

APPROVED AND SIGNED BY THE GOVERNOR ^{TP}

Date 3-29-82

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

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ENROLLED

SENATE BILL NO. 528

(By Mr. Ash & Mr. Galperin)

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PASSED MARCH 11, 1982

In Effect NINETY DAYS FROM Passage



ENROLLED
Senate Bill No. 528

(By MR. ASH AND MR. GALPERIN)

[Passed March 11, 1982; in effect ninety days from passage.]

AN ACT to amend and reenact sections eight-b and fifteen, article four, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to seniority rights for service personnel; establishing an order of preference for filling positions to be used in conjunction with seniority; defining the word "promotion"; defining classification category of employment; providing an alternative procedure for making extra-duty assignments; relating to the employment of service personnel substitutes; defining the time period in which county boards must fill vacancies; and providing a method for filling the vacancies.

Be it enacted by the Legislature of West Virginia:

That sections eight-b and fifteen, article four, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-8b. Seniority rights for school personnel.

- 1 A county board of education shall make decisions affecting
- 2 promotion and filling of any service personnel positions of
- 3 employment or jobs occurring throughout the school year
- 4 that are to be performed by service personnel as provided in
- 5 section eight, article four of this chapter, on the basis of
- 6 seniority, qualifications and evaluation of past service in the
- 7 following order:
- 8 (1) Regularly employed service personnel.
- 9 (2) Service personnel whose employment has been
- 10 discontinued in accordance with this section.

18A-4-8b+15
(A+R)

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(A+R)

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11 (3) Substitute service personnel.

12 (4) New service personnel.

13 The county board of education may not prohibit a service
14 employee from retaining or continuing his employment in
15 any positions or jobs held prior to the effective date of this
16 section.

17 A promotion shall be defined as any change in his
18 employment that the employee deems to improve his
19 working circumstance within his classification category of
20 employment and shall include a transfer to another
21 classification category or place of employment if the position
22 is not filled by an employee who holds a title within that
23 classification category of employment. Each class title listed
24 in section eight, article four of this chapter shall be
25 considered a separate classification category of employment
26 for service personnel, except for those class titles having
27 Roman numeral designations, which shall be considered a
28 single classification of employment. The cafeteria manager
29 class title shall be included in the same classification category
30 as cooks. The executive secretary class title shall be included
31 in the same classification category as secretaries.

32 For purposes of determining seniority under this section,
33 an employee's seniority begins on the date that he enters into
34 his assigned duties.

35 Notwithstanding any other provisions of this chapter to the
36 contrary, decisions affecting such personnel with respect to
37 extra-duty assignments, shall be made in the following
38 manner: An employee with the greatest length of service time
39 in a particular category of employment shall be given priority
40 in accepting such assignments, followed by other fellow
41 employees on a rotating basis according to the length of their
42 service time until all such employees have had an
43 opportunity to perform similar assignments. The cycle then
44 shall be repeated: *Provided*, That an alternative procedure for
45 making extra-duty assignments within a particular
46 classification category of employment may be utilized if the
47 alternative procedure is approved both by the county board
48 of education and by an affirmative vote of four fifths of the
49 employees within that classification category of employment.

50 All decisions by county boards of education concerning
51 reduction in work force of all personnel shall be made on the
52 basis of seniority, as hereinafter provided:

53 (1) The seniority of any such service personnel shall be
54 determined on the basis of the length of time the employee
55 has been employed by the county board of education within a
56 particular job classification. For the purpose of establishing
57 seniority for a preferred recall list as hereinafter provided,
58 when an employee has been employed in one or more
59 classifications, the seniority accrued in each previous
60 classification shall be retained by the employee.

61 Should a county board of education be required to reduce
62 the number of employees within a particular job
63 classification, the employee with the least amount of seniority
64 within that classification or grades of classification shall be
65 properly released and employed in a different grade of that
66 classification if there is a job vacancy: *Provided*, That if there
67 is no job vacancy for employment within such classification
68 or grades of classification, he shall be employed in any other
69 job classification which he previously held with the county
70 board if there is a vacancy and shall retain any seniority
71 accrued in such job classification or grade of classification.

72 If two or more employees accumulate identical seniority,
73 the priority shall be determined by a random selection system
74 established by the employees and approved by the county
75 board.

76 (2) The seniority of professional personnel shall be
77 determined on the basis of the length of time the employee
78 has been employed by the county board of education. For the
79 purposes of establishing seniority for a preferred recall list as
80 hereinafter provided, when an employee holds valid
81 certification or licensure in one or more areas, the seniority
82 shall accrue in each area.

83 Whenever a county board is required to reduce the number
84 of professional personnel in its employment, the employee
85 with the least amount of seniority shall be properly notified
86 and released from employment pursuant to the provisions of
87 section two, article two of this chapter: *Provided, however*,
88 That such employee shall be employed in any other position
89 for which he is certified and/or licensed if his seniority is
90 greater than the seniority of any other employee in that area
91 of certification and/or licensure.

92 All employees whose seniority with the county board is
93 insufficient to allow their retention by the county board
94 during a reduction in work force shall be placed upon a

95 preferred recall list and shall be recalled to employment by
96 the county board on the basis of seniority.

97 Employees placed upon the preferred list shall be recalled
98 to any position openings by the county board within the
99 classification(s), where they had previously been employed,
100 or to any lateral position for which the employee is qualified
101 or to a lateral area for which an employee has certification
102 and/or licensure.

103 Employees on the preferred recall list shall not forfeit their
104 right to recall by the county board if compelling reasons
105 require an employee to refuse an offer of reemployment by
106 the county board.

107 The county board shall be required to notify all employees
108 on the preferred recall list of all position openings that from
109 time to time exist. Such notice shall be sent by certified mail
110 to the last known address of the employee; it shall be the duty
111 of each such employee to notify the county board of any
112 change in the address of such employee.

113 No position openings may be filled by the county board,
114 whether temporary or permanent, until all employees on the
115 preferred recall list have been properly notified of existing
116 vacancies and have been given an opportunity to accept
117 reemployment.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-15. Employment of service personnel substitutes.

1 The county board may employ and the county
2 superintendent, subject to the approval of the county board
3 of education, may employ and assign substitute service
4 personnel to perform any of the following duties:

5 (1) To fill the temporary absence of another service
6 employee;

7 (2) To fill the position of a regular service employee on
8 leave of absence: *Provided*, That if such leave of absence is to
9 extend beyond thirty days, the board, within ten working
10 days from the commencement of the leave of absence, shall
11 give regular employee status to a person hired to fill such
12 position: *Provided, however*, That if a board has in effect an
13 official, written policy of posting job vacancies, it shall be
14 allowed twenty working days to fill this position. The person
15 employed on a regular basis shall be selected under the
16 procedure set forth in section eight-b of this article. The

17 substitute shall hold such position and regular employee
18 status only until the regular employee returns to such
19 position and shall have and shall be accorded all rights,
20 privileges and benefits pertaining to such position;

21 (3) To perform the service of a service employee who is
22 authorized to be absent from duties without loss of pay;

23 (4) To temporarily fill a vacancy in a permanent position
24 caused by severance of employment by the resignation,
25 retirement, permanent disability or death of the regular
26 service employee who had been assigned to fill such position:
27 *Provided*, That within ten working days from the
28 commencement of the vacancy, the board shall fill such
29 vacancy under the procedures set out in section eight-b of
30 this article and section five, article two of this chapter and
31 such person hired to fill the vacancy shall have and shall be
32 accorded all rights, privileges and benefits pertaining to such
33 position: *Provided, however*, That if a board has in effect an
34 official, written policy of posting job vacancies, it shall be
35 allowed twenty working days to fill the vacancy;

36 (5) To fill the vacancy created by a regular employee's
37 suspension: *Provided*, That a substitute service employee
38 shall not be assigned to fill the vacancy on a permanent basis
39 until such termination by the county board of education
40 becomes final.

41 The salary of a substitute service employee shall be based
42 upon his years of employment as defined in section eight of
43 this article and as provided in the state minimum pay scale
44 set forth in section eight-a of this article and shall be in
45 accordance with the salary schedule of persons regularly
46 employed in the same position in the county in which he is
47 employed.

48 Before any service employee enters upon his duties, he
49 shall execute with the county board of education a written
50 contract as provided in section five, article two of this
51 chapter.

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

[Signature]

Chairman Senate Committee

[Signature]

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

[Signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker House of Delegates

The within *approved* this the *29*

day of *March*, 1982.

[Signature]

Governor



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