

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4578

By Delegates Clark, Masters, Anders, Funkhouser,

and Hornby

[Introduced January 20, 2026; referred to the

Committee on Education then Finance]

1 A BILL to amend and reenact §18A-2-2, §18A-2-2a, §18A-2-7, §18A-2-12, §18A-4-8b, and §29B-
2 1-3 of the Code of West Virginia, 1931, as amended, relating to providing more local
3 control over educational decisionmaking; differentiation of funding for counties; and
4 addressing operational efficiencies within education.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-2. Employment of teachers; contracts; continuing contract status; how terminated; dismissal for lack of need; released time; failure of teacher to perform contract or violation thereof; written notice bonus for teachers and professional personnel.

1 (a) Before entering upon their duties, all teachers shall execute a contract with their county
2 boards, which shall state the salary to be paid and shall be in the form prescribed by the state
3 superintendent. Each contract shall be signed by the teacher and by the president and secretary of
4 the county board and shall be filed, together with the certificate of the teacher, by the secretary of
5 the office of the county board. When necessary to facilitate the employment of employable
6 professional personnel and prospective and recent graduates of teacher education programs who
7 have not yet attained certification, the contract may be signed upon the condition that the
8 certificate is issued to the employee prior to the beginning of the employment term in which the
9 employee enters upon his or her duties. Where local expertise or staffing is limited, contracted
10 employees may be used.

11 (b) Each teacher's contract, under this section, shall be designated as a probationary or
12 continuing contract. A probationary teachers contract shall be for a term of not less than one nor
13 more than three years, one of which shall be for completion of a beginning teacher internship
14 pursuant to the provisions of section two-b, article three of this chapter, if applicable. If, after three
15 years of such employment, the teacher who holds a professional certificate, based on at least a

16 bachelor's degree, has met the qualifications for a bachelors degree and the county board enter
17 into a new contract of employment, it shall be a continuing contract, subject to the following:

18 (1) Any teacher with less than a bachelor's degree who holds a valid certificate and is
19 employed in a county beyond the three-year probationary period shall be granted continuing
20 contract status upon qualifying for the professional certificate based upon a bachelor's degree, if
21 the teacher becomes reemployed; and

22 (2) A teacher holding continuing contract status with one county shall be granted
23 continuing contract status with any other county upon completion of one year of acceptable
24 employment if the employment is during the next succeeding school year or immediately following
25 an approved leave of absence extending no more than one year.

26 (c) The continuing contract of any teacher shall remain in full force and effect except as
27 modified by mutual consent of the school board and the teacher, unless and until terminated,
28 subject to the following:

29 (1) A continuing contract may not be terminated except:

30 (A) By a majority vote of the full membership of the county board on or before May 1 of the
31 then current year, after written notice, served upon the teacher, return receipt requested, stating
32 cause or causes and an opportunity to be heard at a meeting of the board prior to the board's
33 action on the termination issue; or

34 (B) By written resignation of the teacher on or before May 1 to initiate termination of a
35 continuing contract;

36 (2) The termination shall take effect at the close of the school year in which the contract is
37 terminated;

38 (3) The contract may be terminated at any time by mutual consent of the school board and
39 the teacher;

40 (4) This section does not affect the powers of the school board to suspend or dismiss a
41 principal or teacher pursuant to section eight of this article;

42 (5) A continuing contract for any teacher holding a certificate valid for more than one year
43 and in full force and effect during the school year 1984-1985 shall remain in full force and effect;
44 (6) A continuing contract does not operate to prevent a teacher's dismissal based upon the
45 lack of need for the teacher's services pursuant to the provisions of law relating to the allocation to
46 teachers and pupil-teacher ratios. The written notification of teachers being considered for
47 dismissal for lack of need shall be limited to only those teachers whose consideration for dismissal
48 is based upon known or expected circumstances which will require dismissal for lack of need. An
49 employee who was not provided notice and an opportunity for a hearing pursuant to this
50 subsection may not be included on the list. In case of dismissal for lack of need, a dismissed
51 teacher shall be placed upon a preferred list in the order of their length of service with that board. A
52 teacher may not be employed by the board until each qualified teacher on the preferred list, in
53 order, has been offered the opportunity for reemployment in a position for which he or she is
54 qualified, not including a teacher who has accepted a teaching position elsewhere. The
55 reemployment shall be upon a teacher's preexisting continuing contract and has the same effect
56 as though the contract had been suspended during the time the teacher was not employed.

57 (d) In the assignment of position or duties of a teacher under a continuing contract, the
58 board may provide for released time of a teacher for any special professional or governmental
59 assignment without jeopardizing the contractual rights of the teacher or any other rights, privileges
60 or benefits under the provisions of this chapter. Released time shall be provided for any
61 professional educator while serving as a member of the Legislature during any duly constituted
62 session of that body and its interim and statutory committees and commissions without
63 jeopardizing his or her contractual rights or any other rights, privileges, benefits or accrual of
64 experience for placement on the state minimum salary schedule in the following school year under
65 the provisions of this chapter, board policy and law.

66 (e) A teacher is disqualified to teach in any public school in the state for the duration of the
67 next ensuing school year, if that teacher:

(1) Fails to fulfill his or her contract with the board, unless prevented from doing so by personal illness or other just cause or unless released from his or her contract by the board, or

(2) Violates any lawful provision of his or her contract: *Provided*, That the marriage of a

71 teacher is not considered a failure to fulfill, or violation of, the contract.

72 The State Department of Education or board may hold all papers and credentials of the
73 teacher on file for a period of one year for the violation and shall report such disqualification status
74 in the National Association of State Directors of Teacher Education and Certification (NASDTEC)
75 database system.

76 (f) Any classroom teacher, as defined in section one, article one of this chapter, who
77 desires to resign employment with a county board or request a leave of absence, the resignation
78 or leave of absence to become effective on or before July 15 of the same year and after completion
79 of the employment term, may do so at any time during the school year by written notification of the
80 resignation or leave of absence and any notification received by a county board shall automatically
81 extend the teacher's public employee insurance coverage until August 31 of the same year.

82 (g) (1) A classroom teacher who gives written notice to the county board on or before
83 March 1 of the school year of his or her retirement from employment with the board at the
84 conclusion of the school year shall be paid \$500 from the early notification of retirement line item
85 established for the Department of Education for this purpose, subject to appropriation by the
86 Legislature. If the appropriations to the Department of Education for this purpose are insufficient to
87 compensate all applicable teachers, the Department of Education shall request a supplemental
88 appropriation in an amount sufficient to compensate all such teachers. Additionally, if funds are still
89 insufficient to compensate all applicable teachers, the priority of payment is for teachers who give
90 written notice the earliest. This payment may not be counted as part of the final average salary for
91 the purpose of calculating retirement.

92 (2) The position of a classroom teacher providing written notice of retirement pursuant to
93 this subsection may be considered vacant and the county board may immediately post the position

94 as an opening to be filled at the conclusion of the school year. If a teacher has been hired to fill the
95 position of a retiring classroom teacher prior to the start of the next school year, the retiring
96 classroom teacher is disqualified from continuing his or her employment in that position. However,
97 the retiring classroom teacher may be permitted to continue his or her employment in that position
98 and forfeit the early retirement notification payment if, after giving notice of retirement in
99 accordance with this subsection, he or she becomes subject to a significant unforeseen financial
100 hardship, including a hardship caused by the death or illness of an immediate family member or
101 loss of employment of a spouse. Other significant unforeseen financial hardships shall be
102 determined by the county superintendent on a case-by-case basis. This subsection does not
103 prohibit a county school board from eliminating the position of a retiring classroom teacher.

§18A-2-2a. Leaves of absence for teachers and service personnel.

1 (a) Any teacher who is returning from an approved leave of absence that extended for a
2 period of one year or less shall be ~~reemployed by the county board with the right to be~~ restored to
3 ~~the same~~ assignment of position or duties held prior to the approved leave of absence. Such
4 teacher shall retain all seniority, rights and privileges which had accrued at the time of the
5 approved leave of absence, and shall have all rights and privileges generally accorded teachers at
6 the time of the reemployment.

7 (b) An employee shall notify the county board at least ten working days prior to beginning a
8 leave of absence. The county board shall approve such leave of absence for any teacher or
9 service personnel who requests an extended leave of absence without pay for any period of time
10 not exceeding one year for the purpose of pregnancy, childbirth or adoptive or infant bonding. An
11 employee shall not be required to use accumulated annual leave or sick leave prior to taking an
12 extended leave of absence.

13 (c) Such employee who returns from an approved leave of absence for the purpose of
14 pregnancy, childbirth or adoptive or infant bonding which lasted for a period of one year or less
15 than one year shall be reemployed with the right to be restored to the same assignment of position

16 or duties and benefits held prior to the approved leave of absence. Such employee shall retain all
17 rights and privileges generally accorded employees at the time of the reemployment.

§18A-2-7. Assignment, transfer, promotion, demotion, suspension and recommendation of

dismissal of school personnel by superintendent; preliminary notice of transfer;

hearing on the transfer; proof required.

1 (a) The superintendent, subject only to approval of the board, may assign, transfer,
2 promote, demote or suspend school personnel and recommend their dismissal pursuant to
3 provisions of this chapter. However, an employee shall be notified in writing by the superintendent
4 on or before April 1 if he or she is being considered for transfer or to be transferred. Only those
5 employees whose consideration for transfer or intended transfer is based upon known or expected
6 circumstances which will require the transfer of employees shall be considered for transfer or
7 intended for transfer and the notification shall be limited to only those employees. Any teacher or
8 employee who desires to protest the proposed transfer may request in writing a statement of the
9 reasons for the proposed transfer. The statement of reasons shall be delivered to the teacher or
10 employee within ten days of the receipt of the request. Within ten days of the receipt of the
11 statement of the reasons, the teacher or employee may make written demand upon the
12 superintendent for a hearing on the proposed transfer before the county board. The hearing on the
13 proposed transfer shall be held on or before May 1. At the hearing, the reasons for the proposed
14 transfer must be shown.

15 (b) The superintendent at a meeting of the board on or before May 1 shall furnish in writing
16 to the board a list of teachers and other employees to be considered for transfer and subsequent
17 assignment for the next ensuing school year. An employee who was not provided notice and an
18 opportunity for a hearing pursuant to subsection (a) of this section may not be included on the list.
19 All other teachers and employees not so listed shall be considered as reassigned to the positions
20 or jobs held at the time of this meeting. The list of those recommended for transfer shall be
21 included in the minute record of the meeting and all those so listed shall be notified in writing and

22 shall be delivered within ten days following the board meeting, with written receipt notification
23 documented by the superintendent, and shall state that the person is being recommended for
24 transfer and subsequent assignment and the reasons therefor.

25 (c) The superintendent's authority to suspend school personnel shall be temporary only
26 pending a hearing upon charges filed by the superintendent with the county board and the period
27 of suspension may not exceed thirty days unless extended by order of the board.

28 (d) The provisions of this section respecting hearing upon notice of transfer are not
29 applicable in emergency situations where a school building becomes damaged or destroyed
30 through an unforeseeable act and which act necessitates a transfer of the school personnel
31 because of the aforementioned condition of the building.

32 (e) Notwithstanding this section or any provision of this code, when actual student
33 enrollment in a grade level or program, unforeseen on or before May 1 of the preceding school
34 year, permits the assignment of fewer teachers or service personnel to or within a school under
35 any pupil-teacher ratio, class size or caseload standard established in section eighteen-a, article
36 five, chapter eighteen of this code or any policy of the state board, the superintendent, with board
37 approval, may reassign the surplus personnel to another school or to another grade level or
38 program within the school if needed there to comply with any such pupil-teacher ratio, class size or
39 caseload standard.

40 (1) Before any reassignment may occur pursuant to this subsection, notice shall be
41 provided to the employee and the employee shall be provided an opportunity to appear before the
42 county board to state the reasons for his or her objections, if any, prior to the board voting on the
43 reassignment.

44 (2) Except as otherwise provided in subdivision (1) of this subsection, the reassignment
45 may be made without following the notice and hearing provisions of this section, and at any time
46 during the school year when the conditions of this subsection are met: *Provided*, That the
47 reassignment may not occur after the last day of the second school month.

48 (3) A professional employee reassigned under this subsection shall be the least senior of
49 the surplus professional personnel who holds certification or licensure to perform the duties at the
50 other school or at the grade level or program within the school.

51 (4) A service employee reassigned under this subsection shall be the least senior of the
52 surplus personnel who holds the same classification or multiclassification needed to perform the
53 duties at the other school or at the grade level or program within the same school.

54 (5) No school employee's annual contract term, compensation or benefits shall be
55 changed as a result of a reassignment under this subsection.

1 (f) Notwithstanding any provision of this section to the contrary, a superintendent may
2 reassign or transfer professional or service personnel at any time during the school year when
3 such action is necessary to meet documented student, instructional, operational, or programmatic
4 needs.

5 (g) All personnel decisions shall be based on the needs of the students and schools within
6 the district and made at the sole discretion of the county Boards of Education upon
7 recommendation by the superintendent.

8 (h) County boards shall adopt a policy defining the deciding factors on which personnel
9 decisions shall be based.

§18A-2-12. Performance evaluations of school personnel; professional personnel evaluation process; restrictions on requirements on lesson plans and record keeping by classroom teachers.

4 (b) The system adopted by the state board for evaluating the employment performance of
5 professional personnel shall be in accordance with the provisions of this section.

(c) For purposes of this section, "professional personnel", "professional", or "professionals", means professional personnel and other professional employees, as defined in §18A-1-1 of this code but does not include classroom teachers, principals, and assistant principals subject to the evaluation processes established pursuant to §18A-3C-2 of this code.

(d) The performance evaluation system shall contain, but not be limited to, the following information:

(1) The professional personnel positions to be evaluated;

(2) The frequency and duration of the evaluations, which shall be of such frequency and
as to insure the collection of a sufficient amount of data from which reliable conclusions
ings may be drawn, but at least annually;

(3) The evaluation shall serve the following purposes:

(A) Serve as a basis for the improvement of the performance of the personnel in their assigned duties;

(B) Provide an indicator of satisfactory performance for individual professionals;

(C) Serve as documentation for a dismissal on the grounds of unsatisfactory performance;

(D) Serve as a basis for programs to increase the professional growth and development of professional personnel:

(4) The standards for satisfactory performance for professional personnel and the criteria used to determine whether the performance of each professional meets those standards and criteria for evaluation for each professional position evaluated. Professional personnel, as appropriate, shall demonstrate competency in the knowledge and implementation of the technology standards adopted by the state board. If a professional fails to demonstrate competency in the knowledge and implementation of these standards, he or she will be subject to a review and improvement plan to correct the deficiencies; and

35 (e) A professional whose performance is considered to be unsatisfactory shall be given
36 notice of deficiencies. A remediation plan to correct deficiencies shall be developed by the
37 employing county board and the professional. The professional shall be given a reasonable period
38 of time for remediation of the deficiencies and shall receive a statement of the resources and
39 assistance available for the purposes of correcting the deficiencies.

40 (f) No person may evaluate school based professional personnel for the purposes of this
41 section or school based professional educator for the purposes of §18A-3C-2 of this code unless
42 the person has an administrative certificate issued by the state superintendent and has
43 successfully completed education and training in evaluation skills approved by the state board,
44 which will enable the person to make fair, professional, and credible evaluations of the school
45 based personnel whom the person is responsible for evaluating. All other personnel are evaluated
46 by the supervisor who has completed training in evaluation techniques.

47 (g) Any professional whose performance evaluation includes a written improvement plan
48 shall be given an opportunity to improve his or her performance through the implementation of the
49 plan. If the next performance evaluation shows that the professional is now performing
50 satisfactorily, no further action may be taken concerning the original performance evaluation. If the
51 evaluation shows that the professional is still not performing satisfactorily, the evaluator either
52 shall make additional recommendations for improvement or may recommend the dismissal of the
53 professional in accordance with the provisions of §18A-2-8 of this code.

54 (h) This subsection applies to all classroom teachers irrespective of the process under
55 which they are evaluated.

56 (1) Lesson plans are intended to serve as a daily guide for teachers and substitutes for the
57 orderly presentation of the curriculum. Lesson plans may not be used as a substitute for
58 observations by an administrator in the performance evaluation process. A classroom teacher, as
59 defined in §18A-1-1 of this code, may not be required to post his or her lesson plans on the Internet
60 or otherwise make them available to students and parents or to include in his or her lesson plans
61 any of the following:

62 (A) Teach and reteach strategies;

63 (B) Write to learn activities;

64 (C) Cultural diversity;

65 (D) Color coding; or

66 (E) Any other similar items which are not required to serve as a guide to the teacher or
67 substitute for daily instruction;

68 (2) The Legislature finds that classroom teachers must be free of unnecessary paperwork
69 so that they can focus their time on instruction. Therefore, classroom teachers may not be required
70 to keep records or logs of routine contacts with parents or guardians;

71 (3) Nothing in this subsection may be construed to prohibit classroom teachers from
72 voluntarily posting material on the Internet; and

73 (4) Nothing in §18A-3C-1 *et seq.* of this code may be construed to negate the provisions of
74 this subsection.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-8b. Seniority rights for school service personnel.

6 will be performing the majority of his or her duties.

7 (b) Qualifications means the applicant holds a classification title in his or her category of
8 employment as provided in this section and is given first opportunity for promotion and filling
9 vacancies. Other employees then shall be considered and shall qualify by meeting the definition of
10 the job title that relates to the promotion or vacancy, as defined in section eight of this article. If
11 requested by the employee, the county board shall show valid cause why a service person with the
12 most seniority is not promoted or employed in the position for which he or she applies. Qualified
13 applicants shall be considered in the following order:

14 (1) Regularly employed service personnel who hold a classification title within the
15 classification category of the vacancy;

16 (2) Service personnel who have held a classification title within the classification category
17 of the vacancy whose employment has been discontinued in accordance with this section;

18 (3) Regularly employed service personnel who do not hold a classification title within the
19 classification category of vacancy;

20 (4) Service personnel who have not held a classification title within the classification
21 category of the vacancy and whose employment has been discontinued in accordance with this
22 section;

23 (5) Substitute service personnel who hold a classification title within the classification
24 category of the vacancy;

25 (6) Substitute service personnel who do not hold a classification title within the
26 classification category of the vacancy; and

27 (7) New service personnel.

28 (c) The county board may not prohibit a service person from retaining or continuing his or
29 her employment in any positions or jobs held prior to the effective date of this section and
30 thereafter.

31 (d) A promotion means any change in employment that the service person considers to

32 improve his or her working circumstance within the classification category of employment.

33 (1) A promotion includes a transfer to another classification category or place of
34 employment if the position is not filled by an employee who holds a title within that classification
35 category of employment.

36 (2) Each class title listed in section eight of this article is considered a separate
37 classification category of employment for service personnel, except for those class titles having
38 Roman numeral designations, which are considered a single classification of employment:

39 (A) The cafeteria manager class title is included in the same classification category as
40 cooks;

41 (B) The executive secretary class title is included in the same classification category as
42 secretaries;

43 (C) Paraprofessional, autism mentor, early classroom assistant teacher and braille or sign
44 support specialist class titles are included in the same classification category as aides; and

45 (D) The mechanic assistant and chief mechanic class titles are included in the same
46 classification category as mechanics.

47 (3) The assignment of an aide to a particular position within a school is based on seniority
48 within the aide classification category if the aide is qualified for the position.

49 (4) Assignment of a custodian to work shifts in a school or work site is based on seniority
50 within the custodian classification category.

51 (e) For purposes of determining seniority under this section a service persons seniority
52 begins on the date that he or she enters into the assigned duties.

53 (f) *Extra-duty assignments.* --

54 (1) For the purpose of this section, "extra-duty assignment" means an irregular job that
55 occurs periodically or occasionally such as, but not limited to, field trips, athletic events, proms,
56 banquets and band festival trips.

57 (2) Notwithstanding any other provisions of this chapter to the contrary, decisions affecting

58 service personnel with respect to extra-duty assignments are made in the following manner:

59 (A) A service person with the greatest length of service time in a particular category of
60 employment is given priority in accepting extra duty assignments, followed by other fellow
61 employees on a rotating basis according to the length of their service time until all employees have
62 had an opportunity to perform similar assignments. The cycle then is repeated.

63 (B) An alternative procedure for making extra-duty assignments within a particular
64 classification category of employment may be used if the alternative procedure is approved both
65 by the county board and by an affirmative vote of two-thirds of the employees within that
66 classification category of employment.

67 (g) County boards shall post and date notices of all job vacancies of existing or newly
68 created positions in conspicuous places for all school service personnel to observe for at least five
69 working days.

70 (1) Posting locations include any website maintained by or available for the use of the
71 county board.

72 (2) Notice of a job vacancy shall include the job description, the period of employment, the
73 work site, the starting and ending time of the daily shift, the amount of pay and any benefits and
74 other information that is helpful to prospective applicants to understand the particulars of the job.

75 The notice of a job vacancy in the aide classification categories shall include the program or
76 primary assignment of the position. Job postings for vacancies made pursuant to this section shall
77 be written to ensure that the largest possible pool of qualified applicants may apply. Job postings
78 may not require criteria which are not necessary for the successful performance of the job and
79 may not be written with the intent to favor a specific applicant.

80 (3) All vacancies in existing or newly created positions shall be filled within twenty working
81 days from the closing date of the job posting for the position.

82 (4) The county board shall notify the successful applicant as soon as possible after the
83 county board makes a hiring decision regarding the posted position.

84 (h) All decisions by county boards concerning reduction in work force of service personnel
85 shall be made on the basis of seniority, as provided in this section.

86 (i) The seniority of a service person is determined on the basis of the length of time the
87 employee has been employed by the county board within a particular job classification. For the
88 purpose of establishing seniority for a preferred recall list as provided in this section, a service
89 person who has been employed in one or more classifications retains the seniority accrued in each
90 previous classification.

91 (j) If a county board is required to reduce the number of service personnel within a
92 particular job classification, the following conditions apply:

93 (1) The employee with the least amount of seniority within that classification or grades of
94 classification is properly released and employed in a different grade of that classification if there is
95 a job vacancy;

96 (2) If there is no job vacancy for employment within that classification or grades of
97 classification, the service person is employed in any other job classification which he or she
98 previously held with the county board if there is a vacancy and retains any seniority accrued in the
99 job classification or grade of classification.

100 (k) After a reduction in force or transfer is approved, but prior to August 1, a county board in
101 its sole and exclusive judgment may determine that the reason for any particular reduction in force
102 or transfer no longer exists.

103 (1) If the board makes this determination, it shall rescind the reduction in force or transfer
104 and notify the affected employee in writing of the right to be restored to his or her former position of
105 employment.

109 (3) The county board may not rescind the reduction in force of an employee until all service

110 personnel with more seniority in the classification category on the preferred recall list have been
111 offered the opportunity for recall to regular employment as provided in this section.

112 (4) If there are insufficient vacant positions to permit reemployment of all more senior
113 employees on the preferred recall list within the classification category of the service person who
114 was subject to reduction in force, the position of the released service person shall be posted and
115 filled in accordance with this section.

116 (l) If two or more service persons accumulate identical seniority, the priority is determined
117 by a random selection system established by the employees and approved by the county board.

118 (m) All service personnel whose seniority with the county board is insufficient to allow their
119 retention by the county board during a reduction in work force are placed upon a preferred recall
120 list and shall be recalled to employment by the county board on the basis of seniority.

121 (n) A service person placed upon the preferred recall list shall be recalled to any position
122 openings by the county board within the classification(s) where he or she had previously been
123 employed, to any lateral position for which the service person is qualified or to a lateral area for
124 which a service person has certification and/or licensure.

125 (o) A service person on the preferred recall list does not forfeit the right to recall by the
126 county board if compelling reasons require him or her to refuse an offer of reemployment by the
127 county board.

128 (p) The county board shall notify all service personnel on the preferred recall list of all
129 position openings that exist from time to time. The notification shall be sent annually, with written
130 receipt notification documented by the superintendent, and shall list instructions to access job
131 postings on any website maintained by or available for the use of the county board.

132 (q) A position opening may be filled by the county board, whether temporary or permanent,
133 until all service personnel on the preferred recall list have been properly notified of existing
134 vacancies and have been given an opportunity to accept reemployment.

135 (r) A service person released from employment for lack of need as provided in sections six

136 and eight-a, article two of this chapter is accorded preferred recall status on July 1 of the
137 succeeding school year if he or she has not been reemployed as a regular employee.

138 (s) A county board failing to comply with the provisions of this article may be compelled to
139 do so by mandamus and is liable to any party prevailing against the board for court costs and the
140 prevailing party's reasonable attorney fee, as determined and established by the court.

141 (1) A service person denied promotion or employment in violation of this section shall be
142 awarded the job, pay and any applicable benefits retroactively to the date of the violation and shall
143 be paid entirely from local funds.

144 (2) The county board is liable to any party prevailing against the board for any court
145 reporter costs including copies of transcripts.

CHAPTER 29B. FREEDOM OF INFORMATION.

ARTICLE 1. PUBLIC RECORDS.

§29B-1-3. Inspection and copying of public record; requests of Freedom of Information Act

requests registry.

1 (a) Every person West Virginia resident has a right to inspect or copy any public record of a
2 public body in this state, except as otherwise expressly provided by section four of this article.

3 (b) A request to inspect or copy any public record of a public body shall be made directly to
4 the custodian of such public record.

5 (c) The custodian of any public records, unless otherwise expressly provided by statute,
6 shall furnish proper and reasonable opportunities for inspection and examination of the records in
7 his or her office and reasonable facilities for making memoranda or abstracts therefrom, during the
8 usual business hours, to all persons having occasion to make examination of them. The custodian
9 of the records may make reasonable rules and regulations necessary for the protection of the
10 records and to prevent interference with the regular discharge of his or her duties. If the records
11 requested exist in magnetic, electronic or computer form, the custodian of the records shall make

12 copies available on magnetic or electronic media, if so requested.

13 (d) All requests for information must state with reasonable specificity the information
14 sought. The custodian, upon demand for records made under this statute, shall as soon as is
15 practicable but within a maximum of five days not including Saturdays, Sundays or legal holidays:

16 (1) Furnish copies of the requested information;

17 (2) Advise the person making the request of the time and place at which he or she may
18 inspect and copy the materials; or

19 (3) Deny the request stating in writing the reasons for such denial. A denial shall indicate
20 that the responsibility of the custodian of any public records or public body to produce the
21 requested records or documents is at an end, and shall afford the person requesting them the
22 opportunity to institute proceedings for injunctive or declaratory relief in the circuit court in the
23 county where the public record is kept.

24 (e) The public body may establish fees reasonably calculated to reimburse it for its actual
25 cost in making reproductions of records. ~~A public body may not charge a search or retrieval fee or~~
~~otherwise seek reimbursement based on a man hour basis as part of costs associated with~~
~~making reproduction of records.~~

28 (f) The Secretary of State shall maintain an electronic data base of notices of requests as
29 required by section three-a of this article. The database shall be made available to the public via
30 the Internet and shall list each freedom of information request received and the outcome of the
31 request. The Secretary of State shall provide on the website a form for use by a public body to
32 report the results of the freedom of information request, providing the nature of the request and the
33 public body's response thereto, whether the request was granted, and if not, the exemption
34 asserted under section four of this article to deny the request.

NOTE: The purpose of this bill is to provide more local control over educational decisionmaking, differentiation of funding for counties, and to address operational efficiencies within 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.