 tasks;

13 (45) "Graphic artist" means a person employed to prepare
14 graphic illustrations;

15 (46) "Groundsman" means a person employed to perform duties
16 that relate to the appearance, repair and general care of school
17 grounds in a county school system. Additional assignments may
18 include the operation of a small heating plant and routine cleaning
19 duties in buildings;

20 (47) "Handyman" means a person employed to perform routine
21 manual tasks in any operation of the county school system;

22 (48) "Heating and air conditioning mechanic I" means a person
23 employed at the apprentice level to install, repair and maintain

1 heating and air conditioning plants and related electrical
2 equipment;

3 (49) "Heating and air conditioning mechanic II" means a person
4 employed at the journeyman level to install, repair and maintain
5 heating and air conditioning plants and related electrical
6 equipment;

7 (50) "Heavy equipment operator" means a person employed to
8 operate heavy equipment;

9 (51) "Inventory supervisor" means a person employed to
10 supervise or maintain operations in the receipt, storage, inventory
11 and issuance of materials and supplies;

12 (52) "Key punch operator" means a qualified person employed to
13 operate key punch machines or verifying machines;

14 (53) "Licensed practical nurse" means a nurse, licensed by the
15 West Virginia Board of Examiners for Licensed Practical Nurses,
16 employed to work in a public school under the supervision of a
17 school nurse;

18 (54) "Locksmith" means a person employed to repair and
19 maintain locks and safes;

20 (55) "Lubrication man" means a person employed to lubricate
21 and service gasoline or diesel-powered equipment of a county school
22 system;

23 (56) "Machinist" means a person employed to perform machinist

1 tasks which include the ability to operate a lathe, planer, shaper,
2 threading machine and wheel press. A person holding this class
3 title also should have the ability to work from blueprints and
4 drawings;

5 (57) "Mail clerk" means a person employed to receive, sort,
6 dispatch, deliver or otherwise handle letters, parcels and other
7 mail;

8 (58) "Maintenance clerk" means a person employed to maintain
9 and control a stocking facility to keep adequate tools and supplies
10 on hand for daily withdrawal for all school maintenance crafts;

11 (59) "Mason" means a person employed to perform tasks
12 connected with brick and block laying and carpentry tasks related
13 to these activities;

14 (60) "Mechanic" means a person employed to perform skilled
15 duties independently in the maintenance and repair of automobiles,
16 school buses and other mechanical and mobile equipment to use in a
17 county school system;

18 (61) "Mechanic assistant" means a person employed as a
19 mechanic apprentice and helper;

20 (62) "Member of a Board of Education" means a person who has
21 been elected and served on a county board of education pursuant to
22 the provisions of article five, chapter eighteen of this code;

23 ~~(62)~~ (63) "Multiclassification" means a person employed to

1 perform tasks that involve the combination of two or more class
2 titles in this section. In these instances the minimum salary
3 scale shall be the higher pay grade of the class titles involved;

4 ~~(63)~~ (64) "Office equipment repairman I" means a person
5 employed as an office equipment repairman apprentice or helper;

6 ~~(64)~~ (65) "Office equipment repairman II" means a person
7 responsible for servicing and repairing all office machines and
8 equipment. A person holding this class title is responsible for
9 the purchase of parts necessary for the proper operation of a
10 program of continuous maintenance and repair;

11 ~~(65)~~ (66) "Painter" means a person employed to perform duties
12 painting, finishing and decorating wood, metal and concrete
13 surfaces of buildings, other structures, equipment, machinery and
14 furnishings of a county school system;

15 ~~(66)~~ (67) "Paraprofessional" means a person certified pursuant
16 to section two-a, article three of this chapter to perform duties
17 in a support capacity including, but not limited to, facilitating
18 in the instruction and direct or indirect supervision of students
19 under the direction of a principal, a teacher or another designated
20 professional educator.

21 (A) A person employed on the effective date of this section in
22 the position of an aide may not be subject to a reduction in force
23 or transferred to create a vacancy for the employment of a

1 paraprofessional;

2 (B) A person who has held or holds an aide title and becomes
3 employed as a paraprofessional shall hold a multiclassification
4 status that includes both aide and paraprofessional titles in
5 accordance with section eight-b of this article; and

6 (C) When a service person who holds an aide title becomes
7 certified as a paraprofessional and is required to perform duties
8 that may not be performed by an aide without paraprofessional
9 certification, he or she shall receive the paraprofessional title
10 pay grade;

11 ~~(67)~~ (68) "Payroll supervisor" means a person employed in the
12 county board office who has primary responsibility for the payroll
13 function and who either has completed twelve college hours of
14 accounting from an accredited institution of higher education or
15 has at least eight years of experience performing progressively
16 difficult accounting tasks. Responsibilities of this class title
17 may include supervision of other personnel;

18 ~~(68)~~ (69) "Plumber I" means a person employed as an apprentice
19 plumber and helper;

20 ~~(69)~~ (70) "Plumber II" means a person employed as a journeyman
21 plumber;

22 ~~(70)~~ (71) "Printing operator" means a person employed to
23 operate duplication equipment, and to cut, collate, staple, bind

1 and shelve materials as required;

2 ~~(71)~~ (72) "Printing supervisor" means a person employed to
3 supervise the operation of a print shop;

4 ~~(72)~~ (73) "Programmer" means a person employed to design and
5 prepare programs for computer operation;

6 ~~(73)~~ (74) "Roofing/sheet metal mechanic" means a person
7 employed to install, repair, fabricate and maintain roofs, gutters,
8 flashing and duct work for heating and ventilation;

9 ~~(74)~~ (75) "Sanitation plant operator" means a person employed
10 to operate and maintain a water or sewage treatment plant to ensure
11 the safety of the plant's effluent for human consumption or
12 environmental protection;

13 ~~(75)~~ (76) "School bus supervisor" means a qualified person:

14 (A) Employed to assist in selecting school bus operators and
15 routing and scheduling school buses, operate a bus when needed,
16 relay instructions to bus operators, plan emergency routing of
17 buses and promote good relationships with parents, students, bus
18 operators and other employees; and

19 (B) Certified to operate a bus or previously certified to
20 operate a bus;

21 ~~(76)~~ (77) "Secretary I" means a person employed to transcribe
22 from notes or mechanical equipment, receive callers, perform
23 clerical tasks, prepare reports and operate office machines;

1 ~~(77)~~ (78) "Secretary II" means a person employed in any
2 elementary, secondary, kindergarten, nursery, special education,
3 vocational or any other school as a secretary. The duties may
4 include performing general clerical tasks; transcribing from notes,
5 stenotype, mechanical equipment or a sound-producing machine;
6 preparing reports; receiving callers and referring them to proper
7 persons; operating office machines; keeping records and handling
8 routine correspondence. Nothing in this subdivision prevents a
9 service person from holding or being elevated to a higher
10 classification;

11 ~~(78)~~ (79) "Secretary III" means a person assigned to the
12 county board office administrators in charge of various
13 instructional, maintenance, transportation, food services,
14 operations and health departments, federal programs or departments
15 with particular responsibilities in purchasing and financial
16 control or any person who has served for eight years in a position
17 which meets the definition of "secretary II" or "secretary III";

18 ~~(79)~~ (80) "Supervisor of maintenance" means a skilled person
19 who is not a professional person or professional educator as
20 defined in section one, article one of this chapter. The
21 responsibilities include directing the upkeep of buildings and
22 shops, and issuing instructions to subordinates relating to
23 cleaning, repairs and maintenance of all structures and mechanical

1 and electrical equipment of a county board;

2 ~~(80)~~ (81) "Supervisor of transportation" means a qualified
3 person employed to direct school transportation activities properly
4 and safely, and to supervise the maintenance and repair of
5 vehicles, buses and other mechanical and mobile equipment used by
6 the county school system. After July 1, 2010, all persons employed
7 for the first time in a position with this classification title or
8 in a multi-classification position that includes this title shall
9 have five years of experience working in the transportation
10 department of a county board. Experience working in the
11 transportation department shall consist of serving as a bus
12 operator, bus aide, assistant mechanic, mechanic, chief mechanic or
13 in a clerical position within the transportation department;

14 ~~(81)~~ (82) "Switchboard operator-receptionist" means a person
15 employed to refer incoming calls, to assume contact with the
16 public, to direct and to give instructions as necessary, to operate
17 switchboard equipment and to provide clerical assistance;

18 ~~(82)~~ (83) "Truck driver" means a person employed to operate
19 light or heavy duty gasoline and diesel-powered vehicles;

20 ~~(83)~~ (84) "Warehouse clerk" means a person employed to be
21 responsible for receiving, storing, packing and shipping goods;

22 ~~(84)~~ (85) "Watchman" means a person employed to protect school
23 property against damage or theft. Additional assignments may

1 include operation of a small heating plant and routine cleaning
2 duties;

3 ~~(85)~~ (86) "Welder" means a person employed to provide
4 acetylene or electric welding services for a school system; and

5 ~~(86)~~ (87) "WVEIS data entry and administrative clerk" means a
6 person employed to work under the direction of a school principal
7 to assist the school counselor or counselors in the performance of
8 administrative duties, to perform data entry tasks on the West
9 Virginia Education Information System, and to perform other
10 administrative duties assigned by the principal.

11 (j) Notwithstanding any provision in this code to the
12 contrary, and in addition to the compensation provided for service
13 personnel in section eight-a of this article, each service person
14 is entitled to all service personnel employee rights, privileges
15 and benefits provided under this or any other chapter of this code
16 without regard to the employee's hours of employment or the methods
17 or sources of compensation.

18 (k) A service person whose years of employment exceeds the
19 number of years shown and provided for under the state minimum pay
20 scale set forth in section eight-a of this article may not be paid
21 less than the amount shown for the maximum years of employment
22 shown and provided for in the classification in which he or she is
23 employed.

1 (1) Each county board shall review each service person's job
2 classification annually and shall reclassify all service persons as
3 required by the job classifications. The state superintendent may
4 withhold state funds appropriated pursuant to this article for
5 salaries for service personnel who are improperly classified by the
6 county boards. Further, the state superintendent shall order a
7 county board to correct immediately any improper classification
8 matter and, with the assistance of the Attorney General, shall take
9 any legal action necessary against any county board to enforce the
10 order.

11 (m) Without his or her written consent, a service person may
12 not be:

13 (1) Reclassified by class title; or

14 (2) Relegated to any condition of employment which would
15 result in a reduction of his or her salary, rate of pay,
16 compensation or benefits earned during the current fiscal year; or
17 for which he or she would qualify by continuing in the same job
18 position and classification held during that fiscal year and
19 subsequent years.

20 (n) Any county board failing to comply with the provisions of
21 this article may be compelled to do so by mandamus and is liable to
22 any party prevailing against the board for court costs and the
23 prevailing party's reasonable attorney fee, as determined and

1 established by the court.

2 (o) Notwithstanding any provision of this code to the
3 contrary, a service person who holds a continuing contract in a
4 specific job classification and who is physically unable to perform
5 the job's duties as confirmed by a physician chosen by the
6 employee, shall be given priority status over any employee not
7 holding a continuing contract in filling other service personnel
8 job vacancies if the service person is qualified as provided in
9 section eight-e of this article.

10 (p) Any person employed in an aide position on the effective
11 date of this section may not be transferred or subject to a
12 reduction in force for the purpose of creating a vacancy for the
13 employment of a licensed practical nurse.

14 (q) Without the written consent of the service person, a
15 county board may not establish the beginning work station for a bus
16 operator or transportation aide at any site other than a county
17 board-owned facility with available parking. The workday of the
18 bus operator or transportation aide commences at the bus at the
19 designated beginning work station and ends when the employee is
20 able to leave the bus at the designated beginning work station,
21 unless he or she agrees otherwise in writing. The application or
22 acceptance of a posted position may not be construed as the written
23 consent referred to in this subsection.

1 (r) Itinerant status means a service person who does not have
2 a fixed work site and may be involuntarily reassigned to another
3 work site. A service person is considered to hold itinerant status
4 if he or she has bid upon a position posted as itinerant or has
5 agreed to accept this status. A county board may establish
6 positions with itinerant status only within the aide and autism
7 mentor classification categories and only when the job duties
8 involve exceptional students. A service person with itinerant
9 status may be assigned to a different work site upon written notice
10 ten days prior to the reassignment without the consent of the
11 employee and without posting the vacancy. A service person with
12 itinerant status may be involuntarily reassigned no more than twice
13 during the school year. At the conclusion of each school year, the
14 county board shall post and fill, pursuant to section eight-b of
15 this article, all positions that have been filled without posting
16 by a service person with itinerant status. A service person who is
17 assigned to a beginning and ending work site and travels at the
18 expense of the county board to other work sites during the daily
19 schedule, shall not be considered to hold itinerant status.

NOTE: The purpose of this bill is to clarify that service on a county board of education while contributing to the state retirement system would count in the calculation of years of service for retirement purposes.

Strike-throughs indicate language to be stricken from the

present law, and underscoring indicates new language that would be added.