

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967

ENROLLED

SENATE BILL NO. 105

(By Mr. McKinnon and Mr. Curigan)

PASSED March 11, 1967

In Effect July 1, 1967 Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-21-67

105

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Senate Bill No. 105

(By MR. MCKOWN and MR. CARRIGAN)

[Passed March 11, 1967; in effect July 1, 1967.]

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections fourteen and seventeen of article five thereof; by repealing article six thereof; by amending and reenacting section nine of article three thereof, sections two and ten of article four thereof; and sections one-a, four, thirteen, nineteen and thirty-one of article five thereof; and by adding to article three thereof a new section, designated section eleven, all relating to the administration and control of schools.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one

thousand nine hundred thirty-one, as amended, be amended by repealing sections fourteen and seventeen of article five thereof; by repealing article six thereof; by amending and reenacting section nine of article three thereof, sections two and ten of article four thereof, and sections one-a, four, thirteen, nineteen and thirty-one of article five thereof; and by adding to article three thereof a new section, designated section eleven, all to read as follows:

ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.

§18-3-9. State department of education.

For carrying into effect the provisions of this chapter,
2 the state superintendent of schools shall maintain a de-
3 partment of education at his office at the state capitol,
4 and he shall have authority to employ assistants and such
5 other employees as may be necessary.

§18-3-11. Classification of schools.

The state superintendent shall classify all elementary
2 and secondary schools on the basis of standards, rules
3 and regulations established by the state board after pub-
4 lishing such standards, rules and regulations, and for-
5 warding them to the district boards of education, county
6 superintendents, and other school officers.

ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.**§18-4-2. Qualifications; health certificate.**

The superintendent at the time of his election shall hold
2 a certificate valid in West Virginia and an approved bache-
3 lor's degree including at least twelve semester hours in
4 school administration and supervision, and at least five
5 years' experience in public school teaching and/or su-
6 pervision: *Provided*, A superintendent who held office
7 during the school year of one thousand nine hundred
8 forty—one thousand nine hundred forty-one may be
9 elected to succeed himself in office.

10 Before entering upon the discharge of his duties the
11 superintendent shall file with the president of the board
12 a health certificate from a reputable physician, on a form
13 prescribed by the state department of schools, certifying
14 that he is physically fit for the duties of his office and
15 that he has no infectious or contagious disease; and if
16 the superintendent, due to accident or illness, should
17 become incapacitated to an extent that could lead to a
18 prolonged absence, the board, upon unanimous vote,
19 shall have authority to enter an order declaring such

20 incapacity and it shall appoint an acting superintendent
21 until such time as a majority of the members of the board
22 shall determine that the incapacity no longer exists. How-
23 ever, an acting superintendent shall not serve as such for
24 more than one year, or later than the expiration date of
25 the superintendent's term, whichever is less, without
26 being reappointed by the board of education.

§18-4-10. Duties.

The county superintendent shall:

- 2 (1) Act as the chief executive officer of the board,
3 and execute under the direction of the state board all
4 its educational policies;
- 5 (2) Nominate all personnel to be employed; in case
6 the board of education refuses to employ any or all of
7 the persons nominated, the superintendent shall nomi-
8 nate others and submit the same to the board of educa-
9 tion at such time as the board may direct, but no such
10 person or persons shall be employed except on the nomi-
11 nation of the county superintendent;
- 12 (3) Assign, transfer, suspend or promote teachers and
13 all other school employees of the district, subject only
14 to the approval of the board, and to recommend to the

15 board their dismissal pursuant to the provisions of this
16 chapter;

17 (4) Organize and attend district institutes; organize
18 and direct reading circles and boys' and girls' clubs;

19 (5) Close temporarily a school when conditions are
20 detrimental to the health, safety or welfare of the pupils;

21 (6) Certify all expenditures and monthly payrolls of
22 teachers and employees;

23 (7) Be the secretary of the board and attend all meet-
24 ings of the board or its committees, except when his ten-
25 ure, salary or administration is under consideration;

26 (8) Administer oaths and examine under oath wit-
27 nesses in any proceedings pertaining to the schools of
28 the district, and have the testimony reduced to writing;

29 (9) Exercise all other authority granted by this chap-
30 ter or required by the board or state board;

31 (10) Act in case of emergency as the best interests of
32 the school demand.

ARTICLE 5. DISTRICT BOARD OF EDUCATION.

§18-5-1a. Eligibility of members.

No person shall be eligible for membership on any
2 county board of education who is not a citizen, resident

3 in such county, or who accepts a position as teacher or
4 service personnel in any school district, or who is an
5 elected or an appointed member of any political party
6 executive committee, or who becomes a candidate for any
7 other office than to succeed himself.

8 No member or member-elect of any board of education
9 shall be eligible for nomination, election or appointment
10 to any public office, other than to succeed himself or
11 for election or appointment as a member of any political
12 party executive committee, unless and until after his
13 membership on the board, or his status as member-elect
14 to the board, has been ^{ter} ~~terminated~~ at or before the time
15 of his filing for such nomination for, or appointment to,
16 such public office or committee.

**§18-5-4. Meetings; quorum; employment and assignment of
teachers; compensation of members; affiliation with
state and national associations.**

The board shall meet on the first Monday in January,
2 and upon the dates provided by law for the laying of
3 levies, and at such other times as the board may fix upon
4 its records. At any meeting as authorized above and in

5 compliance with the provisions of article four of this
6 chapter, the board may employ such qualified teachers, or
7 those who will qualify by the time of entering upon their
8 duties, necessary to fill existing or anticipated vacancies
9 for the current or next ensuing school year. At a meeting
10 of the board, on or before the first Monday in May, the
11 superintendent shall furnish in writing to the board a
12 list of those teachers to be considered for transfer and
13 subsequent assignment for the next ensuing school year;
14 all other teachers not so listed shall be considered as re-
15 assigned to the positions held at the time of this meeting.
16 Such list of those recommended for transfer shall be in-
17 cluded in the minute record and the teachers so listed
18 shall be notified in writing, which notice shall be delivered
19 in writing, by certified mail, return receipt requested, to
20 such teachers' last known address within ten days follow-
21 ing said board meeting, of their having been so recom-
22 mended for transfer and subsequent assignment.

23 Special meetings may be called by the president or
24 any three members, but no business shall be transacted
25 other than that designated in the call.

26 A majority of the members shall constitute the quorum
27 necessary for the transaction of official business.

28 Board members shall receive compensation at the rate
29 of twenty dollars per meeting attended. But they shall
30 not receive pay for more than twenty-four meetings in
31 any one fiscal year.

32 Members shall also be paid, upon the presentation of an
33 itemized sworn statement, for all necessary traveling ex-
34 penses, including all authorized meetings, incurred on
35 official business, at the order of the board.

36 When, by a majority vote of its members, a county
37 board of education deems it a matter of public interest,
38 such board may join the West Virginia school board as-
39 sociation and the national school board association, and
40 may pay such dues as may be prescribed by said associa-
41 tions and approved by action of the respective county
42 boards. Membership dues and actual traveling expenses
43 of board members for attending meetings of the West
44 Virginia school board association may be paid by their
45 respective county boards of education out of funds avail-
46 able to meet actual expenses of the members, but no al-

47 lowance shall be made except upon sworn itemized state-
48 ments.

§18-5-13. General control of schools; consolidation; transportation of pupils.

The boards, subject to the provisions of this chapter
2 and the rules and regulations of the state board, shall
3 have authority:

4 (1) To control and manage all of the schools and school
5 interests for all school activities and upon all school prop-
6 erty, whether owned or leased of the county, including the
7 authority to require that records be kept of all receipts and
8 disbursements of all funds collected or received by any
9 principal, teacher, student or other person in connection
10 therewith, any programs, activities or other endeavors of
11 any nature operated or carried on by or in the name of the
12 school, or any organization or body directly connected
13 with the school, to audit such records and to conserve
14 such funds, which shall be deemed quasi-public moneys,
15 including securing surety bonds by expenditure of board
16 moneys;

17 (2) To establish schools, from preschool through high
18 school, inclusive of vocational schools; and to establish
19 schools and/or programs for post high school instruction,
20 subject to approval of the state board of education;

21 (3) To close any school which is unnecessary and to
22 assign the pupils thereof to other schools: *Provided*, That
23 such closing shall be officially acted upon and teachers
24 and service personnel involved notified on or before the
25 first Monday in May, in the same manner as provided in
26 section four of this article, except in an emergency, sub-
27 ject to the approval of the state superintendent, or under
28 sub-paragraph (5);

29 (4) To consolidate schools;

30 (5) To close any elementary school whose average
31 daily attendance falls below twenty pupils for two months
32 in succession, and send the pupils to other schools in the
33 district or to schools in adjoining districts. If the teachers
34 in the schools so closed are not transferred or reassigned
35 to other schools, they shall receive one month's salary;

36 (6) To provide at public expense adequate means of
37 transportation for all children of school age who live

38 more than two miles distant from school by the nearest
39 available road and to provide at public expense and
40 according to such regulations as the board may estab-
41 lish, adequate means of transportation for school children
42 participating in board-approved curricular and extra-
43 curricular activities; and, provide in addition thereto, by
44 rules and regulations and within the available revenues,
45 transportation for those within two miles distance: *Pro-*
46 *vided*, That in all cases the buses or other transportation
47 facilities owned by the board of education shall be driven
48 or operated only by drivers regularly employed by the
49 board of education: *Provided, however*, That buses shall
50 be used for extra-curricular activities as herein provided
51 only when the insurance provided for by this section shall
52 have been effected;

53 (7) To provide at public expense for insurance against
54 the negligence of the drivers of school buses, trucks, or
55 other vehicles operated by the board; and if the transpor-
56 tation of pupils be let out to contract, then the contract
57 therefor shall provide that the contractor shall carry in-
58 surance against negligence in such an amount as the board
59 shall specify;

60 (8) To employ and to provide inservice training for
61 teacher aides, the training to be in accordance with rules
62 and regulations of the state board;

63 (9) To establish and conduct a self-supporting dormi-
64 tory for the accommodation of the pupils attending a high
65 school or participating in a post high school program and
66 of persons employed to teach therein;

67 "Quasi-public funds" as used herein are defined as any
68 money received by any principal, teacher, student or other
69 person for the benefit of the school system as a result of
70 curricular or non-curricular activities.

71 (10) The board shall be authorized to provide at public
72 expense, adequate public liability insurance;

73 (11) No policy or contract of public liability insurance
74 providing coverage for public liability shall be purchased
75 as provided herein, unless it shall contain a provision or
76 endorsement whereby the company issuing such policy
77 waives, or agrees not to assert as a defense to any claim
78 covered by the terms of such policy, the defense of gov-
79 ernmental immunity. In any action against the board,
80 its officers, agents, or employees, in which there is in

81 effect liability insurance coverage in an amount equal to
82 or greater than the amount sued for, the attorney for
83 such board, the attorney for such insurance carrier, nor
84 any other attorney who may appear on behalf of the
85 board, its agents, officers, or employees shall not set up
86 the defense of governmental immunity in any such action.

87 The board of any district shall expend under such regu-
88 lations as it establishes for each child an amount not to
89 exceed the proportion of all school funds of the district
90 that each child would be entitled to receive if all the funds
91 were distributed equally among all the children of school
92 age in the district upon a per capita basis. No changes in
93 textbooks except those provided by general law shall be
94 made as a result of the passage of this act: *Provided*, That
95 at least one year of instruction in the history of the state
96 of West Virginia shall be given prior to the eighth grade.

**§18-5-19. Night schools and other school extension activities;
use of school property for public meetings, etc.**

The board of education of any district or independent
2 district shall have authority to establish and maintain
3 evening classes or night schools, continuation or part-

4 time day schools, and vocational schools, wherever prac-
5 ticable to do so, and shall admit thereto adult persons and
6 all other persons, including persons of foreign birth, but
7 excepting children and youths who are required by law
8 to attend day schools; boards of education shall have
9 authority to use school funds for the financial support
10 of such schools and to use the schoolhouses and their
11 equipment for such purposes. Any such classes of schools
12 shall be conducted in accordance with the rules and regu-
13 lations of the state board of education.

14 The board of education of any district or independent
15 district shall have authority also to provide for the free,
16 comfortable and convenient use of any school property
17 to promote and facilitate frequent meetings and asso-
18 ciations of the people for discussion, study, recreation and
19 other community activities, and may secure, assemble
20 and house material for use in the study of farm, home
21 and community problems, and may provide facilities
22 for the dissemination of information useful on the farm,
23 in the home, or in the community.

§18-5-31. Employment of service personnel.

The county board, upon nomination by the superin-
2 tendent, may employ such service personnel as is deemed
3 necessary for meeting the needs of the county school
4 system. After four consecutive years of acceptable ser-
5 vice within the district, any employee shall be notified
6 in writing on or before June thirtieth if he is not to be
7 re-employed for the ensuing year and shall have the
8 right of a hearing before the board, if requested.

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

William Tempas
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1967.

Howard Meyers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

W. Laban White
Speaker House of Delegates

The within approved this the 21
day of March, 1967.

Huett C. Smith
Governor

PRESENTED TO THE
GOVERNOR

Date 3/21/67

Time 2:20pm