

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2093**

BY DELEGATE DEAN

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

1 A BILL to amend and reenact §18A-4-8f of the Code of West Virginia, 1931, as amended, relating  
 2 to permitting classroom teachers or school service personnel who at the time of a school  
 3 merger who are the sole occupants of the same position that will exist at the new school  
 4 will maintain that position at the new school; and, if posting is otherwise required, only the  
 5 posting of service, professional or administrative positions for a merged school is required  
 6 only when duplicate positions exist.

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

**ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

**§18A-4-8f. Seniority rights, school consolidation.**

1 (a) Notwithstanding any provision of this article to the contrary, when a majority of the  
 2 classroom teachers or school service personnel, who vote to do so, in accordance with  
 3 procedures established in this section, and who are employed by a county board, the board shall  
 4 give priority to classroom teachers or school service personnel in any school or schools to be  
 5 closed as a result of a consolidation or merger when filling positions in the new school created by  
 6 consolidation or newly created positions in existing schools as a result of the merger.

7 (b) Each year a consolidation or merger is proposed, prior to the implementation of that  
 8 plan, the superintendent shall cause to be prepared and distributed to all faculty Senates and to  
 9 all schools or other work sites a ballot on which teachers and service personnel may indicate  
 10 whether or not they desire those affected by school closings to be given priority status in filling  
 11 new positions. A secret ballot election shall be conducted:

12 (1) In each faculty Senate for classroom teachers. The faculty Senate chair shall convey  
 13 the results of the election to the superintendent; and

14 (2) At each school or work site for school service personnel. The service personnel  
 15 supervisor at each school or work site shall convey the results of the election to the  
 16 superintendent.

17 (c) The superintendent shall tabulate and post all results prior to the notice requirements

18 for reduction in force and transfer as outlined in §18A-4-2 and §18A-4-7 of this code. The total  
19 number of votes shall be tabulated separately for classroom teachers and for service personnel.  
20 The provisions of this section also shall be implemented separately as follows:

21 (1) For classroom teachers only if a majority of the total number of teachers who cast a  
22 ballot vote to do so; and

23 (2) For school service personnel only if a majority of the total number of service personnel  
24 who cast a ballot vote to do so.

25 (d) If a majority approves, the teachers or school service personnel in the school or schools  
26 to be closed have priority in filling new positions in the new or merged schools for which the  
27 teachers are certified or for which the school service personnel are qualified and meet the  
28 standards set forth in the job posting on the basis of seniority within the county. A teacher or  
29 school service person may receive priority for filling a position at a school affected by a merger or  
30 consolidation only for the position being created by the influx of students from a consolidated or  
31 merged school into the school receiving students from their closed school or grade level.

32 (1) The most senior teacher from the closed school or schools shall be placed first, the  
33 second most senior shall be placed next and so on until all the newly created positions are filled,  
34 or until all the teachers in the closed school or schools who wish to transfer into the newly created  
35 positions are placed.

36 (2) The most senior service person from the closed school or schools has priority in filling  
37 any position within his or her classification category. The second most senior service person from  
38 the closed school or schools then has priority in filling remaining vacancies and so on until all  
39 available positions are filled.

40 (3) If there are fewer new positions in the newly created school or merged school than  
41 there are classroom teachers or school service personnel from the school or schools to be closed,  
42 the teachers or school service personnel who were not placed in the new positions retain the  
43 same rights as all other teachers or service personnel with regard to seniority, transfer and

44 reduction in force.

45 (4) Classroom teachers or school service personnel who at the time of the merger or new  
46 school creation who are the sole occupants of the same positions that will exist at the new school  
47 will maintain that position at the new school.

48 (5) Where posting of service, professional or administrative positions in the newly created  
49 school or merged school would otherwise be required, only duplicate positions shall be posted.

50 ~~(4)~~ (6) This section does not grant any employee additional rights or protections with  
51 regard to reduction in force.

52 (e) For the purposes of this section only:

53 (1) A consolidation means that one or more schools are closed, or one or more grade  
54 levels are removed from one or more schools, and the students who previously attended the  
55 closed schools or grade levels are assigned to a new school.

56 (2) A merger means that one or more schools are closed or one or more grade levels are  
57 removed from one or more schools and the students who previously attended the closed schools  
58 or grade levels are assigned to another existing school.

59 (f) The provisions of this section do not apply to positions that are filled by a county board  
60 prior to the effective date of this section, as reenacted during the regular session of the  
61 Legislature, 2007.

NOTE: The purpose of this bill is to permit classroom teachers or school service personnel who at the time of a school merger who are the sole occupants of the same positions that will exist at the new school to maintain that position at the new school. The bill requires the posting of service, professional or administrative positions only when duplicate positions exist.

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