

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4555**

4 (By Delegates Caputo, Longstreth, Manchin, Fleischauer,  
5 Marshall, Perry, M. Poling, White, Williams, Boggs and Fragale)

6 (Originating in the House Committee on Finance)

7  
8 [February 20, 2014]

9  
10 A BILL to amend and reenact §18A-2-2 and §18A-2-6a of the Code of  
11 West Virginia, 1931, as amended, all relating to requiring  
12 county boards of education to provide released time for  
13 professional educators and service personnel when serving in  
14 a part-time elected municipal or county office.

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

16 That §18A-2-2 and §18A-2-6a of the Code of West Virginia,  
17 1931, as amended, be amended and reenacted, all to read as follows:

18 **ARTICLE 2. SCHOOL PERSONNEL.**

19 **§18A-2-2. Employment of teachers; contracts; continuing contract**  
20 **status; how terminated; dismissal for lack of need;**  
21 **released time; failure of teacher to perform contract**  
22 **or violation thereof; written notice bonus for**  
23 **teachers and professional personnel.**

24 (a) Before entering upon their duties, all teachers shall

1 execute a contract with their county boards, which shall state the  
2 salary to be paid and shall be in the form prescribed by the State  
3 Superintendent. Each contract shall be signed by the teacher and  
4 by the president and secretary of the county board and shall be  
5 filed, together with the certificate of the teacher, by the  
6 secretary of the office of the county board: *Provided*, That when  
7 necessary to facilitate the employment of employable professional  
8 personnel and prospective and recent graduates of teacher education  
9 programs who have not yet attained certification, the contract may  
10 be signed upon the condition that the certificate is issued to the  
11 employee prior to the beginning of the employment term in which the  
12 employee enters upon his or her duties.

13 (b) Each teacher's contract, under this section, shall be  
14 designated as a probationary or continuing contract. A  
15 probationary teacher's contract shall be for a term of not less  
16 than one nor more than three years, one of which shall be for  
17 completion of a beginning teacher internship pursuant to the  
18 provisions of section two-b, article three of this chapter, if  
19 applicable. If, after three years of such employment, the teacher  
20 who holds a professional certificate, based on at least a  
21 bachelor's degree, has met the qualifications for a bachelor's  
22 degree and the county board enter into a new contract of  
23 employment, it shall be a continuing contract, subject to the  
24 following:

1 (1) Any teacher holding a valid certificate with less than a  
2 bachelor's degree who is employed in a county beyond the three-year  
3 probationary period shall upon qualifying for the professional  
4 certificate based upon a bachelor's degree, if reemployed, be  
5 granted continuing contract status; and

6 (2) A teacher holding continuing contract status with one  
7 county shall be granted continuing contract status with any other  
8 county upon completion of one year of acceptable employment if the  
9 employment is during the next succeeding school year or immediately  
10 following an approved leave of absence extending no more than one  
11 year.

12 (c) The continuing contract of any teacher shall remain in  
13 full force and effect except as modified by mutual consent of the  
14 school board and the teacher, unless and until terminated, subject  
15 to the following:

16 (1) A continuing contract may not be terminated except:

17 (A) By a majority vote of the full membership of the county  
18 board on or before March 1 of the then current year, after written  
19 notice, served upon the teacher, return receipt requested, stating  
20 cause or causes and an opportunity to be heard at a meeting of the  
21 board prior to the board's action on the termination issue; or

22 (B) By written resignation of the teacher on or before March  
23 1 to initiate termination of a continuing contract;

24 (2) The termination shall take effect at the close of the

1 school year in which the contract is terminated;

2 (3) The contract may be terminated at any time by mutual  
3 consent of the school board and the teacher;

4 (4) This section does not affect the powers of the school  
5 board to suspend or dismiss a principal or teacher pursuant to  
6 section eight of this article;

7 (5) A continuing contract for any teacher holding a  
8 certificate valid for more than one year and in full force and  
9 effect during the school year 1984-1985 shall remain in full force  
10 and effect;

11 (6) A continuing contract does not operate to prevent a  
12 teacher's dismissal based upon the lack of need for the teacher's  
13 services pursuant to the provisions of law relating to the  
14 allocation to teachers and pupil-teacher ratios. The written  
15 notification of teachers being considered for dismissal for lack of  
16 need shall be limited to only those teachers whose consideration  
17 for dismissal is based upon known or expected circumstances which  
18 will require dismissal for lack of need. An employee who was not  
19 provided notice and an opportunity for a hearing pursuant to this  
20 subsection may not be included on the list. In case of dismissal  
21 for lack of need, a dismissed teacher shall be placed upon a  
22 preferred list in the order of their length of service with that  
23 board. No teacher may be employed by the board until each  
24 qualified teacher upon the preferred list, in order, has been

1 offered the opportunity for reemployment in a position for which he  
2 or she is qualified, not including a teacher who has accepted a  
3 teaching position elsewhere. The reemployment shall be upon a  
4 teacher's preexisting continuing contract and has the same effect  
5 as though the contract had been suspended during the time the  
6 teacher was not employed.

7 (d) In the assignment of position or duties of a teacher under  
8 a continuing contract, the board may provide for released time of  
9 a teacher for any special professional or governmental assignment  
10 without jeopardizing the contractual rights of the teacher or any  
11 other rights, privileges or benefits under the provisions of this  
12 chapter. Released time shall be provided for any professional  
13 educator while serving as a member of the Legislature or any  
14 elected or appointed part-time public office during any duly  
15 constituted session of that body and its interim and statutory  
16 committees and commissions, without jeopardizing his or her  
17 contractual rights or any other rights, privileges, benefits or  
18 accrual of experience for placement on the state minimum salary  
19 schedule in the following school year under the provisions of this  
20 chapter, board policy and law.

21 (e) Any teacher who fails to fulfill his or her contract with  
22 the board, unless prevented from doing so by personal illness or  
23 other just cause or unless released from his or her contract by the  
24 board, or who violates any lawful provision of the contract, is

1 disqualified to teach in any other public school in the state for  
2 a period of the next ensuing school year and the State Department  
3 of Education or board may hold all papers and credentials of the  
4 teacher on file for a period of one year for the violation:  
5 *Provided*, That marriage of a teacher is not considered a failure to  
6 fulfill, or violation of, the contract.

7 (f) Any classroom teacher, as defined in section one, article  
8 one of this chapter, who desires to resign employment with a county  
9 board or request a leave of absence, the resignation or leave of  
10 absence to become effective on or before July 15 of the same year  
11 and after completion of the employment term, may do so at any time  
12 during the school year by written notification of the resignation  
13 or leave of absence and any notification received by a county board  
14 shall automatically extend the teacher's public employee insurance  
15 coverage until August 31 of the same year.

16 (g) (1) A classroom teacher who gives written notice to the  
17 county board on or before January 15 of the school year of his or  
18 her retirement from employment with the board at the conclusion of  
19 the school year shall be paid \$500 from the Early Notification of  
20 Retirement line item established for the Department of Education  
21 for this purpose, subject to appropriation by the Legislature. If  
22 the appropriations to the Department of Education for this purpose  
23 are insufficient to compensate all applicable teachers, the  
24 Department of Education shall request a supplemental appropriation

1 in an amount sufficient to compensate all such teachers.  
2 Additionally, if funds are still insufficient to compensate all  
3 applicable teachers, the priority of payment is for teachers who  
4 give written notice the earliest. This payment shall not be  
5 counted as part of the final average salary for the purpose of  
6 calculating retirement.

7 (2) The position of a classroom teacher providing written  
8 notice of retirement pursuant to this subsection may be considered  
9 vacant and the county board may immediately post the position as an  
10 opening to be filled at the conclusion of the school year. If a  
11 teacher has been hired to fill the position of a retiring classroom  
12 teacher prior to the start of the next school year, the retiring  
13 classroom teacher is disqualified from continuing his or her  
14 employment in that position. However, the retiring classroom  
15 teacher may be permitted to continue his or her employment in that  
16 position and forfeit the early retirement notification payment if,  
17 after giving notice of retirement in accordance with this  
18 subsection, he or she becomes subject to a significant unforeseen  
19 financial hardship, including a hardship caused by the death or  
20 illness of an immediate family member or loss of employment of a  
21 spouse. Other significant unforeseen financial hardships shall be  
22 determined by the county superintendent on a case-by-case basis.  
23 This subsection does not prohibit a county school board from  
24 eliminating the position of a retiring classroom teacher.

1     **§18A-2-6a. Released time for service personnel.**

2             In the assignment of position or duties of a service person  
3 under a continuing contract, the board may provide for released  
4 time of a service person for any special professional or  
5 governmental assignment without jeopardizing the contractual rights  
6 of such service or any other rights, privileges or benefits under  
7 the provisions of this chapter. Released time shall be provided  
8 for any service person while serving as a member of the Legislature  
9 or any elected or appointed part-time public office during any duly  
10 constituted session of that body and its interim and statutory  
11 committees and commissions, without jeopardizing his or her  
12 contractual rights or any other rights, privileges, benefits or  
13 accrual of experience for placement on the state minimum salary  
14 schedule in the following school year under the provisions of this  
15 chapter, board policy and law. For the purposes of this section,  
16 service person is the singular of service personnel as defined in  
17 section one, article one of this chapter.