

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1973



ENROLLED

HOUSE BILL No. 1253

(By Mrs. Meritt Antm. Lehe)



PASSED April 11, 1973

In Effect Ninety days from Passage



1253

FILED IN THE OFFICE  
EDGAR F. McSKILL III  
SECRETARY OF STATE  
THIS DATE 5/3/73

ENROLLED

# House Bill No. 1253

(By MRS. MERRITT and MR. LOHR)

[Passed April 11, 1973; in effect ninety days from passage.]

AN ACT to amend and reenact section thirteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of county boards of education generally and their specific authority to provide professional liability insurance.

*Be it enacted by the Legislature of West Virginia:*

That section thirteen, 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:

## **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

### **§18-5-13. Authority of boards generally.**

1 The boards, subject to the provisions of this chapter and the  
2 rules and regulations of the state board, shall have authority:  
3 (1) To control and manage all of the schools and school  
4 interests for all school activities and upon all school property,  
5 whether owned or leased by the county, including the authority  
6 to require that records be kept of all receipts and disbursements  
7 of all funds collected or received by any principal, teacher,  
8 student or other person in connection therewith, any pro-  
9 grams, activities or other endeavors of any nature operated  
10 or carried on by or in the name of the school, or any organi-  
11 zation or body directly connected with the school, to audit  
12 such records and to conserve such funds, which shall be

13 deemed quasi-public moneys, including securing surety bonds  
14 by expenditure of board moneys;

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

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

26 (4) To consolidate schools;

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

33 (6) (a) To provide at public expense adequate means of  
34 transportation, including transportation across county lines,  
35 for all children of school age who live more than two miles  
36 distance from school by the nearest available road and to  
37 provide at public expense and according to such regulations as  
38 the board may establish, adequate means of transportation for  
39 school children participating in board-approved curricular and  
40 extracurricular activities; and provide in addition thereto, by  
41 rules and regulations and within the available revenues, trans-  
42 portation for those within two miles distance: *Provided*, That in  
43 all cases the buses or other transportation facilities owned by  
44 the board of education shall be driven or operated only by driv-  
45 ers regularly employed by the board of education: *Provided*,  
46 *however*, That buses shall be used for extracurricular activities  
47 as herein provided only when the insurance provided for by this  
48 section shall have been effected;

49 (b) To enter into agreements with one another to provide,  
50 on a cooperative basis, adequate means of transportation  
51 across county lines for children of school age subject to the  
52 conditions and restrictions of subdivisions (6) and (7) of

53 this section;

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

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

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

67 (10) To employ legal counsel;

68 (11) To provide, at public expense, adequate public  
69 liability insurance, including professional liability insurance for  
70 board employees;

71 (12) No policy or contract of public liability insurance  
72 providing coverage for public liability shall be purchased as  
73 provided herein, unless it shall contain a provision or endorse-  
74 ment whereby the company issuing such policy waives, or  
75 agrees not to assert as a defense to any claim covered by the  
76 terms of such policy, the defense of governmental immunity.  
77 In any action against the board, its officers, agents or em-  
78 ployees, in which there is in effect liability insurance coverage  
79 in an amount equal to or greater than the amount sued for, the  
80 attorney for such board, the attorney for such insurance carrier,  
81 or any other attorney who may appear on behalf of the board,  
82 its agents, officers or employees shall not set up the defense of  
83 governmental immunity in any such action.

84 "Quasi-public funds" as used herein are defined as any  
85 money received by any principal, teacher, student or other per-  
86 son for the benefit of the school system as a result of curricular  
87 or noncurricular activities.

88 The board of any district shall expend under such regulations  
89 as it establishes for each child an amount not to exceed the  
90 proportion of all school funds of the district that each child  
91 would be entitled to receive if all the funds were distributed  
92 equally among all the children of school age in the district  
93 upon a per capita basis.

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

*W. Darrel Darby*  
Chairman Senate Committee

*Lawrence C. Thurston*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*Heward Carson*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*H. J. Brotherton*  
President of the Senate

*Lewis F. McManus*  
Speaker House of Delegates

The within *approved* this the *24th*  
day of *April*, 1973.

*Arthur A. Shouse, Jr.*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/24/73

Time 2:34 p.m.

RECEIVED

APR 24 2 34 PM '73

OFFICE OF  
COMPTROLLER OF STATE  
STATE OF WEST VIRGINIA