

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2738

BY DELEGATES ESPINOSA, STATLER, DEAN, BLAIR,
HIGGINBOTHAM, MOORE, WILSON, COOPER AND UPSON

[Introduced February 28, 2017; Referred
to the Committee on Education.]

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; requiring employee to be transferred be provided with a statement
 5 of the reason for the proposed transfer; removing requirement that employee to be
 6 transferred request reason for transfer in writing; requiring hearing on proposed transfer
 7 occur within twenty days of receipt of a hearing request; requiring transferred employee
 8 to report to the new assignment upon the date specified in the notice, but no sooner than
 9 ten days following receipt of notice, unless another date can be mutually agreed upon by
 10 the superintendent and employee; and removing the reassignment process that can occur
 11 when actual student enrollment in a grade level or program is unforeseen on or before
 12 May 1 of the preceding school year.

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 which will require the transfer of employees shall be considered for
 7 transfer or intended for transfer and the notification shall be limited to only those employees and

8 shall contain a statement of the reason for the proposed transfer. ~~Any teacher or employee who~~
9 ~~desires to protest the proposed transfer may request in writing a statement of the reasons for the~~
10 ~~proposed transfer. The statement of reasons shall be delivered to the teacher or employee within~~
11 ~~ten days of the receipt of the request. Within ten days of the receipt of the statement of the reasons~~
12 notification of transfer, the teacher or employee may make written demand upon the
13 superintendent for a hearing on the proposed transfer before the county board. The hearing on
14 the proposed transfer shall be held ~~on or before May 1~~ within twenty days of the receipt of the
15 hearing request. At the hearing, the reasons for the proposed transfer must be shown.

16 (b) ~~The superintendent at a meeting of the board on or before May 1 shall furnish in writing~~
17 ~~to the board a list of teachers and other employees to be considered for transfer and subsequent~~
18 ~~assignment for the next ensuing school year. An employee who was not provided notice and an~~
19 ~~opportunity for a hearing pursuant to subsection (a) of this section may not be included on the list.~~
20 ~~All other teachers and employees not so listed shall be considered as reassigned to the positions~~
21 ~~or jobs held at the time of this meeting. The list of those recommended for transfer shall be~~
22 ~~included in the minute record of the meeting and all those so listed~~ The employee shall be notified
23 in writing and which shall be delivered within ten days following the board meeting, with written
24 receipt notification documented by the superintendent, and shall state that the person is being
25 recommended for transfer and subsequent assignment and the reasons therefore. Upon receipt
26 of the transfer notice the employee shall report to the new assignment upon the date specified in
27 the notice, but no sooner than ten days following receipt of notice, unless another date can be
28 mutually agreed upon by the superintendent and employee.

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

32 (d) The provisions of this section respecting hearing upon notice of transfer are not
33 applicable in emergency situations where a school building becomes damaged or destroyed

34 through an unforeseeable act and which act necessitates a transfer of the school personnel
35 because of the aforementioned condition of the building.

36 ~~(e) Notwithstanding this section or any provision of this code, when actual student~~
37 ~~enrollment in a grade level or program, unforeseen on or before May 1 of the preceding school~~
38 ~~year, permits the assignment of fewer teachers or service personnel to or within a school under~~
39 ~~any pupil-teacher ratio, class size or caseload standard established in section eighteen-a, article~~
40 ~~five, chapter eighteen of this code or any policy of the state board, the superintendent, with board~~
41 ~~approval, may reassign the surplus personnel to another school or to another grade level or~~
42 ~~program within the school if needed there to comply with any such pupil-teacher ratio, class size~~
43 ~~or caseload standard.~~

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

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

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

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

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

NOTE: The purpose of this bill is to transfer school personnel; provide flexibility in the employee transfer process; removing April 1 deadline for notifying employee that he or she is being considered for transfer; requiring employee to be transferred be provided with a statement of the reason for the proposed transfer; removing requirement that employee to be transferred request reason for transfer in writing; requiring hearing on proposed transfer occur within twenty days of receipt of a hearing request; requiring transferred employee to report to the new assignment upon the date specified in the notice, but no sooner than ten days following receipt of notice, unless another date can be mutually agreed upon by the superintendent and employee; and removing the reassignment process that can occur when actual student enrollment in a grade level or program is unforeseen on or before May 1 of the preceding school year.

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