

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2738

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[Originating in the Committee on Education;

March 15, 2017.]

1 A BILL to amend and reenact §18A-2-7 of the Code of West Virginia, 1931, as amended, relating
2 generally to the transfer of school personnel; providing flexibility in the employee transfer
3 process; removing April 1 deadline for notifying employee that he or she is being
4 considered for transfer; specifying circumstances which must be known or expected for
5 considerations of transfer; requiring employee to be transferred be provided with a
6 statement of the reason for the proposed transfer; removing requirement that employee
7 to be transferred request reason for transfer in writing; requiring hearing on proposed
8 transfer occur within twenty days of receipt of a hearing request; removing May 1 deadline
9 for list of employees considered for transfer to be furnished to board; requiring written
10 notice to employee following board meeting and if approved by the board, stating transfer
11 and reassignment and reasons; requiring transferred employee to report to the new
12 assignment upon the date specified in the notice, but no sooner than ten days following
13 receipt of notice, unless another date can be mutually agreed upon by the superintendent
14 and employee; making all transfers subject to limitations of other provisions respecting
15 special populations and service personnel; removing the reassignment process that can
16 occur when actual student enrollment in a grade level or program is unforeseen on or
17 before May 1 of the preceding school year; and retaining provisions limiting transfers to
18 least senior qualified personnel and prohibiting change in contract term, compensation or
19 benefits as result of reassignment.

Be it enacted by the Legislature of West Virginia:

1 That §18A-2-7 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 2. SCHOOL PERSONNEL.

**§18A-2-7. Assignment, transfer, promotion, demotion, suspension and recommendation
of dismissal of school personnel by superintendent; preliminary notice of transfer;
hearing on the transfer; proof required.**

1 (a) The superintendent, subject only to approval of the board, may assign, transfer,
2 promote, demote or suspend school personnel and recommend their dismissal pursuant to
3 provisions of this chapter. However, an employee shall be notified in writing by the superintendent
4 ~~on or before April 1~~ if he or she is being considered for transfer or to be transferred. Only those
5 employees whose consideration for transfer or intended transfer is based upon known or
6 expected ~~circumstances~~ financial, educational or programmatic needs which will require the
7 transfer of employees shall be considered for transfer or intended for transfer and the notification
8 shall be limited to only those employees and shall contain a statement of the reason for the
9 proposed transfer. ~~Any teacher or employee who desires to protest the proposed transfer may~~
10 ~~request in writing a statement of the reasons for the proposed transfer. The statement of reasons~~
11 ~~shall be delivered to the teacher or employee within ten days of the receipt of the request. Within~~
12 ~~ten days of the receipt of the statement of the reasons~~ notification of transfer, the teacher or
13 employee may make written demand upon the superintendent for a hearing on the proposed
14 transfer before the county board. The hearing on the proposed transfer shall be held ~~on or before~~
15 May 1 within twenty days of the receipt of the hearing request. At the hearing, the reasons for
16 the proposed transfer must be shown.

17 (b) ~~The superintendent at a meeting of the board on or before May 1 shall furnish in writing~~
18 ~~to the board a list of teachers and other employees to be considered for transfer and subsequent~~
19 ~~assignment for the next ensuing school year. An employee who was not provided notice and an~~
20 ~~opportunity for a hearing pursuant to subsection (a) of this section may not be included on the list.~~
21 ~~All other teachers and employees not so listed shall be considered as reassigned to the positions~~
22 ~~or jobs held at the time of this meeting. The list of those recommended for transfer shall be~~
23 ~~included in the minute record of the meeting and all those so listed~~ The employee shall be notified
24 in writing ~~and~~ which shall be delivered within ten days following the board meeting, with written
25 receipt notification documented by the superintendent, and if approved by the board, shall state
26 that the person is being ~~recommended for transfer and subsequent assignment~~ transferred and

27 reassigned and the reasons therefore. Upon receipt of the transfer notice the employee shall
28 report to the new assignment upon the date specified in the notice, but no sooner than ten days
29 following receipt of notice, unless another date can be mutually agreed upon by the
30 superintendent and employee.

31 (c) The superintendent's authority to suspend school personnel shall be temporary only
32 pending a hearing upon charges filed by the superintendent with the county board and the period
33 of suspension may not exceed thirty days unless extended by order of the board.

34 (d) The provisions of this section respecting hearing upon notice of transfer are not
35 applicable in emergency situations where a school building becomes damaged or destroyed
36 through an unforeseeable act and which act necessitates a transfer of the school personnel
37 because of the aforementioned condition of the building.

38 (e) All transfers pursuant to this section are subject to the provisions of subsection (b),
39 section seven-b of this article and subsection (m), section eight, article four of this chapter.

40 (f) A professional employee reassigned under this subsection shall be the least senior of
41 the surplus professional personnel who holds certification or licensure to perform the duties at the
42 other school or at the grade level or program within the school.

43 (g) A service employee reassigned under this subsection shall be the least senior of the
44 surplus personnel who holds the same classification or multiclassification needed to perform the
45 duties at the other school or at the grade level or program within the same school.

46 (h) No school employee's annual contract term, compensation or benefits shall be
47 changed as a result of a reassignment under this subsection.

48 ~~(e) Notwithstanding this section or any provision of this code, when actual student~~
49 ~~enrollment in a grade level or program, unforeseen on or before May 1 of the preceding school~~
50 ~~year, permits the assignment of fewer teachers or service personnel to or within a school under~~
51 ~~any pupil-teacher ratio, class size or caseload standard established in section eighteen-a, article~~
52 ~~five, chapter eighteen of this code or any policy of the state board, the superintendent, with board~~

53 approval, may reassign the surplus personnel to another school or to another grade level or
54 program within the school if needed there to comply with any such pupil-teacher ratio, class size
55 or caseload standard.

56 (1) ~~Before any reassignment may occur pursuant to this subsection, notice shall be~~
57 ~~provided to the employee and the employee shall be provided an opportunity to appear before~~
58 ~~the county board to state the reasons for his or her objections, if any, prior to the board voting on~~
59 ~~the reassignment.~~

60 (2) ~~Except as otherwise provided in subdivision (1) of this subsection, the reassignment~~
61 ~~may be made without following the notice and hearing provisions of this section, and at any time~~
62 ~~during the school year when the conditions of this subsection are met: *Provided,* That the~~
63 ~~reassignment may not occur after the last day of the second school month.~~

64 (3) ~~A professional employee reassigned under this subsection shall be the least senior of~~
65 ~~the surplus professional personnel who holds certification or licensure to perform the duties at the~~
66 ~~other school or at the grade level or program within the school.~~

67 (4) ~~A service employee reassigned under this subsection shall be the least senior of the~~
68 ~~surplus personnel who holds the same classification or multiclassification needed to perform the~~
69 ~~duties at the other school or at the grade level or program within the same school.~~

70 (5) ~~No school employee's annual contract term, compensation or benefits shall be~~
71 ~~changed as a result of a reassignment under this subsection.~~

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