

H. B. 2077

(By Delegates Caputo and Manchin)

[Introduced January 15, 2015; referred to the

Committee on Education then Finance.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. SCHOOL PERSONNEL.

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

(a) Before entering upon their duties, all teachers shall execute a contract with their county

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

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

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

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

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

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

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

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

11 (2) The termination shall take effect at the close of the school year in which the contract is
12 terminated;

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

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

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

19 (6) A continuing contract does not operate to prevent a teacher's dismissal based upon the
20 lack of need for the teacher's services pursuant to the provisions of law relating to the allocation to
21 teachers and pupil-teacher ratios. The written notification of teachers being considered for dismissal
22 for lack of need shall be limited to only those teachers whose consideration for dismissal is based

1 upon known or expected circumstances which will require dismissal for lack of need. An employee
2 who was not provided notice and an opportunity for a hearing pursuant to this subsection may not
3 be included on the list. In case of dismissal for lack of need, a dismissed teacher shall be placed
4 upon a preferred list in the order of their length of service with that board. No teacher may be
5 employed by the board until each qualified teacher upon the preferred list, in order, has been offered
6 the opportunity for reemployment in a position for which he or she is qualified, not including a
7 teacher who has accepted a teaching position elsewhere. The reemployment shall be upon a teacher's
8 preexisting continuing contract and has the same effect as though the contract had been suspended
9 during the time the teacher was not employed.

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

19 (e) Any teacher who fails to fulfill his or her contract with the board, unless prevented from
20 doing so by personal illness or other just cause or unless released from his or her contract by the
21 board, or who violates any lawful provision of the contract, is disqualified to teach in any other
22 public school in the state for a period of the next ensuing school year and the State Department of

1 Education or board may hold all papers and credentials of the teacher on file for a period of one year
2 for the violation: *Provided*, That marriage of a teacher is not considered a failure to fulfill, or
3 violation of, the contract.

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

10 (g) (1) A classroom teacher who gives written notice to the county board on or before January
11 15 of the school year of his or her retirement from employment with the board at the conclusion of
12 the school year shall be paid \$500 from the Early Notification of Retirement line item established
13 for the Department of Education for this purpose, subject to appropriation by the Legislature. If the
14 appropriations to the Department of Education for this purpose are insufficient to compensate all
15 applicable teachers, the Department of Education shall request a supplemental appropriation in an
16 amount sufficient to compensate all such teachers. Additionally, if funds are still insufficient to
17 compensate all applicable teachers, the priority of payment is for teachers who give written notice
18 the earliest. This payment shall not be counted as part of the final average salary for the purpose of
19 calculating retirement.

20 (2) The position of a classroom teacher providing written notice of retirement pursuant to this
21 subsection may be considered vacant and the county board may immediately post the position as an
22 opening to be filled at the conclusion of the school year. If a teacher has been hired to fill the

1 position of a retiring classroom teacher prior to the start of the next school year, the retiring
2 classroom teacher is disqualified from continuing his or her employment in that position. However,
3 the retiring classroom teacher may be permitted to continue his or her employment in that position
4 and forfeit the early retirement notification payment if, after giving notice of retirement in
5 accordance with this subsection, he or she becomes subject to a significant unforeseen financial
6 hardship, including a hardship caused by the death or illness of an immediate family member or loss
7 of employment of a spouse. Other significant unforeseen financial hardships shall be determined
8 by the county superintendent on a case-by-case basis. This subsection does not prohibit a county
9 school board from eliminating the position of a retiring classroom teacher.

10 **§18A-2-6a. Released time for service personnel.**

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

NOTE: The purpose of this bill is to require county boards of education to provide released time for professional educators and service personnel when serving in a part-time elected or appointed municipal or county office.

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