

COMMITTEE SUBSTITUTE

for

H. B. 2755

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[Originating in the Committee on Education.]
(February 20, 2015)

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.

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

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

8 (2) Typically, these arrangements have evolved because
9 school closures or construction of new schools in the student's
10 county of residence have made a cross-county transfer to an
11 existing school in an adjoining county a more convenient,
12 practical and educationally sound option.

13 (b) The Legislature further finds that as population changes
14 continue to occur, the boards of adjoining counties may best
15 serve the interests of their students and families by establishing
16 a new school in partnership to be attended by students residing
17 in each of the counties. Particularly in the case of elementary
18 grade level schools established in partnership between adjoining

19 counties, the Legislature finds that each of the county boards, as
20 well as the parents of students from each of the counties attend-
21 ing the school, have an interest in the operation of the school and
22 the preparation of the students for success as they transition to
23 the higher grade levels in the other schools of their respective
24 home counties. Therefore, in the absence of a well defined
25 governance structure that accommodates these interests, the
26 purpose of this section is to provide for a joint governing
27 partnership board pilot initiative.

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

35 (1) The joint governing partnership board is comprised of the
36 county superintendent of each county, the president of the county
37 board of each county or his or her designee, and a designee of
38 the state superintendent;

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

42 (A) Meetings of the board are subject to the open govern-
43 mental proceedings laws applicable to county boards.

44 (B) The boards of the respective counties are responsible for
45 the expenses of its members and shall apportion other opera-
46 tional expenses of the board upon mutual agreement.

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

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

57 (A) *Personnel.*

58 (1) ~~Within the applicable~~ Notwithstanding any other laws for
59 employment, evaluation, mentoring, professional development,
60 suspension and dismissal of public school employees, the powers
61 and duties of the county superintendent are vested in the joint
62 governing partnership board with respect to the employees
63 employed by the county in which the school is located or
64 assigned to the school from the partner county. Pursuant to the
65 provisions of section eight-i, article four, chapter eighteen-a of
66 this code, employees who are hired by the county board of the
67 receiving county shall accrue seniority in both the sending and
68 receiving counties during the time in which they continue to be
69 employed at the jointly established school. Upon losing a
70 position at the jointly established school due to reduction in
71 force or involuntary transfer, an employee shall displace a less
72 senior employee in the county of employment which immedi-
73 ately preceded employment at the jointly established school.
74 Once an employee from the sending county voluntarily transfers
75 or resigns from a position at the jointly established school and is
76 no longer employed in the receiving county, the employee's

77 seniority and any other statutory rights in the receiving county
78 cease.

79 (2) When initially filling service and professional employee
80 positions at the jointly established school, the counties shall
81 follow the procedures established in section eight-i, article four,
82 chapter eighteen-a of this code. For the initial school year of the
83 jointly established school's opening only, the receiving county
84 may not fill any vacancies created by the retirement or voluntary
85 transfer of employees of the receiving county school from
86 February 1 of the school year immediately preceding the opening
87 of the school until January 1 following the opening of the jointly
88 established school until the receiving county has received the list
89 of employees created pursuant to the provisions of subsection
90 (c), section eight-i, article four, chapter eighteen-a of this code.
91 The receiving county may not fill any of the vacancies refer-
92 enced in this subsection until the vacancies have been offered to
93 qualified individuals from the certified list.

94 ~~(2)~~ (3) The employees of the jointly established school are
95 the employees of the employing county board and the partner-
96 ship board may make recommendations concerning these

97 employment matters to the employing board it considers
98 necessary and appropriate.

99 (B) *Curriculum.*

100 (1) The joint governing partnership board is responsible for
101 the formulation and execution of the school's strategic improve-
102 ment plan and technology plan to meet the goals for student and
103 school performance and progress.

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

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

114 (D) *Facilities.* Consistent with the policies in effect concern-
115 ing liability insurance coverage, maintenance and appropriate
116 uses of school facilities for the schools of the county in which

117 the school is located, the joint governing partnership board
118 governs the use of the school facility and ensures equitable
119 opportunities for access and use by organizations and groups
120 from both counties.

121 ~~(b)~~ (d) The joint governing partnership board may adopt
122 policies for the school that are separate from the policies of the
123 respective counties and, working in concert with its local school
124 improvement council, may propose alternatives to the operation
125 of the school which require the request of a waiver of policy,
126 interpretation or statute from either or both county boards, the
127 state board or the Legislature as appropriate.

128 ~~(c)~~ (e) The superintendents and presidents of county boards
129 of adjoining counties that have in effect on the effective date of
130 this section a memorandum of understanding on the governance
131 and operation of a jointly established school shall report to the
132 Legislative Oversight Commission on Education Accountability
133 on or before November 1, 2013, on the status of implementation
134 of this section.

135 (1) Once established, the joint governing partnership board
136 established under this pilot initiative shall remain in effect for

137 five consecutive school years unless authority for the pilot
138 initiative is repealed.

139 (2) The Legislative Oversight Commission on Education
140 Accountability may request the superintendents and the presi-
141 dents of the county boards to provide periodic updates on this
142 pilot initiative. Also, at the conclusion of the five-year pilot
143 initiative, they shall report their recommendations on the
144 viability of the joint governing partnership board approach and
145 any recommended changes to the Legislative Oversight Com-
146 mission on Education Accountability.

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

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

