

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 688

BY SENATORS CHAPMAN, HUNT, AND OLIVERIO

[Originating in the Committee on Education; reported
on February 24, 2023]

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; defining terms; providing tutor
5 eligibility requirements; providing exclusions from eligibility; limiting civil and criminal
6 liability of county school board; and providing miscellaneous provisions regarding
7 program.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-50. West Virginia 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
4 one-on-one instruction in the core subjects of reading and math. Any county board of education
5 may contract with as many independent contractors as the county school board considers
6 necessary.

7 (b) Definitions. — For purposes of this section the following words have the following
8 meanings:

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

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

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

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

16 "Tutor" means an independent contractor who is a retired teacher that provides tutoring
17 services in the area of reading or math; and

18 "Retired teacher" means the same as that term is used in §18A-2-3 of this code.

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

21 (1) Is a citizen of the United States;

22 (2) Has retired from his or her employment as a teacher;

23 (3) Meets 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; and

25 (4) Carries appropriate liability insurance at his or her expense: *Provided*, That the
26 imposition of this requirement is at the discretion of the county school board.

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

29 (1) Any sex offense;

30 (2) Crimes against persons, which include, but are 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; and

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 board can be shown to be
39 grossly 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
42 be 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 with a tutor
44 pursuant to this section. Participation by a county board of education is voluntary and subject to
45 the availability of county funds. Any county board of education that opts to participate shall do so
46 at its own expense. The provisions of this section place no obligation for the state to appropriate
47 moneys for the purposes set forth in this 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 tutor, 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.