

1 **Senate Bill No. 623**

2 (By Senators Plymale, Chafin, Cole, Stollings, Cookman, Cann and
3 Jenkins)

4 _____
5 [Introduced March 22, 2013; referred to the Committee on
6 Education; and then to the Committee on Finance.]
7 _____

8
9
10
11 A BILL to amend and reenact §18-20-5 of the Code of West Virginia,
12 1931, as amended, relating to allowing certain funding for
13 supporting children with high acuity needs to also be used to
14 fund probation officer positions needed to address truancy;
15 and making technical corrections.

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

17 That §18-20-5 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

20 **§18-20-5. Powers and duties of state superintendent.**

21 (a) The State Superintendent of Schools shall organize,
22 promote, administer and be responsible for:

23 (1) Stimulating and assisting county boards of education in
24 establishing, organizing and maintaining special schools, classes,

1 regular class programs, home-teaching and visiting-teacher
2 services.

3 (2) Cooperating with all other public and private agencies
4 engaged in relieving, caring for, curing, educating and
5 rehabilitating exceptional children, and in helping coordinate the
6 services of such agencies.

7 (3) (A) Preparing the necessary rules, policies, formula for
8 distribution of available appropriated funds, reporting forms and
9 procedures necessary to define minimum standards in providing
10 suitable facilities for education of exceptional children and
11 ensuring the employment, certification and approval of qualified
12 teachers and therapists subject to approval by the state ~~Board of~~
13 Education board: *Provided*, That no state rule, policy or standard
14 under this article or any county board rule, policy or standard
15 governing special education may exceed the requirements of federal
16 law or regulation.

17 (B) The state superintendent annually shall ~~annually~~ review
18 the rules, policies and standards of the state and federal law for
19 serving the needs of exceptional children enrolled in the public
20 schools and shall report to the Legislative Oversight commission on
21 education accountability by December 1, or as soon thereafter as
22 requested by the commission, 2008, and in each year thereafter, the
23 findings of the review along with an accounting of the services
24 provided and the costs thereof for exceptional children enrolled in

1 the public schools of this state during the latest available school
2 year. An appropriation shall be made to the Department of
3 Education to be distributed to county boards to support children
4 with high acuity needs that exceed the capacity of the county to
5 provide with funds available and to fund probation officer
6 positions that are needed to address truancy. Each county board
7 shall apply to the state superintendent for receipt of this funding
8 in a manner set forth by the state superintendent that assesses and
9 takes into account varying acuity levels of the exceptional
10 students and the need for additional probation officer positions to
11 address truancy. Any remaining funds at the end of a fiscal year
12 from the appropriation shall be carried over to the next fiscal
13 year. When possible, federal funds shall be distributed to county
14 boards for ~~this purpose~~ these purposes before any of the state
15 appropriation is distributed: Provided, That if the state board
16 determines that using any federal funds to fund probation officer
17 positions that are needed to address truancy would be contrary to
18 federal law, those federal funds for which the finding is made only
19 may be used to support children with high acuity needs that exceed
20 the capacity of the county to provide with funds available. The
21 state board shall promulgate a rule in accordance with the
22 provisions of article three-b, chapter twenty-nine-a of this code
23 that implements the provisions of this subdivision relating to
24 distributing the funds to the county boards. The rule at least

1 shall include a definition for "children with high acuity needs".

2 (4) Receiving from county boards ~~of education~~ their
3 applications, annual reports and claims for reimbursement from such
4 moneys as are appropriated by the Legislature, auditing such claims
5 and preparing vouchers to reimburse said counties the amounts
6 reimbursable to them.

7 (5) Assuring that all exceptional children in the state,
8 including children in mental health facilities, residential
9 institutions, private schools and correctional facilities as
10 provided in section thirteen-f, article two of this chapter receive
11 an education in accordance with state and federal laws: *Provided,*
12 That the state superintendent also shall ~~also~~ assure that adults in
13 correctional facilities and regional jails receive an education to
14 the extent funds are provided therefor.

15 (6) Performing other duties and assuming other
16 responsibilities in connection with this program as needed.

17 (7) ~~Receive~~ Receiving the county plan for integrated ~~classroom~~
18 classrooms submitted by the county boards ~~of education~~ and submit
19 a state plan, approved by the state board, ~~of Education~~ to the
20 Legislative Oversight Commission on Education Accountability no
21 later than December 1, 1995.

22 (b) Nothing contained in this section ~~shall~~ may be construed
23 to prevent any county board ~~of education~~ from establishing and
24 maintaining special schools, classes, regular class programs,

- 1 home-teaching or visiting-teacher services out of funds available
- 2 from local revenue.

(NOTE: The purpose of this bill is to allow certain funding for the support of children with high acuity needs to also be used to fund probation officers needed to address truancy.

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