

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

## **House Bill 4362**

BY DELEGATES G. WARD AND HAYNES

[Introduced January 24, 2022; Referred to the  
Committee on Education then the Judiciary]

1 A BILL to amend and reenact §18-5-1a of the Code of West Virginia, 1931, as amended, relating  
2 to permitting members of county boards of education to hold another part-time nonpartisan  
3 office.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

### **§18-5-1a. Eligibility of members; training requirements.**

1 (a) A person who is a member of a county board:

2 (1) Shall be a citizen and resident in the county in which he or she serves on the county  
3 board. Also, a person who is a candidate for membership on a county board or who is a member-  
4 elect of a county board shall be a citizen and resident in the county in which he or she seeks to  
5 serve on the county board;

6 (2) May not be employed by the county board on which he or she serves, including  
7 employment as a teacher or service person;

8 (3) May not engage in the following political activities:

9 (A) Become a candidate for or hold any other public office, other than to succeed him or  
10 herself as a member of a county board subject to the following:

11 (i) A candidate for a county board, who is not currently serving on a county board, may  
12 hold another public office while a candidate if he or she resigns from the other public office prior  
13 to taking the oath of office as a county board member.

14 (ii) The term "public office" as used in this section does not include service on any other  
15 board, elected or appointed, profit or nonprofit, under the following conditions:

16 (I) The person does not receive compensation; and

17 (II) The primary scope of the board is not related to public schools.

18 (4) A member of a county board may, however, hold another part-time office as long as it  
19 is a nonpartisan position such as a town or city council position (mayor, recorder, or council  
20 person.

21 (B) Become a candidate for, or serve as, an elected member of any political party  
22 executive committee;

23 (C) Become a candidate for, or serve as, a delegate, alternate or proxy to a national  
24 political party convention;

25 (D) Solicit or receive political contributions to support the election of, or to retire the  
26 campaign debt of, any candidate for partisan office;

27 ~~(4)~~ (5) May engage in any or all of the following political activities:

28 (A) Make campaign contributions to partisan or bipartisan candidates;

29 (B) Attend political fund raisers for partisan or bipartisan candidates;

30 (C) Serve as an unpaid volunteer on a partisan campaign;

31 (D) Politically endorse any candidate in a partisan or bipartisan election; or

32 (E) Attend a county, state, or national political party convention.

33 (b) A member or member-elect of a county board, or a person desiring to become a  
34 member of a county board, may make a written request to the West Virginia Ethics Commission  
35 for an advisory opinion to determine if another elected or appointed position held or sought by the  
36 person is an office or public office which would bar service on a county board pursuant to  
37 subsection (a) of this section.

38 (1) Within thirty days of receipt of the request, the Ethics Commission shall issue a written  
39 advisory opinion in response to the request and also shall publish the opinion in a manner which,  
40 to the fullest extent possible, does not reveal the identity of the person making the request.

41 (2) A county board member who relies in good faith upon an advisory opinion issued by  
42 the West Virginia Ethics Commission to the effect that holding a particular office or public office  
43 is not a bar from membership on a county board and against whom proceedings are subsequently  
44 brought for removal from the county board on the basis of holding that office or offices is entitled  
45 to reimbursement by the county board for reasonable attorney's fees and court costs incurred by  
46 the member in defending against these proceedings, regardless of the outcome of the

47 proceedings.

48 (3) A vote cast by the member at a meeting of the county board may not be invalidated  
49 due to a subsequent finding that holding the particular office or public office is a bar to membership  
50 on the county board.

51 (4) Good faith reliance on a written advisory opinion of the West Virginia Ethics  
52 Commission that a particular office or public office is not a bar to membership on a county board  
53 is an absolute defense to any civil suit or criminal prosecution arising from any proper action taken  
54 within the scope of membership on the county board, becoming a member-elect of the county  
55 board or seeking election to the county board.

56 (c) To be eligible for election or appointment as a member of a county board, a person  
57 shall possess at least a high school diploma or a general educational development (GED)  
58 diploma. This provision does not apply to members or members-elect who have taken office prior  
59 to May 5, 1992, and who serve continuously from that date forward.

60 (d) A person elected to a county board after July 1, 1990, may not assume the duties of  
61 county board member unless he or she has first attended and completed a course of orientation  
62 relating to boardsmanship and governance effectiveness which shall be given between the date  
63 of election and the beginning of the member's term of office under the following conditions:

64 (1) A portion or portions of subsequent training such as that offered in orientation may be  
65 provided to members after they have commenced their term of office;

66 (2) Attendance at the session of orientation given between the date of election and the  
67 beginning of the member's term of office permits the member-elect to assume the duties of county  
68 board member, as specified in this section;

69 (3) Members appointed to the county board shall attend and complete the next orientation  
70 course offered following their appointment; and

71 (4) The provisions of this subsection relating to orientation do not apply to members who  
72 have taken office prior to July 1, 1988, and who serve continuously from that date forward.

73 (e) Annually, each member of a county board shall receive seven clock hours of training  
74 in areas relating to boardsmanship, governance effectiveness, and school performance issues  
75 including, but not limited to, pertinent state and federal statutes such as the "Process for Improving  
76 Education" set forth in section five, article two-e of this chapter and the "No Child Left Behind Act"  
77 and their respective administrative rules.

78 (1) The orientation and training shall be approved by the state board and conducted by  
79 the West Virginia School Board Association or other organization or organizations approved by  
80 the state board:

81 (A) The state board may exclude time spent in training on school performance issues from  
82 the requisite seven hours herein required; and

83 (B) If the state board elects to exclude time spent in training on school performance issues  
84 from the requisite seven hours, the state board shall limit the training to a feasible and practicable  
85 amount of time.

86 (2) Failure to attend and complete the approved course of orientation and training relating  
87 to boardsmanship and governance effectiveness without good cause as determined by the state  
88 board by duly promulgated legislative rules constitutes neglect of duty under §6-6-7 of this code.

89 (f) In the final year of any four-year term of office, a member shall satisfy the annual training  
90 requirement before January 1. Failure to comply with the training requirements of this section  
91 without good cause as defined by the state board by duly promulgated legislative rules constitutes  
92 neglect of duty under §6-6-7 of this code.

93 (g) The state board shall appoint a committee named the "county board member training  
94 standards review committee" whose members shall meet at least annually. Subject to state board  
95 approval, the committee shall determine which particular trainings and training organizations shall  
96 be approved and whether county board members have satisfied the annual training requirement.  
97 Members of the committee serve without compensation, but may be reimbursed by their agencies  
98 or employers for all reasonable and necessary expenses actually incurred in the performance of

99 their duties under this subsection.

NOTE: The purpose of this bill is to permit members of county boards of education to hold another part-time nonpartisan office.

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