WEST VIRGINIA CODE: §29a-3B-1

§29A-3B-1. Findings; definitions.

(a) The Legislature finds:

(1) That section one, article twelve of the West Virginia Constitution, titled “Education”, states in relevant part “The Legislature shall provide”, which language gives the Legislature primacy of authority over education in the State;

(2) That section one, article twelve of the West Virginia Constitution remains identical today as it was when the constitution was adopted in 1872, where the Legislature exercising its authority under section one, article twelve of “Education”, created the four-member West Virginia Board of Examiners in 1905. This was followed by the West Virginia Board of Education in 1908, and then the Legislature abolished that board and created a new State Board of Education in 1919;

(3) That the constitutional amendment of 1958 transferred the already established authority from the elected state superintendent to the West Virginia Board of Education with the same responsibilities for “general supervision” of free schools, and “performing such duties as may be prescribed by law”. The amendment kept the same authoritative language of responsibilities as had previously existed for the elected state superintendent under section two, article twelve of the West Virginia Constitution, without adding additional authoritative responsibility in the amendment;

(4) That section one, article twelve of the West Virginia Constitution does not entail the exclusive delegation of rule-making functions to the Legislature, but it does establish the Legislature as the ultimate authority to approve, amend, or reject rules promulgated by the West Virginia Board of Education under section two, article twelve of the West Virginia Constitution;

(5) That pursuant to section one, article five of the West Virginia Constitution, there are only three branches of government; and

(6) That the Legislature exercises authority over the West Virginia Board of Education pursuant to §18-2-5 of this code.

(b) As used in this article,

"board" means the West Virginia Board of Education.

WV Legislature