

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4580

BY DELEGATES GRAVES, TONEY, CLARK, FERRELL,

BARNHART, AND NESTOR

Introduced February 08, 2022; Referred to the

Committee on Education then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §18A-4-15a, relating to reemployment of retired bus operators; providing for
3 legislative findings; providing for definitions; explaining the purpose of the section; defining
4 the framework for when these individuals may work as needed; and providing for an
5 expiration date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-15a. Employment of retired bus operators as substitutes in areas of critical need and shortage.

1 (a) The Legislature hereby finds and declares that due to a shortage of qualified substitute
2 bus operators, aides and cooks, a compelling state interest exists in expanding the use of retired
3 bus operators, aides and cooks, to provide service as substitute bus operators, aides and cooks
4 in an area of critical need and shortage.

5 (b) The Legislature further finds and declares that this shortage is significant and
6 overarching, and in order to comply with §18-5-13(f)(1) of this code, this need supersedes any
7 preclusion of modification of rights codified in §18-7A-28(e) of this code.

8 (1) For the purposes of this subsection: "Area of critical need and shortage for substitute
9 bus operators, aides or cooks" means that the number of available qualified substitute bus
10 operators, aides or cooks in the county who are not retired and are available and willing to accept
11 substitute bus operator, aides or cooks assignments is insufficient to meet the projected need for
12 qualified substitute bus operators, aides or cooks.

13 (2) A person receiving retirement benefits under §18-7A-1 et seq. of this code, or who is
14 entitled to retirement benefits during the fiscal year in which that person retired, may accept
15 employment as a critical need substitute bus operator, aide or cook for an unlimited number of
16 days each fiscal year without affecting the monthly retirement benefit to which the retirant is
17 otherwise entitled, subject to satisfaction of the following conditions:

18 (A) The county board adopts a policy recommended by the superintendent to address a
19 critical need and shortage for substitute bus operators, aides and cooks;

20 (B) The superintendent of the county board submits the policy to the State Board of
21 Education for approval in the first year of its utilization. After initial approval by the State Board of
22 Education, the county board must annually renew the policy at the local level and provide
23 confirmation to the State Board of Education of its intent to utilize the policy in the subsequent
24 year;

25 (C) The policy sets forth the critical need and shortage for substitute bus operators, aides
26 and cooks in the county in accordance with the definition of area of critical need and shortage for
27 substitute bus operators, aides and cooks as provided in subdivision (1) of this subsection;

28 (D) The policy provides for the employment of retired bus operators, aides and cooks as
29 critical need substitute bus operators, aides and cooks during the school year on an expanded
30 basis in areas of critical need and shortage for substitute bus operators, aides and cooks as
31 provided in this subsection;

32 (E) The policy provides that a retired bus operator, aide or cook may be employed as a
33 substitute bus operator, aide or cook in an area of critical need and shortage for substitute bus
34 operators, aide or cooks on an expanded basis as provided in this subsection only when no other
35 qualified bus operator, aide or cook who is not retired is available and accepts the substitute
36 assignment; and

37 (F) Prior to employment of a retired bus operator, aide or cook as a critical need substitute
38 bus operator, aide or cook beyond the post-retirement employment limitations established by the
39 Consolidated Public Retirement Board, the superintendent of the affected county submits to the
40 state board in a form approved by the Consolidated Public Retirement Board and the state board,
41 an affidavit signed by the superintendent stating the name of the county, the fact that the county
42 has adopted a policy to employ retired bus operators, aides or cooks as substitutes to address its
43 critical need and shortage, the name or names of the person or persons to be employed as a

44 critical need substitute pursuant to the policy, the date that the person gave notice to the county
45 board of the person's intent to retire, and the effective date of the person's retirement. Upon
46 verification of compliance with this section and the eligibility of the critical need substitute bus
47 operator, aide or cook for employment beyond the post-retirement limit, the state board shall
48 submit the affidavit to the Consolidated Public Retirement Board.

49 (3) Any person who retires and begins work as a critical need substitute bus operator, aide
50 or cook within the same fiscal year in which that person retired shall lose those retirement benefits
51 attributed to the annuity reserve, effective from the first day of employment as a retiree critical
52 need substitute bus operator, aide or cook in that fiscal year and ending with the month following
53 the date the retiree ceases to perform service as a critical need substitute bus operator, aide or
54 cook.

55 (4) Retired bus operators, aides or cooks employed to perform expanded substitute
56 service pursuant to this subsection are considered day-to-day, temporary, part-time employees.
57 The substitutes are not eligible for additional pension or other benefits paid to regularly employed
58 employees and may not accrue seniority.

59 (5) A retired bus operator, aide or cook is eligible to be employed as a critical need
60 substitute bus operator, aide or cook to fill a vacant position without any loss of retirement benefits
61 attributed to the annuity reserve only if the retired bus operator's, aide's or cook's retirement
62 became effective before the first day of July preceding at least the fiscal year during which he or
63 she is employed as a critical need substitute bus operator, aide or cook.

64 (6) When a retired bus operator, aide or cook is employed as a critical need substitute to
65 fill a vacant position, the county board shall continue to post the vacant position until it is filled
66 with a regularly employed bus operator, aide or cook who is fully qualified for the position.

67 (7) When a retired bus operator, aide or cook is employed as a critical need substitute to
68 fill a vacant position, the position vacancy shall be posted electronically and easily accessible to
69 prospective employees as determined by the state board.

70 (8) The provisions of this subsection shall expire on June 30, 2026.

NOTE: The purpose of this bill is to allow for the reemployment of retired bus operators. The bill provides for legislative findings. The bill provides for definitions. The bill explains the purpose of the section. The bill defines the framework for when these individuals may work as needed. Finally, the bill provides for an expiration date.

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