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H. B. 2755

(By Delegates Boggs, Hanshaw, D. Evans, Perry, Ashley, Pasdon,
Pethtel, Duke and Williams)

[Introduced February 16, 2015; referred to the
Committee on Education.]

A BILL to amend and reenact §18-5-11a of the Code of West Virginia, 1931, as amended, relating
to service and professional employee positions at jointly established schools.

Be it enacted by the Legislature of West Virginia:

That §18-5-11a of the Code of West Virginia, 1931, as amended, be amended and reenacted
to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-11a. Joint governing partnership board pilot initiative.

(a) The Legislature finds that many examples exist across the state of students who reside in
one county, but who attend the public schools in an adjoining county.

(1) These arrangements have been accommodated by the boards of the adjoining counties and
applicable statutes to serve best the interests of the students by enabling them to attend a school
closer to their homes.

(2) Typically, these arrangements have evolved because school closures or construction of
new schools in the student’s county of residence have made a cross-county transfer to an existing

1 school in an adjoining county a more convenient, practical and educationally sound option.

2 (b) The Legislature further finds that as population changes continue to occur, the boards of
3 adjoining counties may best serve the interests of their students and families by establishing a new
4 school in partnership to be attended by students residing in each of the counties. Particularly in the
5 case of elementary grade level schools established in partnership between adjoining counties, the
6 Legislature finds that each of the county boards, as well as the parents of students from each of the
7 counties attending the school, have an interest in the operation of the school and the preparation of
8 the students for success as they transition to the higher grade levels in the other schools of their
9 respective home counties. Therefore, in the absence of a well defined governance structure that
10 accommodates these interests, the purpose of this section is to provide for a joint governing
11 partnership board pilot initiative.

12 (c) The pilot initiative is limited to the joint establishment by two adjoining counties of a
13 school including elementary grade levels for which a memorandum of understanding on the
14 governance and operation of the school has been signed. The pilot initiative is subject to amendment
15 of the agreement as may be necessary to incorporate at least the following features of a joint
16 governing partnership board:

17 (1) The joint governing partnership board is comprised of the county superintendent of each
18 county, the president of the county board of each county or his or her designee, and a designee of the
19 state superintendent;

20 (2) The board shall elect a chair from among its membership for a two-year term and may
21 meet monthly or at the call of the chair.

22 (A) Meetings of the board are subject to the open governmental proceedings laws applicable

1 to county boards.

2 (B) The boards of the respective counties are responsible for the expenses of its members and
3 shall apportion other operational expenses of the board upon mutual agreement.

4 (C) Once the jointly established school is opened, the meetings of the board shall be held at
5 the school.

6 (3) All provisions of law applicable to the establishment, operation and management of an
7 inter-county school including, but not limited to, section eleven, article five and section fourteen,
8 article nine-a of this chapter and article eight-i, article four, chapter eighteen-a of this code apply,
9 except that the joint governing partnership board may exercise governing authority for operation and
10 management of the school in the following areas:

11 (A) *Personnel.*

12 (1) ~~Within the applicable~~ Notwithstanding any other laws for employment, evaluation,
13 mentoring, professional development, suspension and dismissal of public school employees, the
14 powers and duties of the county superintendent are vested in the joint governing partnership board
15 with respect to the employees employed by the county in which the school is located or assigned to
16 the school from the partner county. Pursuant to the provisions of section eight-i, article four, chapter
17 eighteen-a of this code, employees who are hired by the county board of the receiving county shall
18 accrue seniority in both the sending and receiving counties during the time in which they continue
19 to be employed at the jointly established school. Upon losing a position at the jointly established
20 school due to reduction in force or involuntary transfer, an employee shall displace a less senior
21 employee in the county of employment which immediately preceded employment at the jointly
22 established school. Once an employee from the sending county voluntarily transfers or resigns from

1 a position at the jointly established school and is no longer employed in the receiving county, the
2 employee's seniority and any other statutory rights in the receiving county cease.

3 (2) When initially filling service and professional employee positions at the jointly
4 established school, the counties shall follow the procedures established in section eight-i, article four,
5 chapter eighteen-a of this code. For the initial school year of the jointly established school's opening
6 only, the receiving county may not fill any vacancies created by the retirement or voluntary transfer
7 of employees of the receiving county school from February 1 of the school year immediately
8 preceding the opening of the school until January 1 following the opening of the jointly established
9 school until the receiving county has received the list of employees created pursuant to the provisions
10 of subsection (c), section eight-i, article four, chapter eighteen-a of this code. The receiving county
11 may not fill any of the vacancies referenced in this subsection until the vacancies have been offered
12 to qualified individuals from the certified list.

13 ~~(2)~~ (3) The employees of the jointly established school are the employees of the employing
14 county board and the partnership board may make recommendations concerning these employment
15 matters to the employing board it considers necessary and appropriate.

16 (B) *Curriculum.*

17 (1) The joint governing partnership board is responsible for the formulation and execution
18 of the school's strategic improvement plan and technology plan to meet the goals for student and
19 school performance and progress.

20 (2) In its formulation of these plans, the partnership board shall consider the curriculum and
21 plans of the respective county boards to ensure preparation of the students at the school for their
22 successful transition into the higher grade level schools of the respective counties;

1 (C) *Finances*. The joint governing partnership board shall control and may approve the
2 expenditure of all funds allocated to the school for the school budget from either county and may
3 solicit and receive donations, apply for and receive grants and conduct fund raisers to supplement
4 the budget; and

5 (D) *Facilities*. Consistent with the policies in effect concerning liability insurance coverage,
6 maintenance and appropriate uses of school facilities for the schools of the county in which the
7 school is located, the joint governing partnership board governs the use of the school facility and
8 ensures equitable opportunities for access and use by organizations and groups from both counties.

9 (b) The joint governing partnership board may adopt policies for the school that are separate
10 from the policies of the respective counties and, working in concert with its local school
11 improvement council, may propose alternatives to the operation of the school which require the
12 request of a waiver of policy, interpretation or statute from either or both county boards, the state
13 board or the Legislature as appropriate.

14 (c) The superintendents and presidents of county boards of adjoining counties that have in
15 effect on the effective date of this section a memorandum of understanding on the governance and
16 operation of a jointly established school shall report to the Legislative Oversight Commission on
17 Education Accountability on or before November 1, 2013, on the status of implementation of this
18 section.

19 (1) Once established, the joint governing partnership board established under this pilot
20 initiative shall remain in effect for five consecutive school years unless authority for the pilot
21 initiative is repealed.

22 (2) The Legislative Oversight Commission on Education Accountability may request the

1 superintendents and the presidents of the county boards to provide periodic updates on this pilot
2 initiative. Also, at the conclusion of the five-year pilot initiative, they shall report their
3 recommendations on the viability of the joint governing partnership board approach and any
4 recommended changes to the Legislative Oversight Commission on Education Accountability.

5 (A) When the five-year period is concluded, by affirmative vote of both boards, the joint
6 governing partnership board shall remain in effect; or

7 (B) The agreement between the boards for the governance and operation of the school shall
8 revert to the terms in effect on the effective date of this section, subject to amendment by agreement
9 of the boards.

NOTE: The purpose of this bill is to address seniority and other personnel issues relating to service and professional employee positions at jointly established schools.

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