

E N R O L L E D

COMMITTEE SUBSTITUTE

for

H. B. 2702

(BY DELEGATE(S) PASDON, PERRY, MOYE,
HAMRICK, CAMPBELL, STATLER, ROWAN AND ESPINOSA)

[Passed March 9, 2015, in effect from passage.]

AN ACT to amend and reenact §18-5-18 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-4-8, §18A-4-8a and §18A-4-8b of said code, all relating to redefining service personnel class titles of early childhood classroom assistant teacher; protecting certain aides from reduction in force or transfer to create vacancy for less senior early childhood classroom assistant teacher; requiring aide who becomes employed as early childhood classroom assistant teacher to hold certain multiclassification status; and including early childhood assistant classroom assistant teacher in same classification category as aides.

Be it enacted by the Legislature of West Virginia:

That §18-5-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §18A-4-8, §18A-4-8a and §18A-4-8b of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18. Kindergarten programs.

1 (a) County boards shall provide kindergarten programs for
2 all children who have attained the age of five prior to September
3 1, of the school year in which the pupil enters the kindergarten
4 program and may, pursuant to the provisions of section forty-
5 four, article five, chapter eighteen of this code, establish
6 kindergarten programs designed for children below the age of
7 five. The programs for children who shall have attained the age
8 of five shall be full-day everyday programs.

9 (b) Persons employed as kindergarten teachers, as
10 distinguished from paraprofessional personnel, shall be required
11 to hold a certificate valid for teaching at the assigned level as
12 prescribed by rules established by the state board. The state
13 board shall establish the minimum requirements for all
14 paraprofessional personnel employed in kindergarten programs
15 established pursuant to the provisions of this section and no such
16 paraprofessional personnel may be employed in any kindergarten
17 program unless he or she meets the minimum requirements.
18 Beginning July 1, 2014, any person previously employed as an
19 aide in a kindergarten program and who is employed in the same
20 capacity on and after that date and any new person employed in
21 that capacity in a kindergarten program on and after that date
22 shall hold the position of aide and either Early Childhood
23 Classroom Assistant Teacher I, Early Childhood Classroom
24 Assistant Teacher II or Early Childhood Classroom Assistant
25 Teacher III. Any person employed as an aide in a kindergarten
26 program that is eligible for full retirement benefits before July 1,
27 2020, may remain employed as an aide in that position and shall
28 be granted an Early Childhood Classroom Assistant Teacher

29 permanent authorization by the state superintendent pursuant to
30 section two-a, article three, chapter eighteen-a of this code.

31 (c) The state board with the advice of the state
32 superintendent shall establish and prescribe guidelines and
33 criteria relating to the establishment, operation and successful
34 completion of kindergarten programs in accordance with the
35 other provisions of this section. Guidelines and criteria so
36 established and prescribed also are intended to serve for the
37 establishment and operation of nonpublic kindergarten programs
38 and shall be used for the evaluation and approval of those
39 programs by the state superintendent, provided application for
40 the evaluation and approval is made in writing by proper
41 authorities in control of the programs. The state superintendent,
42 annually, shall publish a list of nonpublic kindergarten programs,
43 including Montessori kindergartens that have been approved in
44 accordance with the provisions of this section. Montessori
45 kindergartens established and operated in accordance with usual
46 and customary practices for the use of the Montessori method
47 which have teachers who have training or experience, regardless
48 of additional certification, in the use of the Montessori method
49 of instruction for kindergartens shall be considered to be
50 approved.

51 (d) Pursuant to the guidelines and criteria, and only pursuant
52 to the guidelines and criteria, the county boards may establish
53 programs taking kindergarten to the homes of the children
54 involved, using educational television, paraprofessional
55 personnel in addition to and to supplement regularly certified
56 teachers, mobile or permanent classrooms and other means
57 developed to best carry kindergarten to the child in its home and
58 enlist the aid and involvement of its parent or parents in
59 presenting the program to the child; or may develop programs of
60 a more formal kindergarten type, in existing school buildings, or
61 both, as the county board may determine, taking into
62 consideration the cost, the terrain, the existing available

63 facilities, the distances each child may be required to travel, the
64 time each child may be required to be away from home, the
65 child's health, the involvement of parents and other factors as
66 each county board may find pertinent. The determinations by any
67 county board are final and conclusive.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

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

1 (a) The purpose of this section is to establish an employment
2 term and class titles for service personnel. The employment term
3 for service personnel may not be less than ten months. A month
4 is defined as twenty employment days. The county board may
5 contract with all or part of these service personnel for a longer
6 term.

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

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

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

20 (e) If a service person whose regular work week is scheduled
21 from Monday through Friday agrees to perform any work

22 assignments on a Saturday or Sunday, the service person is paid
23 for at least one-half day of work for each day he or she reports
24 for work. If the service person works more than three and one-
25 half hours on any Saturday or Sunday, he or she is paid for at
26 least a full day of work for each day.

27 (f) A custodian, aide, maintenance, office and school lunch
28 service person required to work a daily work schedule that is
29 interrupted is paid additional compensation in accordance with
30 this subsection.

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

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

39 (3) The additional compensation provided in this subsection:

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

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

44 (g) When there is a change in classification or when a
45 service person meets the requirements of an advanced
46 classification, his or her salary shall be made to comply with the
47 requirements of this article and any county salary schedule in
48 excess of the minimum requirements of this article, based upon
49 the service person's advanced classification and allowable years
50 of employment.

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

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

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

61 (2) "Years of employment" means the number of years
62 which an employee classified as a service person has been
63 employed by a county board in any position prior to or
64 subsequent to the effective date of this section and includes
65 service in the Armed Forces of the United States, if the
66 employee was employed at the time of his or her induction. For
67 the purpose of section eight-a of this article, years of
68 employment is limited to the number of years shown and
69 allowed under the state minimum pay scale as set forth in section
70 eight-a of this article;

71 (3) "Class title" means the name of the position or job held
72 by a service person;

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

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

80 (6) “Accountant III” means a person employed in the county
81 board office to manage and supervise accounts payable, payroll
82 procedures, or both;

83 (7) “Accounts payable supervisor” means a person employed
84 in the county board office who has primary responsibility for the
85 accounts payable function and who either has completed twelve
86 college hours of accounting courses from an accredited
87 institution of higher education or has at least eight years of
88 experience performing progressively difficult accounting tasks.
89 Responsibilities of this class title may include supervision of
90 other personnel;

91 (8) “Aide I” means a person selected and trained for a
92 teacher-aide classification such as monitor aide, clerical aide,
93 classroom aide or general aide;

94 (9) “Aide II” means a service person referred to in the “Aide
95 I” classification who has completed a training program approved
96 by the state board, or who holds a high school diploma or has
97 received a general educational development certificate. Only a
98 person classified in an Aide II class title may be employed as an
99 aide in any special education program

100 (10) “Aide III” means a service person referred to in the
101 “Aide I” classification who holds a high school diploma or a
102 general educational development certificate; and

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

105 (B) Is employed as an aide in a special education program
106 and has one year’s experience as an aide in special education;

107 (11) “Aide IV” means a service person referred to in the
108 “Aide I” classification who holds a high school diploma or a
109 general educational development certificate; and

110 (A) Has completed eighteen hours of State Board-approved
111 college credit at a regionally accredited institution of higher
112 education, or

113 (B) Has completed fifteen hours of State Board-approved
114 college credit at a regionally accredited institution of higher
115 education; and has successfully completed an in-service training
116 program determined by the state Board to be the equivalent of
117 three hours of college credit;

118 (12) “Audiovisual technician” means a person employed to
119 perform minor maintenance on audiovisual equipment, films,
120 and supplies and who fills requests for equipment;

121 (13) “Auditor” means a person employed to examine and
122 verify accounts of individual schools and to assist schools and
123 school personnel in maintaining complete and accurate records
124 of their accounts;

125 (14) “Autism mentor” means a person who works with
126 autistic students and who meets standards and experience to be
127 determined by the state Board. A person who has held or holds
128 an aide title and becomes employed as an autism mentor shall
129 hold a multiclassification status that includes both aide and
130 autism mentor titles, in accordance with section eight-b of this
131 article;

132 (15) “Braille specialist” means a person employed to provide
133 braille assistance to students. A service person who has held or
134 holds an aide title and becomes employed as a braille specialist
135 shall hold a multiclassification status that includes both aide and
136 braille specialist title, in accordance with section eight-b of this
137 article;

138 (16) “Bus operator” means a person employed to operate
139 school buses and other school transportation vehicles as
140 provided by the state board;

141 (17) “Buyer” means a person employed to review and write
142 specifications, negotiate purchase bids and recommend purchase
143 agreements for materials and services that meet predetermined
144 specifications at the lowest available costs;

145 (18) “Cabinetmaker” means a person employed to construct
146 cabinets, tables, bookcases and other furniture;

147 (19) “Cafeteria manager” means a person employed to direct
148 the operation of a food services program in a school, including
149 assigning duties to employees, approving requisitions for
150 supplies and repairs, keeping inventories, inspecting areas to
151 maintain high standards of sanitation, preparing financial reports
152 and keeping records pertinent to food services of a school;

153 (20) “Carpenter I” means a person classified as a carpenter’s
154 helper;

155 (21) “Carpenter II” means a person classified as a
156 journeyman carpenter;

157 (22) “Chief mechanic” means a person employed to be
158 responsible for directing activities which ensure that student
159 transportation or other county board-owned vehicles are properly
160 and safely maintained;

161 (23) “Clerk I” means a person employed to perform clerical
162 tasks;

163 (24) “Clerk II” means a person employed to perform general
164 clerical tasks, prepare reports and tabulations, and operate office
165 machines;

166 (25) "Computer operator" means a qualified person
167 employed to operate computers;

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

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

173 (28) "Cook III" means a person employed to prepare and
174 serve meals, make reports, prepare requisitions for supplies,
175 order equipment and repairs for a food service program of a
176 school system;

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

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

182 (31) "Custodian II" means a person employed as a watchman
183 or groundsman;

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

187 (33) "Custodian IV" means a person employed as a head
188 custodian. In addition to providing services as defined in
189 "Custodian III" duties may include supervising other custodian
190 personnel;

191 (34) "Director or coordinator of services" means an
192 employee of a county board who is assigned to direct a
193 department or division.

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

196 (B) Professional personnel holding this class title may not be
197 defined or classified as service personnel unless the professional
198 person held a service personnel title under this section prior to
199 holding the class title of “director or coordinator of services;”

200 (C) The director or coordinator of services is classified either
201 as a professional person or a service person for state aid formula
202 funding purposes;

203 (D) Funding for the position of director or coordinator of
204 services is based upon the employment status of the director or
205 coordinator either as a professional person or a service person;
206 and

207 (E) A person employed under the class title “director or
208 coordinator of services” may not be exclusively assigned to
209 perform the duties ascribed to any other class title as defined in
210 this subsection: *Provided*, That nothing in this paragraph
211 prohibits a person in this position from being multiclassified;

212 (35) “Draftsman” means a person employed to plan, design
213 and produce detailed architectural/engineering drawings;

214 (36) “Early Childhood Classroom Assistant Teacher I”
215 means a person who does not possess minimum requirements for
216 the permanent authorization requirements, but is enrolled in and
217 pursuing requirements;

218 (37) “Early Childhood Classroom Assistant Teacher II”
219 means a person who has completed the minimum requirements
220 for a state-awarded certificate for early childhood classroom
221 assistant teachers as determined by the State Board;

222 (38) “Early Childhood Classroom Assistant Teacher III”
223 means a person who has completed permanent authorization
224 requirements, as well as additional requirements comparable to
225 current paraprofessional certificate;

226 (39) “Educational Sign Language Interpreter I” means a
227 person employed to provide communication access across all
228 educational environments to students who are deaf or hard of
229 hearing, and who holds the Initial Paraprofessional Certificate –
230 Educational Interpreter pursuant to state board policy;

231 (40) “Educational Sign Language Interpreter II” means a
232 person employed to provide communication access across all
233 educational environments to students who are deaf or hard of
234 hearing, and who holds the Permanent Paraprofessional
235 Certificate – Educational Interpreter pursuant to state board
236 policy;

237 (41) “Electrician I” means a person employed as an
238 apprentice electrician helper or one who holds an electrician
239 helper license issued by the State Fire Marshal;

240 (42) “Electrician II” means a person employed as an
241 electrician journeyman or one who holds a journeyman
242 electrician license issued by the State Fire Marshal;

243 (43) “Electronic technician I” means a person employed at
244 the apprentice level to repair and maintain electronic equipment;

245 (44) “Electronic technician II” means a person employed at
246 the journeyman level to repair and maintain electronic
247 equipment;

248 (45) “Executive secretary” means a person employed as
249 secretary to the county school superintendent or as a secretary
250 who is assigned to a position characterized by significant
251 administrative duties;

252 (46) “Food services supervisor” means a qualified person
253 who is not a professional person or professional educator as
254 defined in section one, article one of this chapter. The food
255 services supervisor is employed to manage and supervise a
256 county school system’s food service program. The duties include
257 preparing in-service training programs for cooks and food
258 service employees, instructing personnel in the areas of quantity
259 cooking with economy and efficiency and keeping aggregate
260 records and reports;

261 (47) “Foreman” means a skilled person employed to
262 supervise personnel who work in the areas of repair and
263 maintenance of school property and equipment;

264 (48) “General maintenance” means a person employed as a
265 helper to skilled maintenance employees, and to perform minor
266 repairs to equipment and buildings of a county school system;

267 (49) “Glazier” means a person employed to replace glass or
268 other materials in windows and doors and to do minor carpentry
269 tasks;

270 (50) “Graphic artist” means a person employed to prepare
271 graphic illustrations;

272 (51) “Groundsman” means a person employed to perform
273 duties that relate to the appearance, repair and general care of
274 school grounds in a county school system. Additional
275 assignments may include the operation of a small heating plant
276 and routine cleaning duties in buildings;

277 (52) “Handyman” means a person employed to perform
278 routine manual tasks in any operation of the county school
279 system;

280 (53) “Heating and air conditioning mechanic I” means a
281 person employed at the apprentice level to install, repair and

282 maintain heating and air conditioning plants and related
283 electrical equipment;

284 (54) "Heating and air conditioning mechanic II" means a
285 person employed at the journeyman level to install, repair and
286 maintain heating and air conditioning plants and related
287 electrical equipment;

288 (55) "Heavy equipment operator" means a person employed
289 to operate heavy equipment;

290 (56) "Inventory supervisor" means a person employed to
291 supervise or maintain operations in the receipt, storage,
292 inventory and issuance of materials and supplies;

293 (57) "Key punch operator" means a qualified person
294 employed to operate key punch machines or verifying machines;

295 (58) "Licensed practical nurse" means a nurse, licensed by
296 the West Virginia Board of Examiners for Licensed Practical
297 Nurses, employed to work in a public school under the
298 supervision of a school nurse;

299 (59) "Locksmith" means a person employed to repair and
300 maintain locks and safes;

301 (60) "Lubrication man" means a person employed to
302 lubricate and service gasoline or diesel-powered equipment of a
303 county school system;

304 (61) "Machinist" means a person employed to perform
305 machinist tasks which include the ability to operate a lathe,
306 planer, shaper, threading machine and wheel press. A person
307 holding this class title also should have the ability to work from
308 blueprints and drawings;

309 (62) "Mail clerk" means a person employed to receive, sort,
310 dispatch, deliver or otherwise handle letters, parcels and other
311 mail;

312 (63) "Maintenance clerk" means a person employed to
313 maintain and control a stocking facility to keep adequate tools
314 and supplies on hand for daily withdrawal for all school
315 maintenance crafts;

316 (64) "Mason" means a person employed to perform tasks
317 connected with brick and block laying and carpentry tasks
318 related to these activities;

319 (65) "Mechanic" means a person employed to perform
320 skilled duties independently in the maintenance and repair of
321 automobiles, school buses and other mechanical and mobile
322 equipment to use in a county school system;

323 (66) "Mechanic assistant" means a person employed as a
324 mechanic apprentice and helper;

325 (67) "Multiclassification" means a person employed to
326 perform tasks that involve the combination of two or more class
327 titles in this section. In these instances the minimum salary scale
328 is the higher pay grade of the class titles involved;

329 (68) "Office equipment repairman I" means a person
330 employed as an office equipment repairman apprentice or helper;

331 (69) "Office equipment repairman II" means a person
332 responsible for servicing and repairing all office machines and
333 equipment. A person holding this class title is responsible for the
334 purchase of parts necessary for the proper operation of a
335 program of continuous maintenance and repair;

336 (70) "Painter" means a person employed to perform duties
337 painting, finishing and decorating wood, metal and concrete
338 surfaces of buildings, other structures, equipment, machinery
339 and furnishings of a county school system;

340 (71) “Paraprofessional” means a person certified pursuant to
341 section two-a, article three of this chapter to perform duties in a
342 support capacity including, but not limited to, facilitating in the
343 instruction and direct or indirect supervision of students under
344 the direction of a principal, a teacher or another designated
345 professional educator.

346 (A) A person employed on the effective date of this section
347 in the position of an aide may not be subject to a reduction in
348 force or transferred to create a vacancy for the employment of a
349 paraprofessional;

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

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

360 (72) “Payroll supervisor” means a person employed in the
361 county board office who has primary responsibility for the
362 payroll function and who either has completed twelve college
363 hours of accounting from an accredited institution of higher
364 education or has at least eight years of experience performing
365 progressively difficult accounting tasks. Responsibilities of this
366 class title may include supervision of other personnel;

367 (73) “Plumber I” means a person employed as an apprentice
368 plumber and helper;

369 (74) “Plumber II” means a person employed as a journeyman
370 plumber;

371 (75) "Printing operator" means a person employed to operate
372 duplication equipment, and to cut, collate, staple, bind and
373 shelve materials as required;

374 (76) "Printing supervisor" means a person employed to
375 supervise the operation of a print shop;

376 (77) "Programmer" means a person employed to design and
377 prepare programs for computer operation;

378 (78) "Roofing/sheet metal mechanic" means a person
379 employed to install, repair, fabricate and maintain roofs, gutters,
380 flashing and duct work for heating and ventilation;

381 (79) "Sanitation plant operator" means a person employed
382 to operate and maintain a water or sewage treatment plant to
383 ensure the safety of the plant's effluent for human consumption
384 or environmental protection;

385 (80) "School bus supervisor" means a qualified person:

386 (A) Employed to assist in selecting school bus operators and
387 routing and scheduling school buses, operate a bus when needed,
388 relay instructions to bus operators, plan emergency routing of
389 buses and promote good relationships with parents, students, bus
390 operators and other employees; and

391 (B) Certified to operate a bus or previously certified to
392 operate a bus;

393 (81) "Secretary I" means a person employed to transcribe
394 from notes or mechanical equipment, receive callers, perform
395 clerical tasks, prepare reports and operate office machines;

396 (82) "Secretary II" means a person employed in any
397 elementary, secondary, kindergarten, nursery, special education,
398 vocational, or any other school as a secretary. The duties may

399 include performing general clerical tasks; transcribing from
400 notes; stenotype, mechanical equipment or a sound-producing
401 machine; preparing reports; receiving callers and referring them
402 to proper persons; operating office machines; keeping records
403 and handling routine correspondence. Nothing in this subdivision
404 prevents a service person from holding or being elevated to a
405 higher classification;

406 (83) “Secretary III” means a person assigned to the county
407 board office administrators in charge of various instructional,
408 maintenance, transportation, food services, operations and health
409 departments, federal programs or departments with particular
410 responsibilities in purchasing and financial control or any person
411 who has served for eight years in a position which meets the
412 definition of “Secretary II” or “Secretary III”;

413 (84) “Sign Support Specialist” means a person employed to
414 provide sign supported speech assistance to students who are
415 able to access environments through audition. A person who has
416 held or holds an aide title and becomes employed as a sign
417 support specialist shall hold a multiclassification status that
418 includes both aide and sign support specialist titles, in
419 accordance with section eight-b of this article.

420 (85) “Supervisor of maintenance” means a skilled person
421 who is not a professional person or professional educator as
422 defined in section one, article one of this chapter. The
423 responsibilities include directing the upkeep of buildings and
424 shops, and issuing instructions to subordinates relating to
425 cleaning, repairs and maintenance of all structures and
426 mechanical and electrical equipment of a county board;

427 (86) “Supervisor of transportation” means a qualified person
428 employed to direct school transportation activities properly and
429 safely, and to supervise the maintenance and repair of vehicles,
430 buses and other mechanical and mobile equipment used by the

431 county school system. After July 1, 2010, all persons employed
432 for the first time in a position with this classification title or in
433 a multiclassification position that includes this title shall have
434 five years of experience working in the transportation
435 department of a county board. Experience working in the
436 transportation department consists of serving as a bus operator,
437 bus aide, assistant mechanic, mechanic, chief mechanic or in a
438 clerical position within the transportation department;

439 (87) “Switchboard operator-receptionist” means a person
440 employed to refer incoming calls, to assume contact with the
441 public, to direct and to give instructions as necessary, to operate
442 switchboard equipment and to provide clerical assistance;

443 (88) “Truck driver” means a person employed to operate
444 light or heavy duty gasoline and diesel-powered vehicles;

445 (89) “Warehouse clerk” means a person employed to be
446 responsible for receiving, storing, packing and shipping goods;

447 (90) “Watchman” means a person employed to protect
448 school property against damage or theft. Additional assignments
449 may include operation of a small heating plant and routine
450 cleaning duties;

451 (91) “Welder” means a person employed to provide
452 acetylene or electric welding services for a school system; and

453 (92) “WVEIS data entry and administrative clerk” means a
454 person employed to work under the direction of a school
455 principal to assist the school counselor or counselors in the
456 performance of administrative duties, to perform data entry tasks
457 on the West Virginia Education Information System, and to
458 perform other administrative duties assigned by the principal.

459 (j) Notwithstanding any provision in this code to the
460 contrary, and in addition to the compensation provided for

461 service personnel in section eight-a of this article, each service
462 person is entitled to all service personnel employee rights,
463 privileges and benefits provided under this or any other chapter
464 of this code without regard to the employee's hours of
465 employment or the methods or sources of compensation.

466 (k) A service person whose years of employment exceeds the
467 number of years shown and provided for under the state
468 minimum pay scale set forth in section eight-a of this article may
469 not be paid less than the amount shown for the maximum years
470 of employment shown and provided for in the classification in
471 which he or she is employed.

472 (l) Each county board shall review each service person's job
473 classification annually and shall reclassify all service persons as
474 required by the job classifications. The state superintendent may
475 withhold state funds appropriated pursuant to this article for
476 salaries for service personnel who are improperly classified by
477 the county boards. Further, the state superintendent shall order
478 a county board to correct immediately any improper
479 classification matter and, with the assistance of the Attorney
480 General, shall take any legal action necessary against any county
481 board to enforce the order.

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

484 (1) Reclassified by class title; or

485 (2) Relegated to any condition of employment which would
486 result in a reduction of his or her salary, rate of pay,
487 compensation or benefits earned during the current fiscal year;
488 or for which he or she would qualify by continuing in the same
489 job position and classification held during that fiscal year and
490 subsequent years.

491 (n) Any county board failing to comply with the provisions
492 of this article may be compelled to do so by mandamus and is
493 liable to any party prevailing against the board for court costs
494 and the prevailing party's reasonable attorney fee, as determined
495 and established by the court.

496 (o) Notwithstanding any provision of this code to the
497 contrary, a service person who holds a continuing contract in a
498 specific job classification and who is physically unable to
499 perform the job's duties as confirmed by a physician chosen by
500 the employee, shall be given priority status over any employee
501 not holding a continuing contract in filling other service
502 personnel job vacancies if the service person is qualified as
503 provided in section eight-e of this article.

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

508 (q) Without the written consent of the service person, a
509 county board may not establish the beginning work station for a
510 bus operator or transportation aide at any site other than a county
511 board-owned facility with available parking. The workday of the
512 bus operator or transportation aide commences at the bus at the
513 designated beginning work station and ends when the employee
514 is able to leave the bus at the designated beginning work station,
515 unless he or she agrees otherwise in writing. The application or
516 acceptance of a posted position may not be construed as the
517 written consent referred to in this subsection.

518 (r) Itinerant status means a service person who does not have
519 a fixed work site and may be involuntarily reassigned to another
520 work site. A service person is considered to hold itinerant status
521 if he or she has bid upon a position posted as itinerant or has
522 agreed to accept this status. A county board may establish

523 positions with itinerant status only within the aide and autism
524 mentor classification categories and only when the job duties
525 involve exceptional students. A service person with itinerant
526 status may be assigned to a different work site upon written
527 notice ten days prior to the reassignment without the consent of
528 the employee and without posting the vacancy. A service person
529 with itinerant status may be involuntarily reassigned no more
530 than twice during the school year. At the conclusion of each
531 school year, the county board shall post and fill, pursuant to
532 section eight-b of this article, all positions that have been filled
533 without posting by a service person with itinerant status. A
534 service person who is assigned to a beginning and ending work
535 site and travels at the expense of the county board to other work
536 sites during the daily schedule, is not considered to hold itinerant
537 status.

538 (s) Any service person holding a classification title on June
539 30, 2013, that is removed from the classification schedule
540 pursuant to amendment and reenactment of this section in the
541 year 2013, has his or her employment contract revised as
542 follows:

543 (1) Any service person holding the Braille or Sign Language
544 Specialist classification title has that classification title renamed
545 on his or her employment contract as either Braille Specialist or
546 Sign Support Specialist. This action does not result in a loss or
547 reduction of salary or supplement by any employee. Any
548 seniority earned in the Braille or Sign Language Specialist
549 classification prior to July 1, 2013, continues to be credited as
550 seniority earned in the Braille Specialist or Sign Support
551 Specialist classification;

552 (2) Any service person holding the Paraprofessional
553 classification title and holding the Initial Paraprofessional
554 Certificate – Educational Interpreter has the title Educational
555 Sign Language Interpreter I added to his or her employment

556 contract. This action does not result in a loss or reduction of
557 salary or supplement by any employee. Any seniority earned in
558 the Paraprofessional classification prior to July 1, 2013,
559 continues to be credited as seniority earned in the Educational
560 Sign Language Interpreter I classification; and

561 (3) Any service person holding the Paraprofessional
562 classification title and holding the Permanent Paraprofessional
563 Certificate – Educational Interpreter has the title Educational
564 Sign Language Interpreter II added to his or her employment
565 contract. This action does not result in a loss or reduction of
566 salary or supplement by any employee. Any seniority earned in
567 the Paraprofessional classification prior to July 1, 2013,
568 continues to be credited as seniority earned in the Educational
569 Sign Language Interpreter II classification;

570 (t) Any person employed as an aide in a kindergarten
571 program who is eligible for full retirement benefits before the
572 first day of the instructional term in the 2020-2021 school year,
573 may not be subject to a reduction in force or transferred to create
574 a vacancy for the employment of a less senior Early Childhood
575 Classroom Assistant Teacher;

576 (u) A person who has held or holds an aide title and becomes
577 employed as an Early Childhood Classroom Assistant Teacher
578 shall hold a multiclassification status that includes aide and/or
579 paraprofessional titles in accordance with section eight-b of this
580 article.

§18A-4-8a. Service personnel minimum monthly salaries.

1 (a) The minimum monthly pay for each service employee
2 shall be as follows:

3 (1) Beginning July 1, 2014, and continuing thereafter, the
4 minimum monthly pay for each service employee whose

5 employment is for a period of more than three and one-half
 6 hours a day shall be at least the amounts indicated in the State
 7 Minimum Pay Scale Pay Grade and the minimum monthly pay
 8 for each service employee whose employment is for a period of
 9 three and one-half hours or less a day shall be at least one-half
 10 the amount indicated in the State Minimum Pay Scale Pay Grade
 11 set forth in this subdivision.

12 STATE MINIMUM PAY SCALE PAY GRADE

13	Years Exp.	Pay Grade							
		<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
14	0	1,660	1,681	1,723	1,776	1,829	1,892	1,924	1,997
15	1	1,692	1,714	1,755	1,808	1,862	1,925	1,956	2,030
16	2	1,725	1,746	1,788	1,841	1,894	1,957	1,989	2,062
17	3	1,757	1,779	1,821	1,874	1,927	1,990	2,022	2,095
18	4	1,790	1,812	1,853	1,906	1,959	2,023	2,054	2,129
19	5	1,823	1,844	1,886	1,939	1,992	2,055	2,087	2,161
20	6	1,855	1,877	1,920	1,972	2,025	2,088	2,120	2,194
21	7	1,889	1,909	1,952	2,004	2,057	2,121	2,152	2,227
22	8	1,922	1,942	1,985	2,037	2,090	2,153	2,185	2,259
23	9	1,954	1,975	2,018	2,071	2,123	2,186	2,217	2,292
24	10	1,987	2,008	2,050	2,103	2,155	2,220	2,251	2,325
25	11	2,020	2,041	2,083	2,136	2,188	2,252	2,284	2,357
26	12	2,052	2,074	2,115	2,169	2,222	2,285	2,316	2,390
27	13	2,085	2,106	2,148	2,201	2,254	2,317	2,349	2,423
28	14	2,118	2,139	2,181	2,234	2,287	2,350	2,382	2,455
29	15	2,150	2,172	2,213	2,266	2,319	2,383	2,414	2,488
30	16	2,183	2,204	2,246	2,299	2,352	2,415	2,447	2,521

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31	17	2,215	2,237	2,280	2,332	2,385	2,448	2,480	2,554
32	18	2,248	2,270	2,312	2,364	2,417	2,481	2,512	2,587
33	19	2,282	2,302	2,345	2,397	2,450	2,513	2,545	2,619
34	20	2,314	2,335	2,378	2,431	2,483	2,546	2,578	2,653
35	21	2,347	2,367	2,410	2,463	2,515	2,579	2,610	2,687
36	22	2,380	2,401	2,443	2,496	2,548	2,612	2,644	2,719
37	23	2,412	2,434	2,476	2,529	2,582	2,646	2,678	2,753
38	24	2,445	2,466	2,508	2,561	2,614	2,680	2,711	2,787
39	25	2,478	2,499	2,541	2,594	2,648	2,712	2,745	2,819
40	26	2,510	2,532	2,573	2,628	2,682	2,746	2,777	2,853
41	27	2,543	2,564	2,606	2,660	2,714	2,778	2,811	2,886
42	28	2,576	2,597	2,640	2,694	2,748	2,812	2,845	2,920
43	29	2,608	2,631	2,673	2,726	2,781	2,846	2,877	2,954
44	30	2,642	2,663	2,707	2,760	2,814	2,878	2,911	2,987
45	31	2,675	2,697	2,741	2,794	2,848	2,912	2,945	3,020
46	32	2,709	2,730	2,773	2,827	2,880	2,946	2,977	3,054
47	33	2,743	2,763	2,807	2,861	2,914	2,978	3,011	3,087
48	34	2,775	2,797	2,841	2,895	2,948	3,012	3,045	3,120
49	35	2,809	2,831	2,873	2,927	2,980	3,046	3,078	3,154
50	36	2,843	2,864	2,907	2,961	3,015	3,079	3,112	3,186
51	37	2,875	2,898	2,941	2,995	3,049	3,113	3,145	3,220
52	38	2,909	2,930	2,973	3,027	3,081	3,146	3,178	3,254
53	39	2,943	2,964	3,007	3,061	3,115	3,179	3,212	3,286
54	40	2,975	2,998	3,040	3,094	3,149	3,213	3,245	3,320

55 (2) Each service employee shall receive the amount
 56 prescribed in the Minimum Pay Scale in accordance with the

57 provisions of this subsection according to their class title and pay
58 grade as set forth in this subdivision:

59	CLASS TITLE	PAY GRADE
60	Accountant I.....	D
61	Accountant II.....	E
62	Accountant III.....	F
63	Accounts Payable Supervisor.....	G
64	Aide I.....	A
65	Aide II.....	B
66	Aide III.....	C
67	Aide IV.....	D
68	Audiovisual Technician.....	C
69	Auditor.....	G
70	Autism Mentor.....	F
71	Braille Specialist.....	E
72	Bus Operator.....	D
73	Buyer.....	F
74	Cabinetmaker.....	G
75	Cafeteria Manager.....	D
76	Carpenter I.....	E

77	Carpenter II.	F
78	Chief Mechanic.	G
79	Clerk I.	B
80	Clerk II.	C
81	Computer Operator.	E
82	Cook I.	A
83	Cook II.	B
84	Cook III.	C
85	Crew Leader.	F
86	Custodian I.	A
87	Custodian II.	B
88	Custodian III.	C
89	Custodian IV.	D
90	Director or Coordinator of Services	H
91	Draftsman.	D
92	Early Childhood Classroom Assistant Teacher I.	E
93	Early Childhood Classroom Assistant Teacher II.	E
94	Early Childhood Classroom Assistant Teacher III	F
95	Educational Sign Language Interpreter I.	F
96	Educational Sign Language Interpreter II.	G

97	Electrician I.	F
98	Electrician II.	G
99	Electronic Technician I.	F
100	Electronic Technician II.	G
101	Executive Secretary.	G
102	Food Services Supervisor.	G
103	Foreman.	G
104	General Maintenance.	C
105	Glazier.	D
106	Graphic Artist.	D
107	Groundsman.	B
108	Handyman.	B
109	Heating and Air Conditioning Mechanic I.	E
110	Heating and Air Conditioning Mechanic II.	G
111	Heavy Equipment Operator.	E
112	Inventory Supervisor.	D
113	Key Punch Operator.	B
114	Licensed Practical Nurse.	F
115	Locksmith.	G
116	Lubrication Man.	C

117	Machinist.	F
118	Mail Clerk.	D
119	Maintenance Clerk.....	C
120	Mason.....	G
121	Mechanic.	F
122	Mechanic Assistant.	E
123	Office Equipment Repairman I.	F
124	Office Equipment Repairman II	G
125	Painter.	E
126	Paraprofessional.....	F
127	Payroll Supervisor.	G
128	Plumber I.	E
129	Plumber II.	G
130	Printing Operator.....	B
131	Printing Supervisor.	D
132	Programmer.....	H
133	Roofing/Sheet Metal Mechanic.....	F
134	Sanitation Plant Operator.....	G
135	School Bus Supervisor.....	E
136	Secretary I.	D

137 Secretary II..... E
138 Secretary III..... F
139 Sign Support Specialist. E
140 Supervisor of Maintenance. H
141 Supervisor of Transportation..... H
142 Switchboard Operator-Receptionist D
143 Truck Driver D
144 Warehouse Clerk C
145 Watchman B
146 Welder F
147 WVEIS Data Entry and Administrative Clerk B

148 (b) An additional \$12 per month is added to the minimum
149 monthly pay of each service person who holds a high school
150 diploma or its equivalent.

151 (c) An additional \$11 per month also is added to the
152 minimum monthly pay of each service person for each of the
153 following:

154 (1) A service person who holds twelve college hours or
155 comparable credit obtained in a trade or vocational school as
156 approved by the state board;

157 (2) A service person who holds twenty-four college hours or
158 comparable credit obtained in a trade or vocational school as
159 approved by the state board;

160 (3) A service person who holds thirty-six college hours or
161 comparable credit obtained in a trade or vocational school as
162 approved by the state board;

163 (4) A service person who holds forty-eight college hours or
164 comparable credit obtained in a trade or vocational school as
165 approved by the state board;

166 (5) A service employee who holds sixty college hours or
167 comparable credit obtained in a trade or vocational school as
168 approved by the state board;

169 (6) A service person who holds seventy-two college hours or
170 comparable credit obtained in a trade or vocational school as
171 approved by the state board;

172 (7) A service person who holds eighty-four college hours or
173 comparable credit obtained in a trade or vocational school as
174 approved by the state board;

175 (8) A service person who holds ninety-six college hours or
176 comparable credit obtained in a trade or vocational school as
177 approved by the state board;

178 (9) A service person who holds one hundred eight college
179 hours or comparable credit obtained in a trade or vocational
180 school as approved by the state board;

181 (10) A service person who holds one hundred twenty college
182 hours or comparable credit obtained in a trade or vocational
183 school as approved by the state board.

184 (d) An additional \$40 per month also is added to the
185 minimum monthly pay of each service person for each of the
186 following:

187 (1) A service person who holds an associate's degree;

188 (2) A service person who holds a bachelor's degree;

189 (3) A service person who holds a master's degree;

190 (4) A service person who holds a doctorate degree.

191 (e) An additional \$11 per month is added to the minimum
192 monthly pay of each service person for each of the following:

193 (1) A service person who holds a bachelor's degree plus
194 fifteen college hours;

195 (2) A service person who holds a master's degree plus
196 fifteen college hours;

197 (3) A service person who holds a master's degree plus thirty
198 college hours;

199 (4) A service person who holds a master's degree plus
200 forty-five college hours; and

201 (5) A service person who holds a master's degree plus sixty
202 college hours.

203 (f) To meet the objective of salary equity among the
204 counties, each service person is paid an equity supplement, as set
205 forth in section five of this article, of \$164 per month, subject to
206 the provisions of that section. These payments: (i) Are in
207 addition to any amounts prescribed in the applicable State
208 Minimum Pay Scale Pay Grade, any specific additional amounts
209 prescribed in this section and article and any county supplement
210 in effect in a county pursuant to section five-b of this article; (ii)
211 are paid in equal monthly installments; and (iii) are considered
212 a part of the state minimum salaries for service personnel.

213 (g) When any part of a school service person's daily shift of
214 work is performed between the hours of six o'clock p. m. and

215 five o'clock a. m. the following day, the employee is paid no less
216 than an additional \$10 per month and one half of the pay is paid
217 with local funds.

218 (h) Any service person required to work on any legal school
219 holiday is paid at a rate one and one-half times the person's
220 usual hourly rate.

221 (i) Any full-time service personnel required to work in
222 excess of their normal working day during any week which
223 contains a school holiday for which they are paid is paid for the
224 additional hours or fraction of the additional hours at a rate of
225 one and one-half times their usual hourly rate and paid entirely
226 from county board funds.

227 (j) A service person may not have his or her daily work
228 schedule changed during the school year without the employee's
229 written consent and the person's required daily work hours may
230 not be changed to prevent the payment of time and one-half
231 wages or the employment of another employee.

232 (k) The minimum hourly rate of pay for extra duty
233 assignments as defined in section eight-b of this article is no less
234 than one seventh of the person's daily total salary for each hour
235 the person is involved in performing the assignment and paid
236 entirely from local funds: *Provided*, That an alternative
237 minimum hourly rate of pay for performing extra duty
238 assignments within a particular category of employment may be
239 used if the alternate hourly rate of pay is approved both by the
240 county board and by the affirmative vote of a two-thirds majority
241 of the regular full-time persons within that classification
242 category of employment within that county: *Provided, however*,
243 That the vote is by secret ballot if requested by a service person
244 within that classification category within that county. The salary
245 for any fraction of an hour the employee is involved in
246 performing the assignment is prorated accordingly. When

247 performing extra duty assignments, persons who are regularly
248 employed on a one-half day salary basis shall receive the same
249 hourly extra duty assignment pay computed as though the person
250 were employed on a full-day salary basis.

251 (l) The minimum pay for any service personnel engaged in
252 the removal of asbestos material or related duties required for
253 asbestos removal is their regular total daily rate of pay and no
254 less than an additional \$3 per hour or no less than \$5 per hour for
255 service personnel supervising asbestos removal responsibilities
256 for each hour these employees are involved in asbestos-related
257 duties. Related duties required for asbestos removal include, but
258 are not limited to, travel, preparation of the work site, removal
259 of asbestos, decontamination of the work site, placing and
260 removal of equipment and removal of structures from the site. If
261 any member of an asbestos crew is engaged in asbestos-related
262 duties outside of the employee's regular employment county, the
263 daily rate of pay is no less than the minimum amount as
264 established in the employee's regular employment county for
265 asbestos removal and an additional \$30 per each day the
266 employee is engaged in asbestos removal and related duties. The
267 additional pay for asbestos removal and related duties shall be
268 payable entirely from county funds. Before service personnel
269 may be used in the removal of asbestos material or related
270 duties, they shall have completed a federal Environmental
271 Protection Act-approved training program and be licensed. The
272 employer shall provide all necessary protective equipment and
273 maintain all records required by the Environmental Protection
274 Act.

275 (m) For the purpose of qualifying for additional pay as
276 provided in section eight, article five of this chapter, an aide is
277 considered to be exercising the authority of a supervisory aide
278 and control over pupils if the aide is required to supervise,
279 control, direct, monitor, escort or render service to a child or
280 children when not under the direct supervision of a certified

281 professional person within the classroom, library, hallway,
282 lunchroom, gymnasium, school building, school grounds or
283 wherever supervision is required. For purposes of this section,
284 “under the direct supervision of a certified professional person”
285 means that certified professional person is present, with and
286 accompanying the aide.

§18A-4-8b. Seniority rights for school service personnel.

1 (a) A county board shall make decisions affecting
2 promotions and the filling of any service personnel positions of
3 employment or jobs occurring throughout the school year that
4 are to be performed by service personnel as provided in section
5 eight of this article, on the basis of seniority, qualifications and
6 evaluation of past service.

7 (b) Qualifications means the applicant holds a classification
8 title in his or her category of employment as provided in this
9 section and is given first opportunity for promotion and filling
10 vacancies. Other employees then shall be considered and shall
11 qualify by meeting the definition of the job title that relates to
12 the promotion or vacancy, as defined in section eight of this
13 article. If requested by the employee, the county board shall
14 show valid cause why a service person with the most seniority is
15 not promoted or employed in the position for which he or she
16 applies. Qualified applicants shall be considered in the following
17 order:

18 (1) Regularly employed service personnel who hold a
19 classification title within the classification category of the
20 vacancy;

21 (2) Service personnel who have held a classification title
22 within the classification category of the vacancy whose
23 employment has been discontinued in accordance with this
24 section;

25 (3) Regularly employed service personnel who do not hold
26 a classification title within the classification category of
27 vacancy;

28 (4) Service personnel who have not held a classification title
29 within the classification category of the vacancy and whose
30 employment has been discontinued in accordance with this
31 section;

32 (5) Substitute service personnel who hold a classification
33 title within the classification category of the vacancy;

34 (6) Substitute service personnel who do not hold a
35 classification title within the classification category of the
36 vacancy; and

37 (7) New service personnel.

38 (c) The county board may not prohibit a service person from
39 retaining or continuing his or her employment in any positions
40 or jobs held prior to the effective date of this section and
41 thereafter.

42 (d) A promotion means any change in employment that the
43 service person considers to improve his or her working
44 circumstance within the classification category of employment.

45 (1) A promotion includes a transfer to another classification
46 category or place of employment if the position is not filled by
47 an employee who holds a title within that classification category
48 of employment.

49 (2) Each class title listed in section eight of this article is
50 considered a separate classification category of employment for
51 service personnel, except for those class titles having Roman
52 numeral designations, which are considered a single
53 classification of employment:

54 (A) The cafeteria manager class title is included in the same
55 classification category as cooks;

56 (B) The executive secretary class title is included in the same
57 classification category as secretaries;

58 (C) Paraprofessional, autism mentor, early classroom
59 assistant teacher and braille or sign support specialist class titles
60 are included in the same classification category as aides; and

61 (D) The mechanic assistant and chief mechanic class titles
62 are included in the same classification category as mechanics.

63 (3) The assignment of an aide to a particular position within
64 a school is based on seniority within the aide classification
65 category if the aide is qualified for the position.

66 (4) Assignment of a custodian to work shifts in a school or
67 work site is based on seniority within the custodian classification
68 category.

69 (e) For purposes of determining seniority under this section
70 a service person's seniority begins on the date that he or she
71 enters into the assigned duties.

72 (f) *Extra-duty assignments.* —

73 (1) For the purpose of this section, "extra-duty assignment"
74 means an irregular job that occurs periodically or occasionally
75 such as, but not limited to, field trips, athletic events, proms,
76 banquets and band festival trips.

77 (2) Notwithstanding any other provisions of this chapter to
78 the contrary, decisions affecting service personnel with respect
79 to extra-duty assignments are made in the following manner:

80 (A) A service person with the greatest length of service time
81 in a particular category of employment is given priority in

82 accepting extra duty assignments, followed by other fellow
83 employees on a rotating basis according to the length of their
84 service time until all employees have had an opportunity to
85 perform similar assignments. The cycle then is repeated.

86 (B) An alternative procedure for making extra-duty
87 assignments within a particular classification category of
88 employment may be used if the alternative procedure is
89 approved both by the county board and by an affirmative vote of
90 two-thirds of the employees within that classification category
91 of employment.

92 (g) County boards shall post and date notices of all job
93 vacancies of existing or newly created positions in conspicuous
94 places for all school service personnel to observe for at least five
95 working days.

96 (1) Posting locations include any website maintained by or
97 available for the use of the county board.

98 (2) Notice of a job vacancy shall include the job description,
99 the period of employment, the work site, the starting and ending
100 time of the daily shift, the amount of pay and any benefits and
101 other information that is helpful to prospective applicants to
102 understand the particulars of the job. The notice of a job vacancy
103 in the aide classification categories shall include the program or
104 primary assignment of the position. Job postings for vacancies
105 made pursuant to this section shall be written to ensure that the
106 largest possible pool of qualified applicants may apply. Job
107 postings may not require criteria which are not necessary for the
108 successful performance of the job and may not be written with
109 the intent to favor a specific applicant.

110 (3) After the five-day minimum posting period, all vacancies
111 shall be filled within twenty working days from the posting date

112 notice of any job vacancies of existing or newly created
113 positions.

114 (4) The county board shall notify any person who has
115 applied for a job posted pursuant to this section of the status of
116 his or her application as soon as possible after the county board
117 makes a hiring decision regarding the posted position.

118 (h) All decisions by county boards concerning reduction in
119 work force of service personnel shall be made on the basis of
120 seniority, as provided in this section.

121 (i) The seniority of a service person is determined on the
122 basis of the length of time the employee has been employed by
123 the county board within a particular job classification. For the
124 purpose of establishing seniority for a preferred recall list as
125 provided in this section, a service person who has been
126 employed in one or more classifications retains the seniority
127 accrued in each previous classification.

128 (j) If a county board is required to reduce the number of
129 service personnel within a particular job classification, the
130 following conditions apply:

131 (1) The employee with the least amount of seniority within
132 that classification or grades of classification is properly released
133 and employed in a different grade of that classification if there
134 is a job vacancy;

135 (2) If there is no job vacancy for employment within that
136 classification or grades of classification, the service person is
137 employed in any other job classification which he or she
138 previously held with the county board if there is a vacancy and
139 retains any seniority accrued in the job classification or grade of
140 classification.

141 (k) After a reduction in force or transfer is approved, but
142 prior to August 1, a county board in its sole and exclusive
143 judgment may determine that the reason for any particular
144 reduction in force or transfer no longer exists.

145 (1) If the board makes this determination, it shall rescind the
146 reduction in force or transfer and notify the affected employee in
147 writing of the right to be restored to his or her former position of
148 employment.

149 (2) The affected employee shall notify the county board of
150 his or her intent to return to the former position of employment
151 within five days of being notified or lose the right to be restored
152 to the former position.

153 (3) The county board may not rescind the reduction in force
154 of an employee until all service personnel with more seniority in
155 the classification category on the preferred recall list have been
156 offered the opportunity for recall to regular employment as
157 provided in this section.

158 (4) If there are insufficient vacant positions to permit
159 reemployment of all more senior employees on the preferred
160 recall list within the classification category of the service person
161 who was subject to reduction in force, the position of the
162 released service person shall be posted and filled in accordance
163 with this section.

164 (l) If two or more service persons accumulate identical
165 seniority, the priority is determined by a random selection
166 system established by the employees and approved by the county
167 board.

168 (m) All service personnel whose seniority with the county
169 board is insufficient to allow their retention by the county board
170 during a reduction in work force are placed upon a preferred

171 recall list and shall be recalled to employment by the county
172 board on the basis of seniority.

173 (n) A service person placed upon the preferred recall list
174 shall be recalled to any position openings by the county board
175 within the classification(s) where he or she had previously been
176 employed, to any lateral position for which the service person is
177 qualified or to a lateral area for which a service person has
178 certification and/or licensure.

179 (o) A service person on the preferred recall list does not
180 forfeit the right to recall by the county board if compelling
181 reasons require him or her to refuse an offer of reemployment by
182 the county board.

183 (p) The county board shall notify all service personnel on the
184 preferred recall list of all position openings that exist from time
185 to time. The notice shall be sent by certified mail to the last
186 known address of the service person. Each service person shall
187 notify the county board of any change of address.

188 (q) No position openings may be filled by the county board,
189 whether temporary or permanent, until all service personnel on
190 the preferred recall list have been properly notified of existing
191 vacancies and have been given an opportunity to accept
192 reemployment.

193 (r) A service person released from employment for lack of
194 need as provided in sections six and eight-a, article two of this
195 chapter is accorded preferred recall status on July 1 of the
196 succeeding school year if he or she has not been reemployed as
197 a regular employee.

198 (s) A county board failing to comply with the provisions of
199 this article may be compelled to do so by mandamus and is liable
200 to any party prevailing against the board for court costs and the

201 prevailing party's reasonable attorney fee, as determined and
202 established by the court.

203 (1) A service person denied promotion or employment in
204 violation of this section shall be awarded the job, pay and any
205 applicable benefits retroactively to the date of the violation and
206 shall be paid entirely from local funds.

207 (2) The county board is liable to any party prevailing against
208 the board for any court reporter costs including copies of
209 transcripts.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2015.

Governor

