

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1973



ENROLLED

HOUSE BILL No. 1130

(By Mr. Lake and Mr. Cuss)



PASSED April 14 1973

In Effect thirty days from Passage



C 641

1130

FILED IN THE OFFICE  
EDGAR F. HEISKELL III  
SECRETARY OF STATE  
THIS DATE 5/4/73

ENROLLED

# House Bill No. 1130

(By MR. LOHR and MR. OURS)

[Passed April 14, 1973; in effect ninety days from passage.]

AN ACT to repeal section six, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections five, seven, eight, nine and ten, article eight, chapter six of said code; to amend and reenact sections one and ten, article five, chapter seven of said code; to amend and reenact section four, article six of said chapter seven; to amend and reenact sections thirteen and fifteen, article one, chapter eleven-a of said code; to amend and reenact sections two-c, three and four, article nine, chapter eighteen of said code; to further amend said article nine by adding thereto a new section, designated section six; and to amend and reenact section nine, article four, chapter eighteen-a of said code; all relating to the fiscal and financial affairs of county boards of education; transferring funds and duties in relation to school funds from the sheriffs of the various counties to the treasurers of the county boards of education; concerning the collection and disbursement of, and settlement for, the various tax revenues and other funds intended for expenditure for public school purposes; defining the powers and duties of the position of treasurer of the county board of education; procedures concerning the appointment of such treasurers; bonds of treasurers; and their authority to receive, invest and expend funds; criminal offenses and penalties.

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

That section six, article four, chapter eighteen of the code of

West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections five, seven, eight, nine and ten, article eight, chapter six of said code be amended and reenacted; that sections one and ten, article five, chapter seven of said code be amended and reenacted; that section four, article six, chapter seven of said code be amended and reenacted; that sections thirteen and fifteen, article one, chapter eleven-a of said code be amended and reenacted; that sections two-c, three and four, article nine, chapter eighteen of said code be amended and reenacted; that said article nine be further amended by adding thereto a new section, designated section six; and that section nine, article four, chapter eighteen-a of said code be amended and reenacted, all to read as follows:

## **CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**

### **ARTICLE 8. SETTLEMENTS BY OFFICERS.**

#### **§6-8-5. Sheriff as county treasurer; settlements; turning over money to successor.**

1     The sheriff shall be ex officio treasurer of his county and  
2     of the several districts thereof, and the word or designation  
3     “sheriff” whenever used in this code shall, unless the context  
4     otherwise requires, be held to include the sheriff as ex officio  
5     treasurer of the county and of the several districts thereof.  
6     Between the fifteenth and thirty-first days of December of the  
7     year in which a sheriff’s term of office expires, such sheriff  
8     shall make up a list of all uncollected taxes and shall make a  
9     complete settlement with the county court, or tribunal in lieu  
10    thereof, and the board of education in such county, in the  
11    manner provided by law for settlements required at the end of  
12    the fiscal year. The sheriff shall receive credit in such settle-  
13    ment for the amount of taxes, remaining unpaid, and such  
14    list of taxes remaining unpaid shall be turned over to his  
15    successor in office January first. It shall be the duty of such  
16    successor to collect such taxes and to make up a delinquent list  
17    as provided and required by law; also to make settlement at the  
18    end of the fiscal year with the county court, or tribunal in lieu  
19    thereof, and the county board of education, in the manner  
20    provided by law. Every sheriff shall, on the first of January  
21    immediately following the expiration of his term of office,

22 turn over to his successor all public moneys. Every sheriff  
23 who is appointed to fill a vacancy shall make such settlement  
24 with the county court, or tribunal in lieu thereof, and the  
25 county board of education, immediately upon the qualification  
26 of his successor, and at such time turn over to such successor  
27 all public moneys.

**§6-8-7. Settlements by sheriff for school funds.**

1 The county court of each county shall appoint a time im-  
2 mediately following the first day of July in each year, and in  
3 any event within thirty days thereafter, and within thirty days  
4 following the expiration of the term of office of any sheriff, for  
5 the settlement of the school funds of the county. At the time  
6 so fixed, the school board of that county and the treasurer of  
7 the county board of education, unless the sheriff has been  
8 designated treasurer of the county board pursuant to section  
9 six, article nine, chapter eighteen of this code, shall meet with  
10 the county court. The sheriff of the county shall attend such  
11 meeting and lay before the county court and such board of  
12 education his account of school funds for the county, which  
13 account shall be then and there settled. The county court  
14 shall give at least five days' notice of the time fixed for the  
15 settlement of the county school funds to the county board of  
16 education, the treasurer of the county board of education and  
17 the sheriff.

**§6-8-8. Same—With what sheriff to be charged.**

1 In his settlement of school funds the sheriff shall be charged  
2 with the amount of taxes and of general school fund appor-  
3 tioned to each county and the amount of taxes levied by the  
4 board of education upon the property of the county and for all  
5 school funds, and for any other money received by him during  
6 the current year on account of the free schools of the county.

**§6-8-9. Same—With what sheriff to be credited.**

1 The sheriff shall be credited in such settlements with the  
2 amount of delinquent school tax in the county that has been  
3 duly certified by the clerk of the county court to the county  
4 board of education; and with all orders paid and produced by  
5 him, if found to be correct by the board of education. He shall  
6 receive no other credits.

**§6-8-10. Same—Method of settlement.**

1 In making such settlement it shall be the duty of the sheriff  
2 to prepare and present to the county board of education, in  
3 duplicate, separate lists of all the credits claimed by him  
4 against each of the several school funds collected by him,  
5 showing the amount, date and number of each voucher or  
6 order, and to whom payable, together with statements of the  
7 proper debits to the several funds to which he is chargeable;  
8 which lists and statements, together with the vouchers claim-  
9 ed as credits by the sheriff, shall, if found correct by such  
10 board, be endorsed by the treasurer of the board on the back  
11 of each with the words, "Settled by the board of education,"  
12 under which the treasurer shall sign his name and enter the  
13 date of the settlement, and such statements and lists, after  
14 being corrected, if corrections are necessary, shall be signed  
15 by the sheriff and by the president and treasurer of the board  
16 of education in duplicate, one copy to be retained by such  
17 board, and the other, together with the vouchers and orders,  
18 to be turned over to the county court. Exceptions may be tak-  
19 en to such settlement as provided in section two of this article,  
20 which exceptions shall be heard and decided by the county  
21 court. If the county court finds the settlement to be correct,  
22 or after it has corrected the same, it shall be confirmed and  
23 made a matter of record by the clerk of the county court in a  
24 book kept for that purpose.

**CHAPTER 7. COUNTY COURTS AND OFFICERS.****ARTICLE 5. FISCAL AFFAIRS.****§7-5-1. Sheriff ex officio county treasurer.**

1 The sheriff shall be ex officio county treasurer and as such  
2 treasurer shall receive, collect and disburse all moneys due  
3 such county or any district thereof, and shall also receive, col-  
4 lect and disburse to the treasurer of the county board of edu-  
5 cation all school money for the county, unless the sheriff is  
6 designated by the board as its treasurer, as provided in sec-  
7 tion six, article nine, chapter eighteen of this code. The sheriff  
8 shall keep his office at the courthouse for the county, in a  
9 suitable room or rooms provided for that purpose by the

10 county court, in which all money and property in his pos-  
11 session shall be kept, unless deposited by him in a county de-  
12 pository, in which case an accurate daily deposit account  
13 thereof shall be kept at his office. He shall keep in his office  
14 a fair and accurate account of all receipts and disbursements  
15 by him, showing the time when, from whom, to whom and on  
16 what account received and paid, and he shall so arrange his  
17 books that the amount received and paid on account of separate  
18 and distinct funds, or specific appropriations, shall be exhibit-  
19 ed in separate and distinct accounts, and he shall also keep  
20 separate and distinct accounts for the funds of each fiscal  
21 year.

22 When any money is paid to the sheriff, except for taxes, the  
23 sheriff shall give to the person paying the same duplicate re-  
24 cepts therefor, stating briefly the fund or account for which  
25 paid; one of which receipts such person shall forthwith de-  
26 posit with the clerk of the county court, who shall, in a well-  
27 bound book to be kept by him in his office for the purpose,  
28 charge the sheriff therewith and preserve such receipt in his  
29 office.

30 The sheriff and his sureties on his official bond shall be  
31 held liable for all public moneys coming into his hands as  
32 ex officio treasurer from every source whether or not the  
33 same shall be deposited in a bank.

**§7-5-10. County orders receivable for taxes and fees.**

1 Every officer charged with the collection of taxes for any  
2 fiscal year and officers' fees shall receive in payment thereof,  
3 at par, any county order or draft issued in payment of any claim  
4 arising during said fiscal year for which were levied the taxes  
5 for the payment of which such draft is offered drawn on such  
6 officer pursuant to law, to the amount that such taxes are levied  
7 for the same fund against which such draft or order is drawn,  
8 if such draft be then due and payable, and if the person  
9 offering the same in payment be the person entitled thereto at  
10 the time it is so offered.

11 And if the amount due on such order or draft be more than  
12 the amount to be collected for the fund against which the draft  
13 is drawn from the person so offering the same in payment, the  
14 officer shall pay the balance due thereon if he have in his hands

15 any money applicable to such payment; and if not he shall en-  
16 dorse thereon the amount of taxes or fees held by him against  
17 such person for which the draft is acceptable and that he has no  
18 money in his hands applicable to the payment of the balance  
19 thereof, and thereupon the holder of such order shall have the  
20 right to have issued to him new orders; one for the amount of  
21 the taxes endorsed on the original order, and the other for the  
22 remainder of such original order, and such original order shall  
23 be canceled. No such officer shall be required to accept in pay-  
24 ment in whole or in part of any taxes for any fund, any order or  
25 draft drawn in any year preceding the fiscal year for which  
26 said taxes were levied and are being collected.

#### **ARTICLE 6. COUNTY DEPOSITORIES.**

##### **§7-6-4. Deposit and disbursement of moneys by sheriff.**

1 The sheriff, upon receipt of a certified copy of the order of  
2 the county court, showing that a depository has been designated  
3 and bond accepted in compliance with the provisions of this  
4 article, and naming the depository or depositories, shall deposit  
5 therein to the credit of the county treasurer all public money in  
6 his possession, except such as may be necessary to meet current  
7 demands; and, thereafter, he shall make daily deposits in the  
8 public depositories of all public money received by him, except  
9 as hereinafter provided, the deposit of such money to be made  
10 as early as practicable after the receipt or collection thereof,  
11 and such money shall be payable by the depository only on an  
12 order issued by the county court, after such order has been  
13 endorsed by the county treasurer directing payment by the  
14 depository. If at any time the cash in the hands of the sheriff  
15 is not sufficient to meet current demands, he is authorized to  
16 withdraw sufficient cash from the depository to meet such  
17 current demands, such withdrawals to be made by check  
18 drawn by the sheriff and countersigned by the county clerk.  
19 Such current demands shall not be anticipated more than a  
20 week in advance. All moneys due the sheriff are to be drawn  
21 from the depository on an order issued by the sheriff. At the  
22 end of each month the president and clerk of the county court  
23 shall sign proper orders on the sheriff, in his favor, to pay him  
24 the moneys due him. All moneys belonging to the state, or any  
25 municipality, or board of education, shall be disbursed from the

26 depository on a check drawn by the sheriff, payable to the  
27 auditor of the state of West Virginia, or to the treasurer of the  
28 municipality or to the treasurer of the county board of edu-  
29 cation, unless the sheriff is designated as the treasurer, as  
30 provided in section six, article nine, chapter eighteen of this  
31 code.

## **CHAPTER 11A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.**

### **ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.**

#### **§11A-1-13. Accounts to be kept by sheriff.**

1 The sheriff shall keep separate accounts in a permanent  
2 book, in form prescribed by the tax commissioner, of all the  
3 taxes received and disbursed by him, for the different pur-  
4 poses for which the taxes were levied. Each of such accounts  
5 shall be kept so as to show the total receipts and disburse-  
6 ments up to the close of business on each day; and in a sepa-  
7 rate column opposite such totals the sheriff shall ascertain and  
8 note in figures, at the close of each day's transactions, the bal-  
9 ance due from or to him, as the case may be, on account of  
10 such funds. The account book shall be subject to inspection  
11 at any time by the tax commissioner, members of the county  
12 court, the clerk thereof, the prosecuting attorney, the mayor  
13 or treasurer of any municipality, or the treasurer of the county  
14 board of education.

#### **§11A-1-15. Payment by sheriff to municipal and county board of education treasuries.**

1 Each month the sheriff shall pay all moneys collected for  
2 any municipal corporation and the county board of education  
3 into the respective treasuries of such municipal corporation  
4 and county board of education, payment to be made on or be-  
5 fore the tenth day of each month of all moneys collected dur-  
6 ing the preceding month for such municipal corporation and  
7 the county board of education: *Provided*, That the sheriff  
8 shall not be required to make such monthly payments to the  
9 county board of education, if the county board has designated  
10 the sheriff as its treasurer pursuant to section six, article nine,  
11 chapter eighteen of this code. For the faithful performance of

12 this duty, he shall execute a bond, to be approved by the muni-  
13 cipal council or board of education, in the penalty to be fixed  
14 by the council or board, not to exceed the amount of municip-  
15 al or school taxes which it is estimated he will collect within  
16 any period of two months. The premium on such bond shall  
17 be paid by the municipality or board of education. Every  
18 sheriff who fails to make any payment when due shall be  
19 charged with interest at the rate of twelve percent a year.

## CHAPTER 18. EDUCATION

### ARTICLE 9. SCHOOL FINANCES.

#### **§18-9-2c. Transfer of funds remaining after retirement of school bonds; use of funds.**

1 The treasurers of the county boards of education are here-  
2 by authorized and directed to transfer to the credit of the  
3 school current fund of the boards of education of their re-  
4 spective counties, all remaining funds collected for the retire-  
5 ment of school bonds after such bonds shall have been retired,  
6 if the fact of such retirement has been certified by the state  
7 sinking fund commission.

8 When such bonds have been retired the state sinking fund  
9 commission shall certify the fact of the retirement of such  
10 bonds to the treasurer of the board of education of the county.  
11 Such funds shall be used in the same manner as other funds  
12 now to the credit of, or which may hereafter be placed to  
13 the credit of, the school current fund by the respective county  
14 boards of education.

#### **§18-9-3. Collection and disbursement of school money by sheriff; signing of orders for payment of money; forgery of signatures; penalties.**

1 The sheriff shall receive, collect and disburse all levies,  
2 and any other school moneys he may receive to the treasurer  
3 of the county board of education unless the sheriff has been  
4 designated treasurer of the county board pursuant to section  
5 six, article nine, chapter eighteen of this code. He shall keep  
6 accounts of the money belonging to the several funds and shall  
7 credit and charge every amount to the fund to which it belongs.  
8 The treasurer of the board of education shall pay money only

9 upon the order of the board. The order shall specify the a-  
10 mount to be paid, the purpose for which it is paid, and the  
11 fund to which it shall be charged. The order shall be signed  
12 by the president and shall be countersigned by the secretary:  
13 *Provided*, That such signatures authorizing the payment of  
14 such orders may be made by means of such mechanical or  
15 electrical device as the board may select. Such mechanical or  
16 electrical device for the making of the signatures of the presi-  
17 dent and secretary shall be safely kept so that no one shall have  
18 access thereto except the president and the secretary of the  
19 board and such of their respective employees as may be autho-  
20 rized to have access thereto. If any person shall sign the  
21 names of the president or secretary of the board of education,  
22 without having authority so to do, by the use of any mech-  
23 anical or electrical device, or otherwise, or use the facsimile of  
24 the signature of either of them on any order, he shall be guilty  
25 of forgery; and if any person shall utter or attempt to employ  
26 as true such forged order, knowing the same to be forged, he  
27 shall, in either event, be guilty of a felony, and, upon convic-  
28 tion, shall be confined in the penitentiary not less than two  
29 nor more than ten years.

**§18-9-4. Nonpayment of order; liability of treasurer of county board.**

1 If, when an order of any county board of education is pre-  
2 sented to the treasurer of the board, there are no funds to pay  
3 the same, the person entitled to receive the sum of money spec-  
4 ified in such order may require the treasurer to endorse there-  
5 on, or write across the face thereof, the words "presented for  
6 payment," with the proper date, and sign the same; and the  
7 order, if it was due at the time of presentment, shall in such  
8 case be payable with legal interest from such date.

9 Any such order not paid when presented as aforesaid shall  
10 again be presented to the treasurer of the county board for  
11 payment by the person entitled to receive the money thereon  
12 not later than the first day of December after such endorse-  
13 ment, and if not so presented, no further interest shall be al-  
14 lowed or paid on such order thereafter, until such order shall  
15 be so presented and endorsed as aforesaid a second time by  
16 the treasurer, and in no case shall interest be allowed or paid  
17 on such order for the period of time elapsed from the first day

18 of December following the first endorsement of such order by  
19 the treasurer and the date when such order is presented for  
20 payment or endorsement by the treasurer a second time.

21 In no event shall any such order bear interest for a longer  
22 period than one year and six months from date of its issue. But  
23 if the treasurer of the county board, having funds to pay the  
24 same, fails to pay any proper order of any board of education  
25 of his county, properly endorsed, when presented to him dur-  
26 ing business hours by a person entitled to receive the money  
27 therein specified, if the same be then due and payable, he and  
28 his sureties, and the personal representatives of such of them  
29 as are dead, shall be liable to the person entitled to receive  
30 the money due on said order for the whole amount due there-  
31 on at the time of such presentation, with legal interest on such  
32 amount from that time until payment, and ten percent on the  
33 same amount as damages.

**§18-9-6. Transfer of moneys; appointment of treasurer; bonding of  
treasurer; approval of bank accounts; authority to  
invest.**

1 The sheriff of each county shall remit to the board of edu-  
2 cation all moneys in his possession held on behalf of the coun-  
3 ty board of education, whether or not deposited in a bank or  
4 depository unless the sheriff has been designated treasurer of  
5 the board of education as provided in this section. Such trans-  
6 fer of funds shall be made as of the balances on hand on the  
7 thirtieth day of June of the year in which the board of educa-  
8 tion appoints a treasurer other than the sheriff, and shall be  
9 completed no later than the first day of August of that year.  
10 Such transfer shall be adjudged complete and final upon the  
11 approval of the sheriff's official settlement for the fiscal year  
12 ending on the thirtieth day of June, of the year in which the  
13 board of education appoints a treasurer other than the sheriff,  
14 and, any minor adjustment made necessary by the actually  
15 known figures shall also be made at that time. All balances in  
16 all county school funds at the end of each month after the  
17 thirtieth day of June, of the year in which the board of edu-  
18 cation appoints a treasurer other than the sheriff, shall be  
19 transferred by the sheriff to the county board of education not  
20 later than the tenth day of the following month.

21 On or before the first Monday in May each county board of  
22 education shall upon recommendation of the county superin-  
23 tendent appoint a treasurer for the board. Such treasurer shall  
24 be the fiscal officer of the board, or an employee commonly  
25 designated as the person in charge of the financial affairs of  
26 the county board, or the county sheriff: *Provided*, That once  
27 a board of education has appointed a treasurer other than the  
28 sheriff, the sheriff shall not be named treasurer of the board  
29 in a subsequent year. Upon appointment this person shall be  
30 titled and referred to as treasurer of the board of education.  
31 For the faithful performance of this duty, he shall execute a  
32 bond, to be approved by the board of education, in the pen-  
33 alty to be fixed by the board of education, not to exceed the  
34 amount of school funds which it is estimated he will handle  
35 within any period of two months. The premium on such bond  
36 shall be paid by the board of education.

37 The board of education may open a bank account, or ac-  
38 counts, as required to adequately and properly transact the  
39 business of the district in a depository, or banks, within the  
40 county. Such depositories, or banks, shall provide bond to  
41 cover the maximum amount to be deposited at any one time.  
42 On and after the first day of July, one thousand nine hundred  
43 seventy-three, all levies and any other school moneys received  
44 by the sheriff and paid to the treasurer of the county board of  
45 education shall be deposited in these accounts and all proper  
46 payments from such funds shall be made by the designated de-  
47 pository or bank upon order or draft presented for payment  
48 and signed by the duly authorized signatories of the board of  
49 education: *Provided, however*, That in determining the de-  
50 pository for board of education funds a board member who  
51 has a pecuniary interest in a bank within the county shall not  
52 participate in the determination of the depository for such  
53 funds.

54 If it be deemed that sufficient funds are on hand in any  
55 account at any one time which may be more than are nor-  
56 mally required for the payment of incurred expenses, such  
57 funds in the amount so deemed available may be invested by  
58 the treasurer of the county board with the state sinking fund  
59 commission, or in guaranteed certificates of deposit issued by  
60 the depository or bank, or other guaranteed investments such

61 as treasury bills, treasury notes or certificates of deposit issued  
62 by either the United States government or a banking institu-  
63 tion in which federal or state gurantees are applicable. Interest  
64 earned in such investments is to be credited to the fund from  
65 which the moneys were originally available.

## CHAPTER 18A. SCHOOL PERSONNEL.

### ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

#### §18A-4-9. Payment of teachers and other employees; withholdings.

1 Teachers and all other employees whose salaries or wages  
2 are payable out of the school current fund shall be paid for  
3 their services by orders duly signed by the president and sec-  
4 retary of the board in accordance with the following provis-  
5 ions: Notwithstanding any other provisions of this chapter and  
6 chapter eighteen, the number of pays to be made during the  
7 school year to the various classes of employees shall be deter-  
8 mined by the board: *Provided*, That the sum of such pays for  
9 any employee does not exceed the equivalent of an annual  
10 salary based upon twelve calendar months. In the event a  
11 teacher or other employee is not paid the full salary or wage  
12 earned in the fiscal year in which the work is performed, the  
13 unpaid amount may be paid during July and August of the  
14 following fiscal year. Adjustments for time loss due to absence  
15 may be made in the next pay check following such time loss.  
16 The county board may withhold the pay of any teacher or  
17 employee until he has made the reports required by the board  
18 or the state superintendent.

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

*N. Daniel Darty*  
Chairman Senate Committee

*Laurence C. Christian Jr.*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*Howard W. Carson*  
Clerk of the Senate

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

*W. T. Brotherton, Jr.*  
President of the Senate

*Lewis F. Rouse*  
Speaker House of Delegates

The within *approved* this the *25<sup>th</sup>*  
day of *April*, 1973.

*Arch A. Starnes Jr.*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 4/25/73

Time 3:35 p.m.