

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2438

BY DELEGATES WESTFALL AND COOPER

[Introduced February 14, 2017; Referred
to the Committee on Education then Government
Organization.]

1 A BILL to amend and reenact §18-2-26 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §18-5-13 of said code, all relating to allowing county boards of
 3 education and regional educational service agencies to purchase computer technology
 4 from other than a state-wide contract if certain conditions are met.

Be it enacted by the Legislature of West Virginia:

1 That §18-2-26 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted and that §18-5-13 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-26. Establishment of multicounty regional educational service agencies; purpose; authority of state board; governance; annual performance standards.

1 (a) *Legislative intent.* -- The intent of the Legislature in providing for establishment of
 2 regional education service agencies, hereinafter referred to in this section as agency or agencies,
 3 is to provide for high quality, cost effective education programs and services to students, schools
 4 and school systems.

5 Since the first enactment of this section in 1972, the focus of public education has shifted
 6 from a reliance on input models to determine if education programs and services are providing to
 7 students a thorough and efficient education to a performance based accountability model which
 8 relies on the following:

9 (1) Development and implementation of standards which set forth the things that students
 10 should know and be able to do as the result of a thorough and efficient education including
 11 measurable criteria to evaluate student performance and progress;

12 (2) Development and implementation of assessments to measure student performance
 13 and progress toward meeting the standards;

14 (3) Development and implementation of a system for holding schools and school systems
 15 accountable for student performance and progress toward obtaining a high quality education
 16 which is delivered in an efficient manner; and

17 (4) Development and implementation of a method for building the capacity and improving
18 the efficiency of schools and school systems to improve student performance and progress.

19 (b) *Purpose.* -- In establishing the agencies the Legislature envisions certain areas of
20 service in which the agencies can best assist the state board in implementing the standards based
21 accountability model pursuant to subsection (a) of this section and, thereby, in providing high
22 quality education programs. These areas of service include the following:

23 (1) Providing technical assistance to low performing schools and school systems;

24 (2) Providing high quality, targeted staff development designed to enhance the
25 performance and progress of students in state public education;

26 (3) Facilitating coordination and cooperation among the county boards within their
27 respective regions in such areas as cooperative purchasing; sharing of specialized personnel,
28 communications and technology; curriculum development; and operation of specialized programs
29 for exceptional children;

30 (4) Installing, maintaining and/or repairing education related technology equipment and
31 software with special attention to the state level technology learning tools for public schools
32 program;

33 (5) Receiving and administering grants under the provisions of federal and/or state law;
34 and

35 (6) Developing and/or implementing any other programs or services as directed by law,
36 the state board or the regional council; and

37 (7) Purchase computer technology equipment from a source other than through the state-
38 wide contract if they can save money on comparable equipment with better prices, more modern
39 technology, better warranties or a combination of these factors.

40 (c) *State board rule.* -- The state board shall reexamine the powers and duties of the
41 agencies in light of the changes in state level education policy that have occurred and shall
42 establish multicounty regional education service agencies by rule, promulgated in accordance

43 with the provisions of article three-b, chapter twenty-nine-a of this code.

44 The rule shall contain all information necessary for the effective administration and
45 operation of the agencies. In developing the rule, the state board may not delegate its
46 Constitutional authority for the general supervision of schools to the agencies, however, it may
47 allow the agencies greater latitude in the development and implementation of programs in the
48 service areas outlined in subsection (b) of this section with the exceptions of providing technical
49 assistance to low performing schools and school systems and providing high quality, targeted
50 staff development designed to enhance the performance and progress of students in state public
51 education. These two areas constitute the most important responsibilities for the agencies.

52 The rule establishing the agencies shall be promulgated before November 1, 2015, and
53 shall be consistent with the provisions of this section. It shall include, but is not limited to, the
54 following procedures:

55 (1) Providing for a uniform governance structure for the agencies containing at least these
56 elements:

57 (A) Selection by the state board of an executive director who shall be responsible for the
58 administration of his or her respective agency. The rule shall provide for the state board to select
59 the executive director only upon the nomination of one or more candidates by the regional council
60 of the agency. In case the board refuses to select any of the candidates nominated, the regional
61 council shall nominate others and submit them to the board. All candidates nominated must meet
62 the qualifications for the position established by the state board. Nothing shall prohibit the timely
63 employment of persons to perform necessary duties;

64 (B) Development of a job description and qualifications for the position of executive
65 director, together with procedures for informing the public of position openings, for taking and
66 evaluating applications, for making nominations for these positions, and for annually evaluating
67 the performance of persons employed as executive director. The state board shall consult with
68 the regional councils on the development of the job description, qualifications and procedures;

69 (C) Provisions for the annual performance evaluation of the executive director that provide
70 for one half of the evaluation rating to be determined by the regional council;

71 (D) Provisions for the agencies to employ other staff, as necessary, with the approval of
72 the state board and upon the recommendation of the executive director: *Provided*, That prior to
73 July 1, 2003, no person who is an employee of an agency on the effective date of this section
74 may be terminated or have his or her salary and benefit levels reduced as the sole result of the
75 changes made to this section or by state board rule;

76 (E) Appointment by the county boards of a regional council in each agency area consisting
77 of representatives of county boards and county superintendents from within that area for the
78 purpose of advising, assisting and informing the executive director in carrying out his or her duties
79 to achieve the purposes of this section and provide educational services to the county school
80 systems within the region. The state board may provide for membership on the regional council
81 for representatives from other agencies and institutions who have interest or expertise in the
82 development or implementation of regional education programs; and

83 (F) Selection by the state superintendent of a representative from the state Department of
84 Education to serve on each regional council. These representatives shall meet with their
85 respective regional councils at least quarterly;

86 (2) Establishing statewide standards by the state board for service delivery by the
87 agencies. These standards may be revised annually and shall include, but are not limited to,
88 programs and services to fulfill the purposes set forth in subsection (b) of this section;

89 (3) Establishing procedures for developing and adopting an annual basic operating budget
90 for each agency and for other budgeting and accounting procedures as the state board may
91 require;

92 (4) Establishing procedures clarifying that agencies may acquire and hold real property;

93 (5) Dividing the state into appropriate, contiguous geographical areas and designating an
94 agency to serve each area. The rule shall provide that each of the state's counties is contained

95 within a single service area and that all counties located within the boundaries of each agency,
96 as determined by the state board, shall be members of that agency; and

97 (6) Such other standards or procedures as the state board finds necessary or convenient.

98 (d) *Regional services.* -- In furtherance of the purposes provided for in this section, the
99 state board and the regional council of each agency shall continually explore possibilities for the
100 delivery of services on a regional basis which will facilitate equality in the education offerings
101 among counties in its service area, permit the delivery of high quality education programs at a
102 lower per student cost, strengthen the cost effectiveness of education funding resources, reduce
103 administrative and/or operational costs, including the consolidation of administrative, coordinating
104 and other county level functions into region level functions, and promote the efficient
105 administration and operation of the public school systems generally.

106 Technical, operational, programmatic or professional services are among the types of
107 services appropriate for delivery on a regional basis. Nothing in this section prohibits regional
108 education service agencies from cooperating, sharing or combining services or programs with
109 each other, at their discretion, to further the purposes of this section.

110 (e) *Virtual education.* -- The state board, in conjunction with the various agencies, shall
111 develop an effective model for the regional delivery of instruction in subjects where there exists
112 low student enrollment or a shortage of certified teachers or where the delivery method
113 substantially improves the quality of an instructional program. The model shall incorporate an
114 interactive electronic classroom approach to instruction. To the extent funds are appropriated or
115 otherwise available, county boards or regional education service agencies may adopt and utilize
116 the model for the delivery of the instruction.

117 (f) *Computer information system.* -- Each county board of education shall use the
118 statewide electronic information system established by the state board for data collection and
119 reporting to the state Department of Education.

120 (g) *Reports and evaluations.* -- Each agency shall submit to the state superintendent on

121 such date and in such form as specified in the rules adopted by the state board a report and
122 evaluation of the technical assistance and other services provided and utilized by the schools
123 within each respective region and their effectiveness. Additionally, any school may submit an
124 evaluation of the services provided by the agency to the state superintendent at any time. This
125 report shall include an evaluation of the agency program, suggestions on methods to improve
126 utilization and suggestions on the development of new programs and the enhancement of existing
127 programs. The reports and evaluations submitted pursuant to this subsection shall be submitted
128 to the state board and shall be made available upon request to the standing committees on
129 education of the West Virginia Senate and House of Delegates and to the secretary of education
130 and the arts.

131 (h) *Funding sources.* -- An agency may receive and disburse funds from the state and
132 federal governments, from member counties, or from gifts and grants.

133 (i) *Employee expenses.* -- Notwithstanding any other provision of this code to the contrary,
134 employees of agencies shall be reimbursed for travel, meals and lodging at the same rate as state
135 employees under the travel management office of the Department of Administration.

136 A county board member may not be an employee of an agency.

137 (j) *Meetings and compensation.* --

138 (1) Agencies shall hold at least one half of their regular meetings during hours other than
139 those of a regular school day. The executive director of each agency shall attend at least one
140 meeting of each of the member county boards of education each year to explain the agency's
141 services, garner suggestions for program improvement and provide any other information as may
142 be requested by the county board.

143 (2) Notwithstanding any other provision of this code to the contrary, county board
144 members serving on regional councils may receive compensation at a rate not to exceed \$100
145 per meeting attended, not to exceed fifteen meetings per year. County board members serving
146 on regional councils may be reimbursed for travel at the same rate as state employees under the

147 rules of the travel management office of the Department of Administration.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-13. Authority of boards generally.

1 Subject to the provisions of this chapter and the rules of the state board, each county
2 board may:

3 (a) Control and manage all of the schools and school interests for all school activities and
4 upon all school property owned or leased by the county, including:

5 (1) Requiring schools to keep records regarding funds connected with the school or school
6 interests, including all receipts and disbursements of all funds collected or received by:

7 (A) Any principal, teacher, student or other person in connection with the schools and
8 school interests;

9 (B) Any program, activity or other endeavor of any nature operated or conducted by or in
10 the name of the school; and

11 (C) Any organization or body directly connected with the school;

12 (2) Allowing schools to expend funds for student, parent, teacher and community
13 recognition programs. A school may use only funds it generates through a fund-raising or
14 donation-soliciting activity. Prior to commencing the activity, the school shall:

15 (A) Publicize the activity as intended for this purpose; and

16 (B) Designate for this purpose the funds generated;

17 (3) Auditing the records and conserving the funds, including securing surety bonds by
18 expending board moneys. The funds described in this subsection are quasipublic funds, which
19 means the moneys were received for the benefit of the school system as a result of curricular or
20 noncurricular activities;

21 (b) Establish:

22 (1) Schools, from preschool through high school;

23 (2) Vocational schools; and

24 (3) Schools and programs for post-high school instruction, subject to approval of the state
25 board;

26 (c) Close any school:

27 (1) Which is unnecessary and assign the students to other schools. The closing shall occur
28 pursuant to official action of the county board. Except in emergency situations when the timing
29 and manner of notification are subject to approval by the state superintendent, the county board
30 shall notify the affected teachers and service personnel of the county board action not later than
31 the first Monday in April. The board shall provide notice in the same manner as set forth in section
32 four of this article; or

33 (2) Pursuant to the provisions of subsection (e) of this section;

34 (d) Consolidate schools;

35 (e) Close any elementary school whose average daily attendance falls below twenty
36 students for two consecutive months. The county board may assign the students to other schools
37 in the district or to schools in adjoining districts. If the teachers in the closed school are not
38 transferred or reassigned to other schools, they shall receive one month's salary;

39 (f) Provide transportation according to rules established by the county board, as follows:

40 (1) To provide at public expense adequate means of transportation:

41 (A) For all children of school age who live more than two miles distance from school by
42 the nearest available road;

43 (B) For school children participating in county board-approved curricular and
44 extracurricular activities;

45 (C) Across county lines for students transferred from one district to another by mutual
46 agreement of both county boards. The agreement shall be recorded in the meeting minutes of
47 each participating county board and is subject to the provisions of subsection (h) of this section;
48 and

49 (D) Within available revenues, for students within two miles distance of the school; and

50 (2) To provide transportation for participants in projects operated, financed, sponsored or
51 approved by the Bureau of Senior Services. This transportation shall be provided at no cost to
52 the county board. All costs and expenses incident in any way to this transportation shall be borne
53 by the bureau or the local or county affiliate of the bureau;

54 (3) Any school bus owned by the county board may be operated only by a bus operator
55 regularly employed by the county board, except as provided in subsection (g) of this section;

56 (4) Pursuant to rules established by the state board, the county board may provide for
57 professional employees to be certified to drive county board-owned vehicles that have a seating
58 capacity of fewer than ten passengers. These employees may use the vehicles to transport
59 students for school-sponsored activities, but may not use the vehicles to transport students
60 between school and home. Not more than one of these vehicles may be used for any school-
61 sponsored activity;

62 (5) Students may not be transported to a school-sponsored activity in any county-owned
63 or leased vehicle that does not meet school bus or public transit ratings. This section does not
64 prohibit a parent from transporting ten or fewer students in a privately-owned vehicle;

65 (6) Students may be transported to a school-sponsored activity in a vehicle that has a
66 seating capacity of sixteen or more passengers which is not owned and operated by the county
67 board only as follows:

68 (A) The state board shall promulgate a rule to establish requirements for:

69 (i) Automobile insurance coverage;

70 (ii) Vehicle safety specifications;

71 (iii) School bus or public transit ratings; and

72 (iv) Driver training, certification and criminal history record check; and

73 (B) The vehicle owner shall provide to the county board proof that the vehicle and driver
74 satisfy the requirements of the state board rule; and

75 (7) Buses shall be used for extracurricular activities as provided in this section only when

76 the insurance coverage required by this section is in effect;

77 (g) Lease school buses pursuant to rules established by the county board.

78 (1) Leased buses may be operated only by bus operators regularly employed by the
79 county board, except that these buses may be operated by bus operators regularly employed by
80 another county board in this state if bus operators from the owning county are unavailable.

81 (2) The lessee shall bear all costs and expenses incurred by, or incidental to the use of,
82 the bus.

83 (3) The county board may lease buses to:

84 (A) Public and private nonprofit organizations and private corporations to transport school-
85 age children for camps or educational activities;

86 (B) Any college, university or officially recognized campus organization for transporting
87 students, faculty and staff to and from the college or university. Only college and university
88 students, faculty and staff may be transported pursuant to this paragraph. The lease shall include
89 provisions for:

90 (i) Compensation for bus operators;

91 (ii) Consideration for insurance coverage, repairs and other costs of service; and

92 (iii) Any rules concerning student behavior;

93 (C) Public and private nonprofit organizations, including education employee
94 organizations, for transportation associated with fairs, festivals and other educational and cultural
95 events. The county board may charge fees in addition to those charges otherwise required by this
96 subsection;

97 (h) To provide at public expense for insurance coverage against negligence of the drivers
98 of school buses, trucks or other vehicles operated by the county board. Any contractual
99 agreement for transportation of students shall require the vehicle owner to maintain insurance
100 coverage against negligence in an amount specified by the county board;

101 (i) Provide for the full cost or any portion thereof for group plan insurance benefits not

102 provided or available under the West Virginia Public Employees Insurance Act. Any of these
103 benefits shall be provided:

104 (1) Solely from county board funds; and

105 (2) For all regular full-time employees of the county board;

106 (j) Employ teacher aides; to provide in-service training for the aides pursuant to rules
107 established by the state board; and, prior to assignment, to provide a four-clock-hour program of
108 training for a service person assigned duties as a teacher aide in an exceptional children program.
109 The four-clock-hour program shall consist of training in areas specifically related to the education
110 of exceptional children;

111 (k) Establish and operate a self-supporting dormitory for:

112 (1) Students attending a high school or participating in a post high school program; and

113 (2) Persons employed to teach in the high school or post high school program;

114 (l) At the county board's discretion, employ, contract with or otherwise engage legal
115 counsel in lieu of using the services of the prosecuting attorney to advise, attend to, bring,
116 prosecute or defend, as the case may be, any matters, actions, suits and proceedings in which
117 the county board is interested;

118 (m) Provide appropriate uniforms for school service personnel;

119 (n) Provide at public expense for payment of traveling expenses incurred by any person
120 invited to appear to be interviewed concerning possible employment by the county board, subject
121 to rules established by the county board;

122 (o) Allow designated employees to use publicly provided carriage to travel from their
123 residences to their workplace and return. The use:

124 (1) Is subject to the supervision of the county board; and

125 (2) Shall be directly connected with, required by and essential to the performance of the
126 employee's duties and responsibilities;

127 (p) Provide at public expense adequate public liability insurance, including professional

128 liability insurance, for county board employees;

129 (q) Enter into cooperative agreements with other county boards to provide improvements
130 to the instructional needs of each district. The cooperative agreements may be used to employ
131 specialists in a field of academic study or for support functions or services for the field. The
132 agreements are subject to approval by the state board;

133 (r) Provide information about vocational and higher education opportunities to exceptional
134 students. The county board shall provide in writing to the students and their parents or guardians
135 information relating to programs of vocational education and to programs available at state
136 institutions of higher education. The information may include sources of available funding,
137 including grants, mentorships and loans for students who wish to attend classes at institutions of
138 higher education;

139 (s) Enter into agreements with other county boards for the transfer and receipt of any funds
140 determined to be fair when students are permitted or required to attend school in a district other
141 than the district of their residence. These agreements are subject to the approval of the state
142 board; and

143 (t) Enter into job-sharing arrangements, as defined in section one, article one, chapter
144 eighteen-a of this code, with its employees, subject to the following provisions:

145 (1) A job-sharing arrangement shall meet all the requirements relating to posting,
146 qualifications and seniority, as provided in article four, chapter eighteen-a of this code;

147 (2) Notwithstanding any contrary provision of this code or legislative rule and specifically
148 the provisions of article sixteen, chapter five of this code, a county board that enters into a job-
149 sharing arrangement:

150 (A) Shall provide insurance coverage to the one employee mutually agreed upon by the
151 employees participating in that arrangement; and

152 (B) May not provide insurance benefits of any type to more than one of the job-sharing
153 employees, including any group plan available under the state Public Employees Insurance Act;

154 (3) Each job-sharing agreement shall be in writing on a form prescribed and furnished by
155 the county board. The agreement shall designate specifically one employee only who is entitled
156 to the insurance coverage. Any employee who is not designated is not eligible for state public
157 employees insurance coverage regardless of the number of hours he or she works;

158 (4) All employees involved in the job-sharing agreement shall meet the requirements of
159 subdivision (3), section two, article sixteen, chapter five of this code; and

160 (5) When entering into a job-sharing agreement, the county board and the participating
161 employees shall consider issues such as retirement benefits, termination of the job-sharing
162 agreement and any other issue the parties consider appropriate. Any provision in the agreement
163 relating to retirement benefits may not cause any cost to be incurred by the retirement system
164 that is more than the cost that would be incurred if a single employee were filling the position; ~~and~~

165 (u) Under rules it establishes for each child, expend an amount not to exceed the
166 proportion of all school funds of the district that each child would be entitled to receive if all the
167 funds were distributed equally among all the children of school age in the district upon a per capita
168 basis; and

169 (v) Purchase computer technology equipment from a source other than through the state-
170 wide contract if they can save money on comparable equipment with better prices, more modern
171 technology, better warranties or a combination of these factors.

NOTE: The purpose of this bill is to allow county boards of education and regional educational service agencies to purchase computer technology from other than a state-wide contract if certain conditions are met.

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