



Patrick Morrisey
Office of the Governor

April 30, 2025

VIA HAND DELIVERY

The Honorable Kris Warner
Secretary of State of West Virginia
State Capitol Complex
Building 1, Suite 157-K
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Committee Substitute for Senate Bill 158

Dear Secretary Warner:

Pursuant to Section Fourteen, Article VII of the Constitution of the State of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for Committee Substitute for Senate Bill 158 with the following objections:

The bill violates State Board of Education members' fundamental and constitutionally protected right to participate in politics. If it became law, Senate Bill 158 would add several new restraints to the political participation of members of the State Board of Education. Appointees to that board already cannot be a "member of a political party executive committee" or hold "any other public office or public employment." W. Va. Code § 18-2-1 (2024). Senate Bill 158 would also prohibit a board member from becoming a candidate for "any other public office," serving as a delegate "to a national political party convention," or soliciting or receiving "campaign contributions" for "any candidate for partisan office." 87th Leg. Sess. S.B. 158, p.2 (Apr. 11, 2025).

Those new restrictions are constitutionally concerning. "The right to become a candidate for public office is a fundamental right" protected by the First Amendment of the United States Constitution, syl. pt. 3, *Carpenter v. Cobb*, 182 W. Va. 391, 391, 387 S.E.2d 858, 858 (1989), and by Article III and IV of the West Virginia Constitution, *State ex rel. Billings v. City of Point Pleasant*, 194 W. Va. 301, 304-05, 460 S.E.2d 436, 439-440 (1995). So, burdens imposed on the exercise of those rights must be "necessary to accomplish a legitimate and compelling governmental interest." Syl. pt. 2, *Billings*, 194 W. Va. at 436, 460 S.E.2d at 301. Senate Bill 158 likely falls short of that exacting test.

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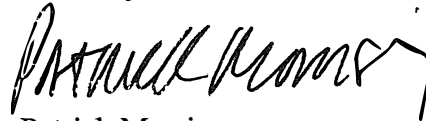
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To be sure, much of Senate Bill 158 mirrors the restraints already imposed on members of the county boards of education. W. Va. Code § 18-5-1a(a)(3). And the Supreme Court of Appeals has found that those restrictions on *county* board member's political participation serve a "compelling state interest" of "shield[ing] the integrity of that office from partisan political influence." *Carpenter*, 182 W. Va. at 394, 387 S.E.2d at 861.

But county boards differ from the State Board in an important way: the West Virginia Constitution mandates that members of the county boards of education be elected "without reference to political party affiliation," W. Va. Const. art. XII, § 6, whereas, the State Board of Education membership is expressly partisan: "No more than five members of the board shall belong to the same political party." W. Va. Const. art. XII, § 2. That constitutional difference severely weakens any compelling interest the State may have in imposing the same political participation restrictions on both boards. And it means further constraints on State Board members' fundamental right to engage in the political process is unlikely to stand up to constitutional scrutiny.

As a result of these issues, I hereby disapprove and return the Enrolled Committee Substitute for Committee Substitute for Senate Bill 158.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Morrissey", with a stylized flourish at the end.

Patrick Morrissey
Governor

cc: The Honorable Randy Smith,
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates