

1 **H. B. 2353**

2
3 (By Delegates Caputo and Fragale)

4 [Introduced January 12, 2011; referred to the
5 Committee on Education then Finance.]
6
7
8
9

10 A BILL to amend and reenact §18-5-16 of the Code of West Virginia,
11 1931, as amended, relating to allowing the State
12 Superintendent of Schools to designate a certain geographical
13 area as a "School Choice Zone."

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

15 That §18-5-16 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

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

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

20 (a) *County districts and school attendance.* -- The county
21 board may divide the county into such districts as are necessary to
22 determine the schools the students of its county shall attend.
23 Upon the written request of any parent or guardian, or person
24 legally responsible for any student, or for reasons affecting the

1 best interests of the schools, the superintendent may transfer
2 students from one school to another within the county. Any
3 aggrieved person may appeal the decision of the county
4 superintendent to the county board, and the decision of the county
5 board shall be final.

6 (b) *Transfers between counties; legislative findings.* --

7 (1) Transfers of students from one county to another may be
8 made by the county board of the county in which the student
9 desiring to be transferred resides. The transfer shall be subject
10 to the approval of both the board of the county in which the
11 student resides and the board to which the student wishes to be
12 transferred.

13 (2) *Legislative findings.* -- Over the past several years,
14 counties have been forced to close a number of schools because of
15 declining student enrollment. School officials predict that an
16 additional eighteen percent loss in enrollment may occur between
17 2002 and 2012. This continued decrease in the number of students
18 enrolled in the public schools of the state may result in more
19 instances of consolidation which will increase the problem of long
20 bus rides for students if they remain in a school in their county
21 of residence.

22 Therefore, the Legislature makes the following findings:

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

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

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

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

9 (3) The state board shall establish a process whereby a parent
10 or guardian of a student may appeal the refusal of a county board
11 to enter into an agreement to transfer or accept the transfer of
12 the student.

13 (A) The process shall designate the state superintendent to
14 hear the appeal. In determining whether to overturn a decision of
15 a county board, the state superintendent shall consider such
16 factors as the following:

17 (i) Travel time for the student;

18 (ii) Impact on levies or bonds;

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

20 (iv) Such other factors as the state superintendent may
21 determine.

22 (B) If, during the appeal process, the state superintendent
23 discovers that the education and the welfare of students in the
24 transferring county could be enhanced, the state superintendent may

1 direct that students may be permitted to attend a school in another
2 county.

3 (C) If multiple appeals are received from the same
4 geographical area of a county, the state superintendent may ~~impose~~
5 ~~on the receiving county restrictions including, but not limited to,~~
6 ~~requiring the receiving county to accept all students in that~~
7 ~~geographical area of the sending county who wish to transfer to the~~
8 ~~receiving county~~ designate that geographical area a school choice
9 zone, and any student residing in the school choice zone may
10 transfer from the sending county to the receiving county if the
11 student wishes.

12 (D) If a student is transferred on either a full-time or a
13 part-time basis without the agreement of both boards by official
14 action as reflected in the minutes of their respective meetings and
15 if the student's parent or guardian fails to appeal or loses the
16 appeal under the process established in subdivision (3) of this
17 subsection, the student shall be counted only in the net enrollment
18 of the county in which the student resides. If a student transfers
19 to a receiving county after his or her area of residence has been
20 designated a school choice zone, the student shall be counted in
21 the net enrollment of the receiving county.

22 (4) If, after two county boards have agreed to a transfer
23 arrangement for a student or after a student transferred pursuant
24 to a school choice zone designation, that student chooses to return

1 to a school in his or her county of residence after the second
2 month of any school year, the following shall apply:

3 (A) The county of residence may issue an invoice to the county
4 from which the student transferred for the amount, determined on a
5 pro rata basis, that the county of residence otherwise would have
6 received under the state basic foundation program established in
7 article nine-a of this chapter; and

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

10 (c) *Transfers between high schools.* -- In any county where a
11 high school is maintained, but topography, impassable roads, long
12 bus rides or other conditions prevent the practicable
13 transportation of any students to such high school, the board may
14 transfer them to a high school in an adjoining county. In any such
15 case, the county boards may enter into an agreement providing for
16 the payment of the cost of transportation, if any, of the students.

17 (d) *Transfers between states.* -- Transfer of students from
18 this state to another state shall be upon such terms as shall be
19 mutually agreed upon by the board of the transferring county and
20 the authorities of the school to which the transfer is made.

21 (e) ~~No~~ A parent, guardian or person acting as parent or
22 guardian ~~shall~~ may not be required to pay for the transfer of a
23 student or for the tuition of the student after the transfer when
24 such transfer is carried out under the terms of this section.

NOTE: The purpose of this bill is to allow the State Superintendent of Schools to designate certain geographical areas as a School Choice Zone which would enable students residing in the designated area to attend school in a neighboring county if they wish.

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