

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4712**

BY DELEGATES MILEY, BARRETT, BATES, HORNBUCKLE,

WORRELL, HANNA AND J. JEFFRIES

[Introduced February 06, 2020; Referred to the  
Committee on Education then Finance]

1 A BILL to amend and reenact §2-2-10 of the Code of West Virginia, 1931, as amended; to amend  
 2 and reenact §18-1-1 of said code; and to amend and reenact §18-5-1 and 18-5-1b of said  
 3 code, all relating to consolidating the 55 county school boards into 10 district school  
 4 boards; redefining terms “county school board” or “school district board” and “county  
 5 superintendent”; abolishing county school district boards of education by July 1, 2025;  
 6 establishing school district boards of education; providing requirements for the application  
 7 of rules; requiring a transition plan by December 1, 2020; and establishing membership  
 8 for school district boards of education.

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

**CHAPTER 2. COMMON LAW, STATUTES, LEGAL HOLIDAYS,  
 DEFINITIONS AND LEGAL CAPACITY.**

**ARTICLE 2. LEGAL HOLIDAYS; SPECIAL MEMORIAL DAYS; CONSTRUCTION OF  
 STATUTES; DEFINITIONS.**

**§2-2-10. Rules for construction of statutes.**

1 The following rules shall be observed in the construction of statutes, unless a different  
 2 intent on the part of the Legislature is apparent from the context:

3 (a) A word importing the singular number only may be applied to several persons or things,  
 4 as well as to one person or thing; a word importing the plural number only may be applied to one  
 5 person or thing as well as to several; and a word importing the masculine gender only may be  
 6 applied to females as well as males;

7 (b) Words purporting to give a joint authority to three or more persons confer the authority  
 8 upon a majority of them, and not upon any less number;

9 (c) The words “written” or “in writing” include any representation of words, letters or figures,  
 10 whether by printing, engraving, writing or otherwise. But when the signature of any person is  
 11 required, it must be in his or her own proper handwriting, or his or her mark, attested, proved or

12 acknowledged: *Provided*, That unless a provision of this code specifically provides otherwise, an  
13 electronic signature satisfies this signature requirement if the electronic signature meets the  
14 requirements of §39A-1-2 of this code;

15 (d) The words “preceding”, “succeeding” or “following” used in reference to any section or  
16 sections of a chapter or statute, mean next preceding, next succeeding or next following that in  
17 which the reference is made, unless a different interpretation be required by the context;

18 (e) An officer has qualified when he or she has done all that is required by law to be done  
19 before proceeding to exercise the authority and discharge the duties of his or her office;

20 (f) The words “the Governor” are equivalent to “the executive of the state” or “the person  
21 having the executive power”;

22 (g) “Justice” or “justices” as used in §51-1-1 *et seq.* of this code and in other references to  
23 a member or members of the Supreme Court of Appeals means and applies to a judge or the  
24 judges of that court as provided in the Constitution of West Virginia. The word “justice” in most  
25 any other context is equivalent to the word “magistrate”, except when used as an historical  
26 reference to the words “justice of the peace”. The word “notary” is equivalent to “notary public”;

27 (h) The word “state”, when applied to a part of the United States and not restricted by the  
28 context, includes the District of Columbia and the several territories, and the words “United States”  
29 also include the said district and territories;

30 (i) The word “person” or “whoever” includes corporations, societies, associations and  
31 partnerships, and other similar legal business organizations authorized by the Legislature, if not  
32 restricted by the context;

33 (j) The words “personal representative” include the executor of a will, the administrator of  
34 the estate of a deceased person, the administrator of such estate with the will annexed, the  
35 administrator de bonis non of such estate, whether there be a will or not, the sheriff or other officer  
36 lawfully charged with the administration of the estate of a deceased person, and every other  
37 curator or committee of a decedent’s estate for or against whom suits may be brought for causes

38 of action which accrued to or against such decedent;

39 (k) The word "will" embraces a testament, a codicil, an appointment by will or writing in the  
40 nature of a will in exercise of a power, also any other testamentary disposition;

41 (l) The word "judgment" includes decrees and orders for the payment of money or the  
42 conveyance or delivery of land or personal property, or some interest therein, or any undertaking,  
43 bond or recognizance which has the legal effect of a judgment;

44 (m) The words "under disability" include persons under the age of 18 years, insane  
45 persons and convicts while confined in a correctional facility;

46 (n) The words "insane person" include everyone who has mental illness as defined in §27-  
47 1-2 of this code;

48 (o) The word "convict" means a person confined in a penitentiary or correctional facility of  
49 this or any other state, or of the United States;

50 (p) The word "land" or "lands" and the words "real estate" or "real property" include lands,  
51 tenements and hereditaments, all rights thereto and interests therein except chattel interests;

52 (q) The words "personal estate" or "personal property" include goods, chattels, real and  
53 personal, money, credits, investments and the evidences thereof;

54 (r) The word "property" or "estate" embraces both real and personal estate;

55 (s) The word "offense" includes every act or omission for which a fine, forfeiture or  
56 punishment is imposed by law;

57 (t) The expression "laws of the state" includes the Constitution of West Virginia and the  
58 Constitution of the United States, and treaties and laws made in pursuance thereof;

59 (u) The word "town" includes a city, village or town, and the word "council", any body or  
60 board, whether composed of one or more branches, who are authorized to make ordinances for  
61 the government of a city, town or village;

62 (v) When a council of a town, city or village, or any board, number of persons or  
63 corporations, are authorized to make ordinances, bylaws, rules, regulations or orders, the same

64 must be consistent with the laws of this state;

65 (w) The words "county court" include any existing tribunal created in lieu of a county  
66 commission; the words "commissioner of the county court" and "county commissioner" mean, and  
67 have reference to, the commissioners, or one of them, composing a county commission in  
68 pursuance of section nine, article IX of the Constitution, as amended, or any existing tribunal  
69 created in lieu of a county commission;

70 (x) The word "horse" embraces a stallion, a mare and a gelding;

71 (y) The words "railroad" and "railway" mean the same thing in law; and, in any proceeding  
72 in which a railroad company or a railway company is a party, it is not an error to call a railroad  
73 company a railway company or vice versa; nor may any demurrer, plea or any other defense be  
74 set up to a motion, pleading or indictment in consequence of the misdescription;

75 (z) The sectional headings or headlines of the several sections of this code printed in  
76 black-faced type are intended as mere catchwords to indicate the contents of the section and are  
77 not titles of the sections, or any part of the statute, and, unless expressly so provided, they are  
78 not part of the statute when the sections, including the headlines, are amended or reenacted;

79 (aa) The words "infant" and "minor" mean persons under the age of 18 years as used in  
80 this code or in rules promulgated by the Supreme Court of Appeals;

81 (bb) A statute is presumed to be prospective in its operation unless expressly made  
82 retrospective;

83 (cc) Unless there is a provision in a section, article or chapter of this code specifying that  
84 its provisions are not severable, the provisions of every section, article or chapter of this code,  
85 whether enacted before or subsequent to the effective date of this subdivision, are severable so  
86 that if any provision of any section, article or chapter is held to be unconstitutional or void, the  
87 remaining provisions of the section, article or chapter remain valid, unless the court finds the valid  
88 provisions are so essentially and inseparably connected with, and so dependent upon, the  
89 unconstitutional or void provision that the court cannot presume the Legislature would have

90 enacted the remaining valid provisions without the unconstitutional or void one, or unless the court  
91 finds the remaining valid provisions, standing alone, are incomplete and are incapable of being  
92 executed in accordance with the legislative intent: *Provided*, That if any section, article or chapter  
93 of this code has its own severability clause, then that severability clause governs and controls  
94 with respect to that section, article or chapter in lieu of the provisions of this subdivision. The  
95 provisions of this subdivision are fully applicable to all future amendments or additions to this  
96 code, with like effect as if the provisions of this subdivision were set forth in extenso in every  
97 amendment or addition and were reenacted as a part thereof, unless the amendment or addition  
98 contains its own severability clause;

99 (dd) A reference to any section, article or chapter of this code applies to all reenactments,  
100 revisions or amendments thereof;

101 (ee) If a statute refers to a series of numbers or letters, the first and the last numbers or  
102 letters in the series are considered to be included;

103 (ff) The words "board of regents", wherever they appear in the code, mean the Higher  
104 Education Policy Commission created in §18B-1B-1 *et seq.* of this code or the West Virginia  
105 Council for Community and Technical College Education created in §18B-2B-1 *et seq.* of this  
106 code unless the term is used in relation to activities conducted solely by an institution or  
107 institutions governed by §18B-2A-1 *et seq.* of this code in which case it only means the board of  
108 governors of the specific institution or institutions; ~~and~~

109 (gg) No legislative enactment of a regulatory, noncriminal nature may be construed to  
110 prohibit a lawful business or business structure in existence and operating in this state prior to the  
111 effective date of the enactment of legislation prohibiting the operation of such business or  
112 business structure absent an express legislative declaration in the enactment that the existing  
113 business or business structure is prohibited from continuing after the effective date of the  
114 enactment; and

115 (hh) The following words, effective July 1, 2025, mean the following:

116 "County board" or "school district board" means a school district board of education; and  
 117 "County superintendent" means a school district superintendent of schools.

## CHAPTER 18. EDUCATION.

### ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.

#### §18-1-1. Definitions.

1 The following words used in this chapter and in any proceedings pursuant thereto have  
 2 the meanings ascribed to them unless the context clearly indicates a different meaning:

3 ~~(a)~~ "School" means the students and teachers assembled in one or more buildings,  
 4 organized as a unit;

5 ~~(b)~~ "District" means ~~county~~ school district;

6 ~~(c)~~ "State board" means the West Virginia Board of Education;

7 ~~(d)~~ ~~"County board" or "Board" means a county board of education.~~

8 ~~(d)~~ "County board", "School district board" or "board" means a school district board of  
 9 education.

10 ~~(e)~~ "State superintendent" means the state superintendent of free schools;

11 ~~(f)~~ "County superintendent", "school district superintendent" or "superintendent" means a  
 12 ~~county~~ school district superintendent of schools;

13 ~~(g)~~ "Teacher" means a teacher, supervisor, principal, superintendent, public school  
 14 librarian or any other person regularly employed for instructional purposes in a public school in  
 15 this state;

16 ~~(h)~~ "Service person" or "service personnel", whether singular or plural, means any  
 17 nonteaching school employee who is not included in the meaning of "teacher" as defined in this  
 18 section, and who serves the school or schools as a whole, in a nonprofessional capacity, including  
 19 such areas as secretarial, custodial, maintenance, transportation, school lunch, and aides. Any  
 20 reference to "service employee" or "service employees" in this chapter or chapter 18A of this code

21 means service person or service personnel as defined in this section;

22 ~~(i)~~ “Social worker” means a nonteaching school employee who, at a minimum, possesses  
 23 an undergraduate degree in social work from an accredited institution of higher learning and who  
 24 provides various professional social work services, activities or methods as defined by the state  
 25 board for the benefit of students;

26 ~~(j)~~ “Regular full-time employee” means any person employed by a ~~county~~ school district  
 27 board who has a regular position or job throughout his or her employment term, without regard to  
 28 hours or method of pay;

29 ~~(k)~~ “Career clusters” means broad groupings of related occupations;

30 ~~(l)~~ “Work-based learning” means a structured activity that correlates with and is mutually  
 31 supportive of the school-based learning of the student and includes specific objectives to be  
 32 learned by the student as a result of the activity;

33 ~~(m)~~ “School-age juvenile” means any individual who is entitled to attend or who, if not  
 34 placed in a residential facility, would be entitled to attend public schools in accordance with: (1)  
 35 §18-2-5 of this code; (2) §18-5-15 and §18-5-18 of this code; or (3) §18-20-1 of this code;

36 ~~(n)~~ “Student with a disability” means an exceptional child, other than gifted, pursuant to  
 37 §18-20-1 of this code;

38 ~~(o)~~ “Casual deficit” means a deficit of not more than three percent of the approved levy  
 39 estimate or a deficit that is nonrecurring from year to year; and

40 ~~(p)~~ “Athletic director” means a person employed by a ~~county~~ school district board to work  
 41 in a school’s athletic program pursuant to §18A-2-1a of this code.

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

### **§18-5-1. Supervision and control of ~~county~~ school districts; number, nomination and election of members; transition plan.**

1 ~~(a)~~ Each ~~county~~ school district shall be under the supervision and control of a county board  
 2 of education, which shall be composed of five members, nominated and elected by the voters of

3 ~~the respective county without reference to political party affiliation. No more than two members~~  
4 ~~shall be elected from the same magisterial district~~

5 (a) Effective July 1, 2025, the county school district boards of education, previously  
6 established by this article, are hereby abolished. To carry on the duties, powers, and services  
7 provided by the county school district boards of education in effect prior to the reenactment of this  
8 section, 10 school districts shall be established by the state board of education, which shall  
9 operate as provided herein.

10 (b) Each school district shall be formed to serve a nearly equal number of students. School  
11 district boundary lines may cross county borders to allow districts to serve a nearly equal number  
12 of students. Each school district shall be under the supervision and control of a school district  
13 board of education, which shall be composed of seven members, nominated and elected by  
14 popular vote of the voters of the respective school district without reference to political party  
15 affiliation.

16 (d) The rules regarding the operation of the county school district boards of education that  
17 are in effect immediately prior to July 1, 2025, shall remain in force and effect until new or  
18 additional rules are promulgated. The state board of education may establish interim policies and  
19 procedures to aid in the orderly and efficient transition from county school districts to school  
20 districts.

21 (e) The State Board of Education shall develop and implement a transition plan for the  
22 county boards of education. The plan shall be submitted in writing to the Joint Committee on  
23 Government and Finance, the Governor, the State Board of Education. This plan shall be  
24 submitted no later than December 1, 2020. The plan shall include for the following:

25 (1) Transition to school districts the county board's hard and electronic copies of files;

26 (2) Discontinuation of use of any current building including termination of any lease or  
27 rental agreements;

28 (3) The disposition of all state-owned or leased office furniture and equipment, including

29 any state-owned vehicles;

30 (4) Transferring existing budget allocations;

31 (5) A transition plan for employees of the county boards of education.

32 (6) A new bussing system based upon the school district boundaries.

33 (7) Any other matters which would effectively transition the county boards of education to  
34 school district boards of education.

**§18-5-1b. Election; terms of office.**

1 ~~As the terms of county school board members who presently hold office expire, members~~  
2 ~~shall be elected for four-year terms at the time of each regular primary election commencing with~~  
3 ~~the year one thousand nine hundred ninety. The terms of such members shall begin on July 1,~~  
4 ~~next following the primary election at which they were elected.~~

5 ~~The term of office of any member of any county board of education shall immediately~~  
6 ~~cease, and a vacancy shall exist, upon occurrence of ineligibility as prescribed in section one-a~~  
7 ~~of this article.~~

8 ~~This section shall in no manner be construed so as to affect the unexpired terms of county~~  
9 ~~school board members who hold office or were elected under prior existing law~~

10 School district board members shall be elected to their terms, which commence on July  
11 1, at the regular primary election immediately preceding the commencement of their terms.  
12 Effective July 1, 2021, the terms of the reconstituted school district boards shall begin. The terms  
13 of school district board members shall be staggered initially. Two members shall be elected for a  
14 term of two years, three members shall be elected for a term of four years, and two members  
15 shall be elected for a term of six years. Subsequent elections shall be for terms of six years. Each  
16 board member shall serve until that member's successor has been elected and has been  
17 qualified.

18 In case of a vacancy by death or resignation among the members so elected, the  
19 remaining members of the board shall choose the successor, or successors, until the next annual

- 20 election at which latter time all vacancies shall be filled. In the case of an elected member retiring  
21 during his or her term, the retired member may continue to serve the remainder of his or her term.

NOTE: The purpose of this bill is to consolidate the 55 county school boards across the state into 10 larger districts; the School Board is to designate the 10 districts and promulgate rules for establishment and transition of the county boards into the larger school districts; and provides for election of new members of these new boards of education.

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