

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949

ENROLLED

SENATE BILL No. 102

(By Mr. McKinn)

PASSED February 23 1949

In Effect Ninety days from Passage



102

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Senate Bill No. 102

(By MR. MCKOWN)

[Passed February 23, 1949; in effect ninety days from passage.]

AN ACT to amend and reenact section sixteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to transfer of pupils; tuition; transportation and maintenance.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 16. *Transfer of Pupils; Tuition; Transportation*
2 *and Maintenance.*—The board may divide its territory
3 into such sub-districts as are necessary to determine the
4 schools the pupils of its district shall attend. But upon
5 the written request of any parent or guardian, or person

6 legally responsible for any pupil, or for reasons affecting
7 the best interests of the schools, the superintendent may
8 transfer pupils from one school to another within the
9 district. Any aggrieved person may appeal the decision
10 of the superintendent to the board, and the decision of
11 the board shall be final.

12 Transfers of pupils from one county to another may be
13 made by the board of the county in which the pupil de-
14 siring to be transferred resides; but the transfer shall
15 be subject to the approval of the board of the county to
16 which the pupil wishes to be transferred, except such
17 approval shall not be a condition precedent to the trans-
18 fer of a pupil resident in a municipality comprised of
19 parts of two or more counties in this state, or resident
20 in an independent school district as the same existed
21 prior to the date the county unit act became effective,
22 made up of parts of two or more counties and whether
23 or not within its limits now defined is located a munici-
24 pality or part thereof, but until otherwise provided by
25 the board of the unit of his residence, such pupil shall
26 be considered and treated as transferred, as the case or

27 the situation may be, with the right unimpaired to at-
28 tend the school or schools now established and main-
29 tained (if not discontinued) in such municipality and/or
30 independent school district. Such transfer by operation
31 of law shall cease, when: (a), the board of the unit
32 comprising a part of the municipality or independent
33 school district, has erected or does establish and main-
34 tain therein a school or schools of the grade or grades
35 and standing, respectively, equivalent to the school or
36 schools in adjoining unit which the pupil coming within
37 the exceptions above mentioned is given the right to
38 attend; or (b), in the discretion of the board it can
39 transport economically the pupils coming within the
40 exception aforesaid to some school or schools estab-
41 lished and maintained in the jurisdiction of the unit of
42 the pupils' residence and elects to so do. The existence
43 of the fact under (a) aforesaid shall be declared by the
44 board and entered of record in its minutes, as well as
45 the entry of the exercise of its discretion and election
46 under the provisions (b) aforesaid, and a copy of the
47 minutes of the board relating to its declaration and/or

48 discretion and election as aforesaid, as the case may be,
49 duly certified by the signature of the president and the
50 secretary of said board, shall be furnished forthwith
51 to the board of the unit comprising the other part of
52 said municipality or independent school district. In
53 all cases of transfer by the act of the board or by opera-
54 tion of law, either to elementary schools or to high
55 schools, the board making the transfer shall pay to the
56 board to which such transfer is made, reasonable tuition
57 fees, which for elementary schools shall not exceed twelve
58 dollars a month, and for junior and senior high schools
59 shall not exceed fifteen dollars a month. The fee, to be
60 paid out of the teachers fund, shall not exceed the actual
61 cost of the instruction. No parent, guardian or person
62 acting as parent or guardian shall be required to pay for
63 the transfer or for the tuition of the pupil after the
64 transfer. The board of the district to which the pupil
65 has been transferred shall promptly, at the first of each
66 month, certify to the board of the district from which
67 the pupil was transferred the correct amount of all
68 tuition fees due and payable for the next preceding

69 month. All tuition fees shall be paid within thirty days
70 of certification, to the district maintaining the school
71 by the district to which the fees are certified. All tuition
72 fees shall be paid out of the teachers' fund of the one
73 district to the teachers' fund of the other.

74 In any district where a high school is maintained, but
75 topography, impassable roads or other conditions pre-
76 vent the practicable transportation of any pupils to such
77 high school, the board may transfer them to a high school
78 in an adjoining district. In any such case, the board
79 making the transfer shall pay the cost of the transporta-
80 tion of such pupils to and from the school to which they
81 are transferred, and shall also pay the tuition fees as
82 provided above.

83 In any district where no high school for negro pupils
84 is maintained the board shall provide for the payment of
85 tuition fees, not to exceed fifteen dollars a month for
86 each pupil, necessary to permit the enrollment of all
87 qualified negro pupils in the nearest available negro
88 high school, negro vocational high school, or in the high
89 school department of a negro institution of higher edu-

90 cation, and shall also pay the cost of the daily trans-
91 portation of the pupils to such high school. If, however,
92 the daily transportation of such pupils is impracticable,
93 necessitating their absence from home overnight, the
94 board shall pay in addition to the tuition fees a mainte-
95 nance allowance of at least thirty dollars a month to
96 each such pupil. Daily transportation involving a round
97 trip of more than fifty miles shall at the election of the
98 pupil be considered impracticable for the purpose of this
99 requirement.

100 Transfer of pupils from this state to another shall be
101 upon such terms as shall be mutually agreed upon by
102 the board of the transferring district and the authorities
103 of the school to which the transfer is made, and shall be
104 based upon the aggregate per capita student cost of the
105 preceding year, of the school to which the transfer is
106 made.

107 For the purpose of computing average daily attend-
108 ance any pupil transferred as provided in this section
109 shall be counted by the district making the transfer and
110 not by the district to which he was transferred.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Forest L. McMan
Chairman Senate Committee

W. H. Hatcher
Chairman House Committee

Originated in the Senate.

Takes effect *Ninety days from* passage.

Norman Meyer
Clerk of the Senate

J. A. Lipp
Clerk of the House of Delegates

W. H. Hatcher
President of the Senate

W. E. Hannon
Speaker House of Delegates

The within *Approved* this the *26th*
day of *FEBRUARY*, 1949.

Okey L. Patton
Governor.