

H. B. 4597

(By Delegate Marcum)

[Introduced February 17, 2014; referred to the
Committee on Education then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §18-2-26 of the Code of West Virginia,
1931, as amended; and to amend and reenact §18-5-1a and §18-5-
4 of said code, all relating to the State Board of Education;
multicounty regional educational service agencies; county
boards of education and training requirements; compensation
for attendance of various meetings and training sessions; and
reporting requirements to the Legislative Commission on
Education Accountability.

Be it enacted by the Legislature of West Virginia:

That §18-2-26 of the Code of West Virginia, 1931, as amended,
be amended and reenacted; and that §18-5-1a and §18-5-4 of said
code be amended and reenacted, all to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-26. Establishment of multicounty regional educational

1 **service agencies; purpose; authority of state**
2 **board; governance; annual performance standards.**

3 (a) *Legislative intent.* -- The intent of the Legislature in
4 providing for establishment of regional education service agencies,
5 hereinafter referred to in this section as agency or agencies, is
6 to provide for high quality, cost effective education programs and
7 services to students, schools and school systems.

8 Since the first enactment of this section in 1972, the focus
9 of public education has shifted from a reliance on input models to
10 determine if education programs and services are providing to
11 students a thorough and efficient education to a performance based
12 accountability model which relies on the following:

13 (1) Development and implementation of standards which set
14 forth the things that students should know and be able to do as the
15 result of a thorough and efficient education including measurable
16 criteria to evaluate student performance and progress;

17 (2) Development and implementation of assessments to measure
18 student performance and progress toward meeting the standards;

19 (3) Development and implementation of a system for holding
20 schools and school systems accountable for student performance and
21 progress toward obtaining a high quality education which is
22 delivered in an efficient manner; and

23 (4) Development and implementation of a method for building
24 the capacity and improving the efficiency of schools and school

1 systems to improve student performance and progress.

2 (b) *Purpose.* -- In establishing the agencies the Legislature
3 envisions certain areas of service in which the agencies can best
4 assist the state board in implementing the standards based
5 accountability model pursuant to subsection (a) of this section
6 and, thereby, in providing high quality education programs. These
7 areas of service include the following:

8 (1) Providing technical assistance to low performing schools
9 and school systems;

10 (2) Providing high quality, targeted staff development
11 designed to enhance the performance and progress of students in
12 state public education;

13 (3) Facilitating coordination and cooperation among the county
14 boards within their respective regions in such areas as cooperative
15 purchasing; sharing of specialized personnel, communications and
16 technology; curriculum development; and operation of specialized
17 programs for exceptional children;

18 (4) Installing, maintaining and/or repairing education related
19 technology equipment and software with special attention to the
20 state level basic skills and SUCCESS programs;

21 (5) Receiving and administering grants under the provisions of
22 federal and/or state law; and

23 (6) Developing and/or implementing any other programs or
24 services as directed by law or by the state board.

1 (c) *State board rule.* -- The state board shall reexamine the
2 powers and duties of the agencies in light of the changes in state
3 level education policy that have occurred and shall establish
4 multicounty regional educational service agencies by rule,
5 promulgated in accordance with the provisions of article three-b,
6 chapter twenty-nine-a of this code.

7 The rule shall contain all information necessary for the
8 effective administration and operation of the agencies. In
9 developing the rule, the state board may not delegate its
10 Constitutional authority for the general supervision of schools to
11 the agencies, however, it may allow the agencies greater latitude
12 in the development and implementation of programs in the service
13 areas outlined in subsection (b) of this section with the
14 exceptions of providing technical assistance to low performing
15 schools and school systems and providing high quality, targeted
16 staff development designed to enhance the performance and progress
17 of students in state public education. These two areas constitute
18 the most important responsibilities for the agencies.

19 The rule establishing the agencies shall be promulgated before
20 November 1, 2002, and shall be consistent with the provisions of
21 this section. It shall include, but is not limited to, the
22 following procedures:

23 (1) Providing for a uniform governance structure for the
24 agencies containing at least these elements:

1 (A) Selection by the state board of an executive director who
2 shall be responsible for the administration of his or her
3 respective agency. The rule shall provide for the state board to
4 consult with the appropriate regional council during the selection
5 process;

6 (B) Development of a job description and qualifications for
7 the position of executive director, together with procedures for
8 informing the public of position openings and for taking and
9 evaluating applications for these positions;

10 (C) Provisions for the agencies to employ other staff, as
11 necessary, with the approval of the state board and upon the
12 recommendation of the executive director: *Provided*, That prior to
13 July 1, 2003, no person who is an employee of an agency on the
14 effective date of this section may be terminated or have his or her
15 salary and benefit levels reduced as the sole result of the changes
16 made to this section or by state board rule;

17 (D) Appointment by the county boards of a regional council in
18 each agency area consisting of representatives of county boards and
19 county superintendents from within that area for the purpose of
20 advising and assisting the executive director in carrying out his
21 or her duties. The state board may provide for membership on the
22 regional council for representatives from other agencies and
23 institutions who have interest or expertise in the development or
24 implementation of regional education programs; and

1 (E) Selection by the state superintendent of a representative
2 from the state Department of Education to serve on each regional
3 council. These representatives shall meet with their respective
4 regional councils at least quarterly;

5 (2) Establishing statewide standards by the state board for
6 service delivery by the agencies. These standards may be revised
7 annually and shall include, but are not limited to, programs and
8 services to fulfill the purposes set forth in subsection (b) of
9 this section;

10 (3) Establishing procedures for developing and adopting an
11 annual basic operating budget for each agency and for other
12 budgeting and accounting procedures as the state board may require;

13 (4) Establishing procedures to clarifying that agencies may
14 acquire and hold real property;

15 (5) Dividing the state into appropriate, contiguous
16 geographical areas and designating an agency to serve each area.
17 The rule shall provide that each of the state's counties is
18 contained within a single service area and that all counties
19 located within the boundaries of each agency, as determined by the
20 state board, shall be members of that agency; and

21 (6) Such other standards or procedures as the state board
22 finds necessary or convenient.

23 (d) *Regional services.* -- In furtherance of the purposes
24 provided for in this section, the state board and the regional

1 council of each agency shall continually explore possibilities for
2 the delivery of services on a regional basis which will facilitate
3 equality in the education offerings among counties in its service
4 area, permit the delivery of high quality education programs at a
5 lower per student cost, strengthen the cost effectiveness of
6 education funding resources, reduce administrative and/or
7 operational costs, including the consolidation of administrative,
8 coordinating and other county level functions into region level
9 functions, and promote the efficient administration and operation
10 of the public school systems generally.

11 Technical, operational, programmatic or professional services
12 are among the types of services appropriate for delivery on a
13 regional basis.

14 (e) *Virtual education.* -- The state board, in conjunction with
15 the various agencies, shall develop an effective model for the
16 regional delivery of instruction in subjects where there exists low
17 student enrollment or a shortage of certified teachers or where the
18 delivery method substantially improves the quality of an
19 instructional program. The model shall incorporate an interactive
20 electronic classroom approach to instruction. To the extent funds
21 are appropriated or otherwise available, county boards or regional
22 educational service agencies may adopt and utilize the model for
23 the delivery of the instruction.

24 (f) *Computer information system.* -- Each county board of

1 education shall use the uniform integrated regional computer
2 information system recommended by the state board for data
3 collection and reporting to the state Department of Education.
4 County boards of education shall bear the cost of and fully
5 participate in the implementation of the system by using one of the
6 following methods:

7 (1) Acquiring necessary, compatible equipment to participate
8 in the regional computer information system; or

9 (2) Following receipt of a waiver from the state
10 superintendent, operating a comparable management information
11 system at a lower cost which provides at least all uniform
12 integrated regional computer information system software modules
13 and allows on-line, interactive access for schools and the county
14 board office onto the statewide communications network. All data
15 formats shall be the same as for the uniform integrated regional
16 information system and will reside at the regional computer.

17 Any county granted a waiver shall receive periodic
18 notification of any incompatibility or deficiency in its system.
19 No county shall expand any system either through the purchase of
20 additional software or hardware that does not advance the goals and
21 implementation of the uniform integrated regional computer
22 information system as recommended by the state board.

23 (g) *Reports and evaluations.* -- Each agency shall submit to
24 the state superintendent on such date and in such form as specified

1 in the rules adopted by the state board a report and evaluation of
2 the technical assistance and other services provided and utilized
3 by the schools within each respective region and their
4 effectiveness. Additionally, any school may submit an evaluation
5 of the services provided by the agency to the state superintendent
6 at any time. This report shall include an evaluation of the agency
7 program, suggestions on methods to improve utilization and
8 suggestions on the development of new programs and the enhancement
9 of existing programs. The reports and evaluations submitted
10 pursuant to this subsection shall be submitted to the state board
11 and shall be made available upon request to the standing committees
12 on education of the West Virginia Senate and House of Delegates and
13 to the Secretary of Education and the Arts.

14 (h) *Funding sources.* -- An agency may receive and disburse
15 funds from the state and federal governments, from member counties,
16 or from gifts and grants.

17 (i) *Employee expenses.* -- Notwithstanding any other provision
18 of this code to the contrary, employees of agencies shall be
19 reimbursed for travel, meals and lodging at the same rate as state
20 employees under the travel management office of the Department of
21 Administration.

22 A county board member may not be an employee of an agency.

23 (j) *Meetings. and compensation.* --

24 ~~(1)~~ Agencies shall hold at least one half of their regular

1 meetings during hours other than those of a regular school day.
2 The executive director of each agency shall attend at least one
3 meeting of each of the member county boards of education each year
4 to explain the agency's services, garner suggestions for program
5 improvement and provide any other information as may be requested
6 by the county board.

7 ~~(2) Notwithstanding any other provision of this code to the~~
8 ~~contrary, county board members serving on regional councils may~~
9 ~~receive compensation at a rate not to exceed \$100 per meeting~~
10 ~~attended, not to exceed fifteen meetings per year. County board~~
11 ~~members serving on regional councils may be reimbursed for travel~~
12 ~~at the same rate as state employees under the rules of the travel~~
13 ~~management office of the Department of Administration.~~

14 (k) *Computer installation, maintenance and repair.* --
15 Agencies shall serve as the lead agency for computer installation,
16 maintenance and repair for the basic skills and SUCCESS computer
17 programs. Each agency shall submit a quarterly status report on
18 turn around time for computer installation, maintenance and repair
19 to the State Superintendent of Schools who shall then submit a
20 report to the Legislative Oversight Commission on Education
21 Accountability. The status report for turn around time for
22 computer installation, maintenance and repair shall be based on the
23 following suggested time schedules:

24 Network File Servers.....forty-eight hours

- 1 Local Area Networks.....forty-eight hours
- 2 West Virginia Education
- 3 Information System.....twenty-four hours
- 4 Computer Workstations.....three to five days
- 5 Printers.....three to five days
- 6 Other Peripherals.....three to five days

7 Agencies also shall submit an audit report to the Legislative
8 Oversight Commission on Education Accountability each year.

9 (1) *Professional development.* -- Pursuant to the processes and
10 provisions of section twenty-three-a, article two, chapter eighteen
11 of this code, each agency shall provide coordinated professional
12 development programs within its region to meet the professional
13 development goals established by the state board.

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

15 **§18-5-1a. Eligibility of members; training requirements.**

16 (a) A person who is a member of a county board:

17 (1) Shall be a citizen and resident in the county in which he
18 or she serves on the county board. Also, a person who is a
19 candidate for membership on a county board or who is a member-elect
20 of a county board shall be a citizen and resident in the county in
21 which he or she seeks to serve on the county board;

22 (2) May not be employed by the county board on which he or she
23 serves, including employment as a teacher or service person;

24 (3) May not engage in the following political activities:

1 (A) Become a candidate for or hold any other public office,
2 other than to succeed him or herself as a member of a county board
3 subject to the following:

4 (i) A candidate for a county board, who is not currently
5 serving on a county board, may hold another public office while a
6 candidate if he or she resigns from the other public office prior
7 to taking the oath of office as a county board member.

8 (ii) The term "public office" as used in this section does not
9 include service on any other board, elected or appointed, profit or
10 nonprofit, under the following conditions:

11 (I) The person does not receive compensation; and

12 (II) The primary scope of the board is not related to public
13 schools.

14 (B) Become a candidate for, or serve as, an elected member of
15 any political party executive committee;

16 (C) Become a candidate for, or serve as, a delegate, alternate
17 or proxy to a national political party convention;

18 (D) Solicit or receive political contributions to support the
19 election of, or to retire the campaign debt of, any candidate for
20 partisan office;

21 (4) May engage in any or all of the following political
22 activities:

23 (A) Make campaign contributions to partisan or bipartisan
24 candidates;

1 (B) Attend political fund raisers for partisan or bipartisan
2 candidates;

3 (C) Serve as an unpaid volunteer on a partisan campaign;

4 (D) Politically endorse any candidate in a partisan or
5 bipartisan election; or

6 (E) Attend a county, state or national political party
7 convention.

8 (b) A member or member-elect of a county board, or a person
9 desiring to become a member of a county board, may make a written
10 request to the West Virginia Ethics Commission for an advisory
11 opinion to determine if another elected or appointed position held
12 or sought by the person is an office or public office which would
13 bar service on a county board pursuant to subsection (a) of this
14 section.

15 (1) Within thirty days of receipt of the request, the Ethics
16 Commission shall issue a written advisory opinion in response to
17 the request and also shall publish the opinion in a manner which,
18 to the fullest extent possible, does not reveal the identity of the
19 person making the request.

20 (2) A county board member who relies in good faith upon an
21 advisory opinion issued by the West Virginia Ethics Commission to
22 the effect that holding a particular office or public office is not
23 a bar from membership on a county board and against whom
24 proceedings are subsequently brought for removal from the county

1 board on the basis of holding that office or offices is entitled to
2 reimbursement by the county board for reasonable attorney's fees
3 and court costs incurred by the member in defending against these
4 proceedings, regardless of the outcome of the proceedings.

5 (3) A vote cast by the member at a meeting of the county board
6 may not be invalidated due to a subsequent finding that holding the
7 particular office or public office is a bar to membership on the
8 county board.

9 (4) Good faith reliance on a written advisory opinion of the
10 West Virginia Ethics Commission that a particular office or public
11 office is not a bar to membership on a county board is an absolute
12 defense to any civil suit or criminal prosecution arising from any
13 proper action taken within the scope of membership on the county
14 board, becoming a member-elect of the county board or seeking
15 election to the county board.

16 (c) To be eligible for election or appointment as a member of
17 a county board, a person shall possess at least a high school
18 diploma or a general educational development (GED) diploma. This
19 provision does not apply to members or members-elect who have taken
20 office prior to May 5, 1992, and who serve continuously from that
21 date forward.

22 (d) A person elected to a county board after July 1, 1990, may
23 not assume the duties of county board member unless he or she has
24 first attended and completed a course of orientation relating to

1 boardsmanship and governance effectiveness which shall be given
2 between the date of election and the beginning of the member's term
3 of office under the following conditions:

4 (1) A portion or portions of subsequent training such as that
5 offered in orientation may be provided to members after they have
6 commenced their term of office;

7 (2) Attendance at the session of orientation given between the
8 date of election and the beginning of the member's term of office
9 permits the member-elect to assume the duties of county board
10 member, as specified in this section;

11 (3) Members appointed to the county board shall attend and
12 complete the next orientation course offered following their
13 appointment; and

14 (4) The provisions of this subsection relating to orientation
15 do not apply to members who have taken office prior to July 1,
16 1988, and who serve continuously from that date forward.

17 (e) Annually, each member of a county board shall receive
18 seven clock hours of training in areas relating to boardsmanship,
19 governance effectiveness, and school performance issues including,
20 but not limited to, pertinent state and federal statutes such as
21 the "Process for Improving Education" set forth in section five,
22 article two-e of this chapter and the "No Child Left Behind Act"
23 and their respective administrative rules. A member must satisfy
24 the annual training requirement regardless of whether he or she is

1 compensated for the training as provided in section four, article
2 five of this chapter.

3 (1) The orientation and training shall be approved by the
4 state board and conducted by the West Virginia School Board
5 Association or other organization or organizations approved by the
6 state board:

7 (A) The state board may exclude time spent in training on
8 school performance issues from the requisite seven hours herein
9 required; and

10 (B) If the state board elects to exclude time spent in
11 training on school performance issues from the requisite seven
12 hours, the state board shall limit the training to a feasible and
13 practicable amount of time.

14 (2) Failure to attend and complete the approved course of
15 orientation and training relating to boardsmanship and governance
16 effectiveness without good cause as determined by the state board
17 by duly promulgated legislative rules constitutes neglect of duty
18 under section seven, article six, chapter six of this code.

19 (f) In the final year of any four-year term of office, a
20 member shall satisfy the annual training requirement before January
21 1. Failure to comply with the training requirements of this
22 section without good cause as defined by the state board by duly
23 promulgated legislative rules constitutes neglect of duty under
24 section seven, article six, chapter six of this code.

1 (g) The state board shall appoint a committee named the
2 "county board member training standards review committee" whose
3 members shall meet at least annually. Subject to state board
4 approval, the committee shall determine which particular trainings
5 and training organizations shall be approved and whether county
6 board members have satisfied the annual training requirement.
7 Members of the committee serve without compensation, but may be
8 reimbursed by their agencies or employers for all reasonable and
9 necessary expenses actually incurred in the performance of their
10 duties under this subsection.

11 **§18-5-4. Meetings; employment and assignment of teachers; budget**
12 **hearing; compensation of members; affiliation with**
13 **state and national associations.**

14 (a) The county board shall meet upon the dates provided by
15 law, and at any other times the county board fixes upon its
16 records. Subject to adequate public notice, nothing in this
17 section prohibits the county board from conducting regular meetings
18 in facilities within the county other than the county board office.
19 At any meeting as authorized in this section and in compliance with
20 the provisions of chapter eighteen-a of this code, the county board
21 may employ qualified teachers, or those who will qualify by the
22 time they enter upon their duties, necessary to fill existing or
23 anticipated vacancies for the current or next ensuing school year.
24 Meetings of the county board shall be held in compliance with the

1 provisions of chapter eighteen-a of this code for purposes relating
2 to the assignment, transfer, termination and dismissal of teachers
3 and other school employees.

4 (b) Special meetings may be called by the president or any
5 three members, but no business may be transacted other than that
6 designated in the call.

7 (c) In addition, a public hearing shall be held concerning the
8 preliminary operating budget for the next fiscal year not fewer
9 than ten days after the budget has been made available to the
10 public for inspection and within a reasonable time prior to the
11 submission of the budget to the state board for approval.
12 Reasonable time shall be granted at the hearing to any person who
13 wishes to speak regarding any part of the budget. Notice of the
14 hearing shall be published as a Class I legal advertisement in
15 compliance with the provisions of article three, chapter fifty-nine
16 of this code.

17 (d) A majority of the members of the county board is the
18 quorum necessary for the transaction of official business.

19 (e) Board members may receive compensation at a rate not to
20 exceed \$160 per meeting or training session attended ~~but they or,~~
21 pursuant to subsection (g) of this section, not to exceed \$200 per
22 meeting or training session attended: Provided, That in any one
23 fiscal year members, may not receive pay for more than fifty
24 meetings ~~in any one fiscal year. Board members who serve on an~~

~~1 administrative council of a multicounty vocational center also may
2 receive compensation for attending up to twelve meetings of the
3 council at the same rate as for meetings of the county board.
4 Meetings of the council are not counted as board meetings for
5 purposes of determining the limit on compensable board meetings and
6 such number of training sessions as the state board shall
7 determine; *Provided, however,* That board members may receive pay
8 for as many as sixty-five meetings in any fiscal year in which the
9 foundation allowance to their county under the West Virginia Public
10 School Support Plan is based upon net student enrollment in excess
11 of twenty thousand students.~~

12 (f) Before July 1, 2014, the state board in consultation with
13 the county board member training standards review committee
14 established pursuant to section one-a, article five of this
15 chapter, shall adopt a legislative rule in accordance with article
16 three-b, chapter twenty-nine-a of this code, defining "training
17 session," establishing the number of training sessions for which
18 board members may annually be compensated, and making compensation
19 for training sessions conditional upon verification by the West
20 Virginia School Board Association of board members' attendance at
21 training sessions.

22 (g) Board members may receive compensation at a rate greater
23 than \$160 per meeting or training session attended, not to exceed
24 \$200, subject to the following:

1 (1) Before July 1 of the fiscal year in which the compensation
2 rate is increased, the board must determine from fiscal information
3 provided by its superintendent that compensation at the greater
4 rate is fiscally responsible.

5 (2) Each board member in office on the effective date of the
6 compensation increase who desires to receive compensation at the
7 greater rate must file with the superintendent the member's
8 agreement to accept the compensation increase: *Provided, That the*
9 compensation rate of a member who fails to file the written
10 agreement shall, until the member vacates the office or the
11 member's term of office expires, whichever first occurs, be the
12 compensation rate in effect for members of the board immediately
13 prior to the effective date of the increase.

14 (3) If in the board's judgment there are insufficient revenues
15 to pay compensation at the greater rate and any related employment
16 taxes, then the compensation rate for the board's members shall
17 remain the same as when the fiscal analysis was undertaken in
18 accordance with the provisions of this subsection: *Provided, That*
19 a board having made this determination may review the same on or
20 before July 1 of the ensuing fiscal year. If after subsequent
21 review the board determines there are sufficient revenues to
22 provide the increase in compensation, the board, subject to the
23 procedures of this subsection, may agree to do so: *Provided,*
24 however, That no such increase in compensation may be retroactive

1 to the effective date of this statute.

2 ~~(e)~~ (h) Board members who serve on an administrative council
3 of a multicounty vocational center may receive compensation ~~at a~~
4 ~~rate not to exceed \$160 per meeting attended, but they may not~~
5 ~~receive pay for more than fifty meetings in any one fiscal year for~~
6 attending up to twelve meetings of the council at the same rate as
7 for meetings of the county board. Board members who serve on ~~an~~
8 ~~administrative regional~~ council of a multicounty ~~vocational center~~
9 ~~also~~ regional educational service agency may receive compensation
10 for attending up to ~~twelve~~ fifteen meetings of the council at the
11 same rate as for meetings of the county board. Meetings of the
12 administrative council and regional council are not counted as
13 board meetings for purposes of determining the limit on compensable
14 board meetings.

15 ~~(f)~~ (i) Members also shall be paid, upon the presentation of
16 an itemized sworn statement, for all necessary traveling expenses,
17 including all authorized meetings, incurred on official business,
18 at the order of the county board.

19 ~~(g)~~ (j) When, by a majority vote of its members, a county
20 board considers it a matter of public interest, the county board
21 may join the West Virginia School Board Association and the
22 National School Board Association and may pay the dues prescribed
23 by the associations and approved by action of the respective county
24 boards. Membership dues and actual traveling expenses incurred by

1 board members for attending meetings of the West Virginia School
2 Board Association may be paid by their respective county boards out
3 of funds available to meet actual expenses of the members, but no
4 allowance may be made except upon sworn itemized statements.

5 (k) Prior to December 1 of each year, the West Virginia School
6 Board Association shall provide to the Legislative Commission on
7 Education Accountability a report on board member compensation for
8 the preceding fiscal year, to include for each board at least the
9 following:

10 (1) The number of meetings held, broken down into regular
11 meetings and special meetings;

12 (2) The number of special meetings that were statutory
13 meetings;

14 (3) The number of special meetings that were called as
15 emergency meetings under article nine-a, chapter six of this code;

16 (4) The rate or rates of compensation paid to members for
17 attending meetings and training sessions, and whether this was
18 greater than the rate paid during the preceding fiscal year;

19 (5) The total compensation paid to members and each of them
20 for attending each of the following:

21 (A) Board meetings;

22 (B) Training sessions;

23 (C) Meetings of the administrative council of any multicounty
24 vocational center; and

1 (D) Meetings of the regional council of a multicounty regional
2 educational service agency.

NOTE: The purpose of this bill is to provide requirements for training sessions and various meetings of multicounty regional educational service agencies and county boards of education training requirements. It changes the compensation for attendance of various meetings and training sessions. And, provides annual reporting requirements to the Legislative Commission on Education Accountability.

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