

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 7

BY SENATORS RUCKER, BOSO, SYPOLT, AND CLINE

[Introduced January 9, 2019; Referred
to the Committee on Education]

1 A BILL to repeal §18-5-16a of the Code of West Virginia, 1931, as amended; and to amend and
 2 reenact §18-5-16 of said code, relating to transfers and enrollment policies for students in
 3 public schools.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-16. Student transfers; legislative findings; appeals; calculating net enrollment; fees for transfer.

1 (a) Definitions. - For the purposes of this section, unless a different meaning clearly
 2 appears from the context:

3 “Nonresident pupil” means a pupil who resides in this state and who is enrolled in or is
 4 seeking enrollment in a school district other than the school district in which the pupil resides.

5 “Open enrollment” means a policy adopted and implemented by a school district governing
 6 board to allow nonresident pupils to enroll in any school within the district pursuant to subsection
 7 (c) of this section.

8 ~~(a)~~ (b) *County districts and school attendance.* -- The county board may divide the county
 9 into such districts as are necessary to determine the schools the students of its county shall
 10 attend. Upon the written request of any parent or guardian, or person legally responsible for any
 11 student, or for reasons affecting the best interests of the schools, the superintendent may transfer
 12 students from one school to another within the county. Any aggrieved person may appeal the
 13 decision of the county superintendent to the county board, and the decision of the county board
 14 shall be is final.

15 ~~(b)~~ (c) *Transfers between counties.* -- ~~legislative findings~~

16 ~~(1) Transfers of students from one county to another may be made by the county board of~~
 17 ~~the county in which the student desiring to be transferred resides. The transfer shall be subject to~~
 18 ~~the approval of both the board of the county in which the student resides and the board to which~~
 19 ~~the student wishes to be transferred.~~

20 ~~(2) Legislative findings.--- Over the past several years, counties have been forced to close~~
21 ~~a number of schools because of declining student enrollment. School officials predict that an~~
22 ~~additional eighteen percent loss in enrollment may occur between 2002 and 2012. This continued~~
23 ~~decrease in the number of students enrolled in the public schools of the state may result in more~~
24 ~~instances of consolidation which will increase the problem of long bus rides for students if they~~
25 ~~remain in a school in their county of residence.~~

26 Therefore the Legislature makes the following findings:

27 (A) ~~County lines may impede the effective and efficient delivery of education services;~~

28 (B) ~~Students often must endure long bus rides to a school within their county of residence~~
29 ~~when a school in an adjacent county is a fraction of the distance away;~~

30 (C) ~~The wishes of parents or guardians to have their children transferred to a county other~~
31 ~~than their county of residence should be considered by the county boards; and~~

32 (D) ~~Where counties cannot agree, it is necessary to establish a process to determine when~~
33 ~~transfers are appropriate.~~

34 ~~(3) The state board shall establish a process whereby a parent or guardian of a student~~
35 ~~may appeal the refusal of a county board to enter into an agreement to transfer or accept the~~
36 ~~transfer of the student.~~

37 (A) ~~The process shall designate the state superintendent to hear the appeal. In~~
38 ~~determining whether to overturn a decision of a county board, the state superintendent shall~~
39 ~~consider such factors as the following:~~

40 (i) ~~Travel time for the student;~~

41 (ii) ~~Impact on levies or bonds;~~

42 (iii) ~~Other financial impact on the county of residence; and~~

43 (iv) ~~Such other factors as the state superintendent may determine.~~

44 (B) ~~If, during the appeal process, the state superintendent discovers that the education~~
45 ~~and the welfare of students in the transferring county could be enhanced, the state superintendent~~

46 ~~may direct that students may be permitted to attend a school in another county.~~

47 ~~(C) If multiple appeals are received from the same geographical area of a county, the state~~
48 ~~superintendent may impose on the receiving county restrictions including, but not limited to,~~
49 ~~requiring the receiving county to accept all students in that geographical area of the sending~~
50 ~~county who wish to transfer to the receiving county.~~

51 ~~(D) If a student is transferred on either a full-time or a part-time basis without the~~
52 ~~agreement of both boards by official action as reflected in the minutes of their respective meetings~~
53 ~~and if the student's parent or guardian fails to appeal or loses the appeal under the process~~
54 ~~established in subdivision (3) of this subsection, the student shall be counted only in the net~~
55 ~~enrollment of the county in which the student resides.~~

56 ~~(4) If, after two county boards have agreed to a transfer arrangement for a student, that~~

57 (1) Enrollment policies. - School district governing boards may establish and implement
58 an open enrollment policy without charging tuition and without approval from any resident district
59 from which a pupil transfers. These policies shall include admission criteria, application
60 procedures, and transportation provisions. A school district may give enrollment preference to
61 siblings of pupils already enrolled through the open enrollment policy, to children who are in foster
62 care, and to children who meet the definition of unaccompanied youth prescribed in the McKinney-
63 Vento Homeless Assistance Act (42 United States Code §11434a). A school district may give
64 enrollment preference to and reserve capacity for pupils who are children, grandchildren, or legal
65 wards of persons who are employed by or at a school in the school district. A copy of the district
66 policies for open enrollment shall be posted on the district's website and shall be available to the
67 public on request.

68 (A) The governing board of the district educating the pupil may provide transportation
69 limited to no more than 20 miles each way to and from the school of attendance or to and from a
70 pickup point on a regular transportation route or for the total miles traveled each day to an adjacent
71 district for eligible nonresident pupils who meet the economic eligibility requirements established

72 under the national school lunch and child nutrition acts (42 United States Code §§ 1751 through
73 1785) for free or reduced price lunches.

74 (B) The governing board of the district educating the pupil shall provide transportation
75 limited to no more than 20 miles each way to and from the school of attendance or to and from a
76 pickup point on a regular transportation route or for the total miles traveled each day to an adjacent
77 district for nonresident pupils with disabilities whose individualized education program specifies
78 that transportation is necessary for fulfillment of the program.

79 (2) Net enrollment. — For purposes of net enrollment as defined in §18-9A-2 of this code,
80 whenever a pupil is transferred on a full-time basis from one school district to another district
81 pursuant to the provisions of this section, the county to which the pupil is transferred shall include
82 the pupil in its net enrollment.

83 (3) If, after transferring to another county, a student chooses to return to a school in his or
84 her county of residence after the second month of any school year, the following shall apply
85 applies:

86 (A) The county of residence may issue an invoice to the county from which the student
87 transferred for the amount, determined on a pro rata basis, that the county of residence otherwise
88 would have received under the state basic foundation program established in §18-9A-1 *et seq.* of
89 this code; and

90 (B) The county from which the student transferred shall reimburse the county of residence
91 for the amount of the invoice.

92 ~~(c)~~ (d) Transfers between high schools. -- In any county where a high school is maintained,
93 but topography, impassable roads, long bus rides, or other conditions prevent the practicable
94 transportation of any students to such high school, the board may transfer them to a high school
95 in an adjoining county. In any such case, the county boards may enter into an agreement providing
96 for the payment of the cost of transportation, if any, of the students.

97 ~~(d)~~ (e) Transfers between states. -- Transfer of students from this state to another state

98 shall be upon such terms as shall be mutually agreed upon by the board of the transferring county
99 and the authorities of the school to which the transfer is made.

100 ~~(e)~~ (f) No parent, guardian, or person acting as parent or guardian ~~shall be~~ is required to
101 pay for the transfer of a student or for the tuition of the student after the transfer when ~~such~~ the
102 transfer is carried out under the terms of this section.

§18-5-16a. Authorization to transfer pupils from one district to another; mandatory transfer; payment of tuition; net enrollment.

1 [Repealed]

NOTE: The purpose of this bill is to modify the transfer and enrollment policies for students in public schools.

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