

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2525

BY DELEGATES MARCUM, ELDRIDGE, RODIGHIERO,
HICKS, LYNCH, FOLK, MCGEEHAN, ZATEZALO AND
ROHRBACH

[Introduced February 16, 2017; Referred
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-4-10 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §18-5-13 of said code, all relating to relieving the county
 3 superintendent of schools of the duty of nominating personnel to be employed by the
 4 county board; and authorizing the county board to employ a human resources director to
 5 receive job applications, qualifications and other pertinent information for principals, vice-
 6 principals and other administrative positions which is then submitted to the county board
 7 which may determine the persons to be hired

Be it enacted by the Legislature of West Virginia:

1 That §18-4-10 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that §18-5-13 of said code be amended and reenacted, all to read as follows:

ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.

§18-4-10. Duties of county superintendent.

1 The county superintendent shall:

2 (1) Act as the chief executive officer of the county board as may be delineated in his or
 3 her contract or other written agreement with the county board, and, under the direction of the state
 4 board, execute all its education policies;

5 ~~(2) Nominate all personnel to be employed; in case the county board refuses to employ~~
 6 ~~any or all of the persons nominated, the county superintendent shall nominate others and submit~~
 7 ~~the same to the county board at a time the county board may direct. No person or persons shall~~
 8 ~~be employed except on the nomination of the county superintendent~~

9 ~~(3)~~ (2) Assign, transfer, suspend or promote teachers and all other school employees of
 10 the district, subject only to the approval of the county board, and to recommend to the county
 11 board their dismissal pursuant to the provisions of this chapter;

12 ~~(4)~~ (3) Report promptly to the county board in such manner as it directs whenever any
 13 school in the district appears to be failing to meet the standards for improving education
 14 established pursuant to section five, article two-e of this chapter;

15 ~~(5)~~ (4) Close a school temporarily when conditions are detrimental to the health, safety or
16 welfare of the pupils;

17 ~~(6)~~ (5) Certify all expenditures and monthly payrolls of teachers and employees;

18 ~~(7)~~ (6) Serve as the secretary of the county board and attend all meetings of the county
19 board or its committees, except when the tenure, salary or administration of the county
20 superintendent is under consideration;

21 ~~(8)~~ (7) Administer oaths and examine witnesses under oath in any proceedings pertaining
22 to the schools of the district, and have the testimony reduced to writing;

23 ~~(9)~~ (8) Keep the county board apprised continuously of any issues that affect the county
24 board or its schools, programs and initiatives. The county superintendent shall report to the county
25 board on these issues using any appropriate means agreeable to both parties. When practicable,
26 the reports shall be fashioned to include a broad array of data and information that the county
27 board may consult to aid in making decisions;

28 ~~(10)~~ (9) Exercise all other authority granted by this chapter or required by the county board
29 or state board; and

30 ~~(14)~~ (10) In case of emergency, act as the best interests of the school demand. An
31 emergency, as contemplated in this section, is limited to an unforeseeable, catastrophic event
32 including natural disaster or act of war and nothing in this section may be construed as granting
33 the county superintendent authority to override any statutory or constitutional provision in the
34 exercise of his or her emergency power except where such authority is specifically granted in the
35 particular code section.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-13. Authority of boards generally.

1 Subject to the provisions of this chapter and the rules of the state board, each county
2 board may:

3 (a) Control and manage all of the schools and school interests for all school activities and

4 upon all school property owned or leased by the county, including:

5 (1) Requiring schools to keep records regarding funds connected with the school or school
6 interests, including all receipts and disbursements of all funds collected or received by:

7 (A) Any principal, teacher, student or other person in connection with the schools and
8 school interests;

9 (B) Any program, activity or other endeavor of any nature operated or conducted by or in
10 the name of the school; and

11 (C) Any organization or body directly connected with the school;

12 (2) Allowing schools to expend funds for student, parent, teacher and community
13 recognition programs. A school may use only funds it generates through a fund-raising or
14 donation-soliciting activity. Prior to commencing the activity, the school shall:

15 (A) Publicize the activity as intended for this purpose; and

16 (B) Designate for this purpose the funds generated;

17 (3) Auditing the records and conserving the funds, including securing surety bonds by
18 expending board moneys. The funds described in this subsection are quasipublic funds, which
19 means the moneys were received for the benefit of the school system as a result of curricular or
20 noncurricular activities;

21 (b) Establish:

22 (1) Schools, from preschool through high school;

23 (2) Vocational schools; and

24 (3) Schools and programs for post-high school instruction, subject to approval of the state
25 board;

26 (c) Close any school:

27 (1) Which is unnecessary and assign the students to other schools. The closing shall occur
28 pursuant to official action of the county board. Except in emergency situations when the timing
29 and manner of notification are subject to approval by the State Superintendent, the county board

30 shall notify the affected teachers and service personnel of the county board action not later than
31 the first Monday in April. The board shall provide notice in the same manner as set forth in section
32 four of this article; or

33 (2) Pursuant to the provisions of subsection (e) of this section;

34 (d) Consolidate schools;

35 (e) Close any elementary school whose average daily attendance falls below twenty
36 students for two consecutive months. The county board may assign the students to other schools
37 in the district or to schools in adjoining districts. If the teachers in the closed school are not
38 transferred or reassigned to other schools, they shall receive one month's salary;

39 (f) Provide transportation according to rules established by the county board, as follows:

40 (1) To provide at public expense adequate means of transportation:

41 (A) For all children of school age who live more than two miles distance from school by
42 the nearest available road;

43 (B) For school children participating in county board-approved curricular and
44 extracurricular activities;

45 (C) Across county lines for students transferred from one district to another by mutual
46 agreement of both county boards. The agreement shall be recorded in the meeting minutes of
47 each participating county board and is subject to the provisions of subsection (h) of this section;

48 and

49 (D) Within available revenues, for students within two miles distance of the school; and

50 (2) To provide transportation for participants in projects operated, financed, sponsored or
51 approved by the Bureau of Senior Services. This transportation shall be provided at no cost to
52 the county board. All costs and expenses incident in any way to this transportation shall be borne
53 by the bureau or the local or county affiliate of the bureau;

54 (3) Any school bus owned by the county board may be operated only by a bus operator
55 regularly employed by the county board, except as provided in subsection (g) of this section;

56 (4) Pursuant to rules established by the state board, the county board may provide for
57 professional employees to be certified to drive county board-owned vehicles that have a seating
58 capacity of fewer than ten passengers. These employees may use the vehicles to transport
59 students for school-sponsored activities, but may not use the vehicles to transport students
60 between school and home. Not more than one of these vehicles may be used for any school-
61 sponsored activity;

62 (5) Students may not be transported to a school-sponsored activity in any county-owned
63 or leased vehicle that does not meet school bus or public transit ratings. This section does not
64 prohibit a parent from transporting ten or fewer students in a privately-owned vehicle;

65 (6) Students may be transported to a school-sponsored activity in a vehicle that has a
66 seating capacity of sixteen or more passengers which is not owned and operated by the county
67 board only as follows:

68 (A) The state board shall promulgate a rule to establish requirements for:

69 (i) Automobile insurance coverage;

70 (ii) Vehicle safety specifications;

71 (iii) School bus or public transit ratings; and

72 (iv) Driver training, certification and criminal history record check; and

73 (B) The vehicle owner shall provide to the county board proof that the vehicle and driver
74 satisfy the requirements of the state board rule; and

75 (7) Buses shall be used for extracurricular activities as provided in this section only when
76 the insurance coverage required by this section is in effect;

77 (g) Lease school buses pursuant to rules established by the county board.

78 (1) Leased buses may be operated only by bus operators regularly employed by the
79 county board, except that these buses may be operated by bus operators regularly employed by
80 another county board in this state if bus operators from the owning county are unavailable.

81 (2) The lessee shall bear all costs and expenses incurred by, or incidental to the use of,

82 the bus.

83 (3) The county board may lease buses to:

84 (A) Public and private nonprofit organizations and private corporations to transport school-
85 age children for camps or educational activities;

86 (B) Any college, university or officially recognized campus organization for transporting
87 students, faculty and staff to and from the college or university. Only college and university
88 students, faculty and staff may be transported pursuant to this paragraph. The lease shall include
89 provisions for:

90 (i) Compensation for bus operators;

91 (ii) Consideration for insurance coverage, repairs and other costs of service; and

92 (iii) Any rules concerning student behavior;

93 (C) Public and private nonprofit organizations, including education employee
94 organizations, for transportation associated with fairs, festivals and other educational and cultural
95 events. The county board may charge fees in addition to those charges otherwise required by this
96 subsection;

97 (h) To provide at public expense for insurance coverage against negligence of the drivers
98 of school buses, trucks or other vehicles operated by the county board. Any contractual
99 agreement for transportation of students shall require the vehicle owner to maintain insurance
100 coverage against negligence in an amount specified by the county board;

101 (i) Provide for the full cost or any portion thereof for group plan insurance benefits not
102 provided or available under the West Virginia Public Employees Insurance Act. Any of these
103 benefits shall be provided:

104 (1) Solely from county board funds; and

105 (2) For all regular full-time employees of the county board;

106 (j) Employ teacher aides; to provide in-service training for the aides pursuant to rules
107 established by the state board; and, prior to assignment, to provide a four-clock-hour program of

108 training for a service person assigned duties as a teacher aide in an exceptional children program.
109 The four-clock-hour program shall consist of training in areas specifically related to the education
110 of exceptional children;

111 (k) Establish and operate a self-supporting dormitory for:

112 (1) Students attending a high school or participating in a post high school program; and

113 (2) Persons employed to teach in the high school or post high school program;

114 (l) At the county board's discretion, employ, contract with or otherwise engage legal
115 counsel in lieu of using the services of the prosecuting attorney to advise, attend to, bring,
116 prosecute or defend, as the case may be, any matters, actions, suits and proceedings in which
117 the county board is interested;

118 (m) Provide appropriate uniforms for school service personnel;

119 (n) Provide at public expense for payment of traveling expenses incurred by any person
120 invited to appear to be interviewed concerning possible employment by the county board, subject
121 to rules established by the county board;

122 (o) Allow designated employees to use publicly provided carriage to travel from their
123 residences to their workplace and return. The use:

124 (1) Is subject to the supervision of the county board; and

125 (2) Shall be directly connected with, required by and essential to the performance of the
126 employee's duties and responsibilities;

127 (p) Provide at public expense adequate public liability insurance, including professional
128 liability insurance, for county board employees;

129 (q) Enter into cooperative agreements with other county boards to provide improvements
130 to the instructional needs of each district. The cooperative agreements may be used to employ
131 specialists in a field of academic study or for support functions or services for the field. The
132 agreements are subject to approval by the state board;

133 (r) Provide information about vocational and higher education opportunities to exceptional

134 students. The county board shall provide in writing to the students and their parents or guardians
135 information relating to programs of vocational education and to programs available at state
136 institutions of higher education. The information may include sources of available funding,
137 including grants, mentorships and loans for students who wish to attend classes at institutions of
138 higher education;

139 (s) Enter into agreements with other county boards for the transfer and receipt of any funds
140 determined to be fair when students are permitted or required to attend school in a district other
141 than the district of their residence. These agreements are subject to the approval of the state
142 board; and

143 (t) Enter into job-sharing arrangements, as defined in section one, article one, chapter
144 eighteen-a of this code, with its employees, subject to the following provisions:

145 (1) A job-sharing arrangement shall meet all the requirements relating to posting,
146 qualifications and seniority, as provided in article four, chapter eighteen-a of this code;

147 (2) Notwithstanding any contrary provision of this code or legislative rule and specifically
148 the provisions of article sixteen, chapter five of this code, a county board that enters into a job-
149 sharing arrangement:

150 (A) Shall provide insurance coverage to the one employee mutually agreed upon by the
151 employees participating in that arrangement; and

152 (B) May not provide insurance benefits of any type to more than one of the job-sharing
153 employees, including any group plan available under the State Public Employees Insurance Act;

154 (3) Each job-sharing agreement shall be in writing on a form prescribed and furnished by
155 the county board. The agreement shall designate specifically one employee only who is entitled
156 to the insurance coverage. Any employee who is not designated is not eligible for state public
157 employee's insurance coverage regardless of the number of hours he or she works;

158 (4) All employees involved in the job-sharing agreement shall meet the requirements of
159 subdivision (3), section two, article sixteen, chapter five of this code; and

160 (5) When entering into a job-sharing agreement, the county board and the participating
161 employees shall consider issues such as retirement benefits, termination of the job-sharing
162 agreement and any other issue the parties consider appropriate. Any provision in the agreement
163 relating to retirement benefits may not cause any cost to be incurred by the retirement system
164 that is more than the cost that would be incurred if a single employee were filling the position; and

165 (u) Under rules it establishes for each child, expend an amount not to exceed the
166 proportion of all school funds of the district that each child would be entitled to receive if all the
167 funds were distributed equally among all the children of school age in the district upon a per capita
168 basis; and

169 (v) May employ a human resources director to whom all job applications and resumes
170 shall be submitted for employment in administration positions with the county board. The human
171 resources director shall submit all the names, resumes and other pertinent information of those
172 individuals who meet the qualifications for principals, vice-principals and other administrative
173 positions to the county board of education. The board may then choose whom to hire from these
174 names.

NOTE: The purpose of this bill is to relieve the county superintendent of schools of the duty of nominating personnel to be employed by the county board. The bill authorizes the county board to employ a human resources director to receive job applications, qualifications and other pertinent information for principals, vice-principals and other administrative positions. The human resources director then submits this information to the county board which may determine the persons to be hired.

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