

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Introduced**

## **Senate Bill 688**

By Senators Chapman, Hunt, and Oliverio

[Introduced February 20, 2023; referred  
to the Committee on Education]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §18-5-50, relating to allowing county boards of education to contract with  
 3 retired teachers to provide tutoring services in reading and math to support the need of  
 4 one-on-one intervention for students; stating purpose; authorizing county to enter a  
 5 contract with retired teacher; defining terms; providing tutor eligibility requirements;  
 6 providing exclusions from eligibility; setting forth liability; and providing miscellaneous  
 7 provisions regarding program.

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

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-50. WV Tutoring Program**

1 (a) Purpose – County boards of education may contract with an independent contractor  
 2 who is a retired teacher to provide tutoring services as that term is defined in this section. The  
 3 purpose of the contract is to provide additional support to students who necessitate additional one-  
 4 on-one instruction in the core subjects of reading and math. Any county board of education may  
 5 contract with as many independent contractors as the county school board considers necessary.

6 (b) Definitions – For purposes of this section the following words have the following  
 7 meanings:

8 "Contract" means an agreement between a county board of education and an independent  
 9 contractor relating to the procurement of tutoring services.

10 "County school board" means the same as that term is used in §18-5-1 et seq. of this code.

11 "Independent contractor" means the same as that term is used in §21-5I-4 of this code.

12 "Tutoring services" means academic support provided by an expert teacher who has a  
 13 deep knowledge or defined expertise in a particular subject or set of subjects.

14 "Tutor" means an independent contractor who is a retired teacher that provides tutoring  
 15 services in the area of reading or math.

16 "Retired teacher" means the same as that term is used in §7-14C-1 of this code but who

17 has retired from service from the West Virginia Teachers Retirement system.

18 (c) Requirements for participation - Prior to entering into a contract with a tutor, the county  
19 school board shall require an applicant to provide proof that he or she:

20 (1) Is a citizen of the United States and the State of West Virginia;

21 (2) Has retired from his or her employment as a teacher from the West Virginia Teachers  
22 Retirement System;

23 (3) Any other requirements imposed by the county school board that apply to current  
24 teachers, which may include, but are not limited to, a background check or training.

25 (4) A county school board may also require an independent contractor to carry appropriate  
26 liability insurance at his or her expense.

27 (d) Exclusions from participation – Any of the following disqualifying criminal offenses shall  
28 preclude a county board from engaging the services of a tutor:

29 (1) Any sex offense;

30 (2) Crimes against persons, which includes, but is not limited to, manslaughter, murder,  
31 child abuse, domestic violence, stalking, kidnapping, or aggravated assault or battery;

32 (3) Unlawful manufacture, delivery, or possession with intent to deliver any controlled  
33 substance;

34 (4) Any other misdemeanor or felony conviction deemed exclusionary for contracting with  
35 the independent contractor by the county school board.

36 (e) Liability – A county school board may not be held civilly liable or be criminally  
37 prosecuted for any action of an independent contractor tutor acting within the scope of the duties  
38 for which their services were contracted unless the county school can be shown to be grossly  
39 negligent or committed willful misconduct.

40 (f) Miscellaneous –

41 (1) In contracting for the services set forth in this section, county school boards may not be  
42 subject to purchasing requirements set forth in in §5A-3-1 et seq. of this code.

43           (2) Nothing in this section requires a county board of education to contract. Participation  
44 by a county board of education is voluntary and subject to the availability of county funds. Any  
45 county board of education that opts to participate shall do so at its own expense. The provisions of  
46 this section place no obligation for the state to appropriate money for the purposes set forth in this  
47 section.

48           (3) An independent contractor tutor is not eligible for participation in the public employee  
49 insurance plan, workers' compensation, additional state retirement credited to employment as a  
50 West Virginia Guardian, or any other state sponsored or offered state benefit plan.

51           (4) Participation in the West Virginia Tutoring Program shall not affect the retired teacher's  
52 retirement benefits in any manner.

NOTE: The purpose of this bill is to allow county boards of education to contract with retired teachers to provide tutoring services in reading and math to support the need of one-on-one intervention for students; stating purpose; authorizing county to enter a contract with retired teacher; defining terms; providing tutor eligibility requirements; providing exclusions from eligibility; liability; and providing miscellaneous provisions regarding program.

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