

No. 1025

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 1025

(By Mr. Del Prunty)



Passed April 9, 1985

In Effect Ninety Days From Passage



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 1025**  
(By DELEGATE PRUNTY)

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[Passed April 9, 1985; in effect ninety days from passage.]

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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; and to amend and reenact section two, article twenty of said chapter, all relating to teacher aides employed to assist in teaching exceptional children; requiring such aides to complete a course of training in education of exceptional children prior to assuming such duties; requiring the training to occur during normal working hours; and providing that opportunity for such training be provided by county boards prior to filling of vacancies in accordance with rules and regulations of the state board of education.

*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; and that section two, article twenty of said chapter be amended and reenacted, all 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
- 2 the rules and regulations of the state board, shall have

3 authority:

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

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

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

27 (4) To consolidate schools;

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

34 (6) (a) To provide at public expense adequate means of  
35 transportation, including transportation across county lines,  
36 for all children of school age who live more than two miles  
37 distance from school by the nearest available road; to provide  
38 at public expense and according to such regulations as the  
39 board may establish, adequate means of transportation for  
40 school children participating in board-approved curricular and  
41 extracurricular activities; and to provide in addition thereto,

42 at public expense, by rules and regulations and within the  
43 available revenues, transportation for those within two miles  
44 distance; to provide in addition thereto, at no cost to the board  
45 and according to rules and regulations established by the  
46 board, transportation for participants in projects operated,  
47 financed, sponsored or approved by the commission on aging:  
48 *Provided*, That all costs and expenses incident in any way to  
49 transportation for projects connected with the commission on  
50 aging shall be borne by such commission, or the local or  
51 county chapter thereof: *Provided, however*, That in all cases  
52 the buses or other transportation facilities owned by the board  
53 of education shall be driven or operated only by drivers  
54 regularly employed by the board of education: *Provided*  
55 *further*, That buses shall be used for extracurricular activities  
56 as herein provided only when the insurance provided for by  
57 this section shall have been effected;

58 (b) To enter into agreements with one another to provide,  
59 on a cooperative basis, adequate means of transportation  
60 across county lines for children of school age subject to the  
61 conditions and restrictions of subdivisions (6) and (8) of this  
62 section;

63 (7) To lease school buses operated only by drivers regularly  
64 employed by the board to public and private nonprofit  
65 organizations or private corporations to transport school-age  
66 children to and from camps or educational activities in  
67 accordance with rules and regulations established by the  
68 board. All costs and expenses incurred by or incidental to the  
69 transportation of such children shall be borne by the lessee;

70 (8) To provide at public expense for insurance against the  
71 negligence of the drivers of school buses, trucks or other  
72 vehicles operated by the board; and if the transportation of  
73 pupils be contracted, then the contract therefor shall provide  
74 that the contractor shall carry insurance against negligence in  
75 such an amount as the board shall specify;

76 (9) To provide solely from county funds for all regular full-  
77 time employees of the board all or any part of the cost of a  
78 group plan or plans of insurance coverage not provided or  
79 available under the West Virginia public employees insurance  
80 act;

81 (10) To employ teacher aides, to provide in-service training

82 for teacher aides, the training to be in accordance with rules  
83 and regulations of the state board and, in the case of service  
84 personnel assuming duties as teacher aides in exceptional  
85 childrens programs, to provide a four-clock-hour program of  
86 training prior to such assignment which shall, in accordance  
87 with rules and regulations of the state board, consist of  
88 training in areas specifically related to the education of  
89 exceptional children;

90 (11) To establish and conduct a self-supporting dormitory  
91 for the accommodation of the pupils attending a high school  
92 or participating in a post high school program and of persons  
93 employed to teach therein;

94 (12) To employ legal counsel;

95 (13) To provide appropriate uniforms for school service  
96 personnel;

97 (14) To provide at public expense and under regulations as  
98 established by any county board of education for the payment  
99 of traveling expenses incurred by any person invited to appear  
100 to be interviewed concerning possible employment by such  
101 county board of education;

102 (15) To allow or disallow their designated employees to use  
103 publicly provided carriage to travel from their residences to  
104 their workplace and return: *Provided*, That such usage is  
105 subject to the supervision of such board and is directly  
106 connected with and required by the nature and in the  
107 performance of such employee's duties and responsibilities;  
108 and

109 (16) To provide, at public expense, adequate public liability  
110 insurance, including professional liability insurance for board  
111 employees.

112 No policy or contract of public liability insurance providing  
113 coverage for public liability shall be purchased as provided  
114 herein, unless it shall contain a provision or endorsement  
115 whereby the company issuing such policy waives, or agrees not  
116 to assert as a defense to any claim covered by the terms of  
117 such policy, the defense of governmental immunity. In any  
118 action against the board, its officers, agents or employees, in  
119 which there is in effect liability insurance coverage in an  
120 amount equal to or greater than the amount sued for, the

121 attorney for such board, the attorney for such insurance  
122 carrier, or any other attorney who may appear on behalf of  
123 the board, its agents, officers or employees shall not set up  
124 the defense of governmental immunity in any such action.

125 "Quasi-public funds" as used herein means any money  
126 received by any principal, teacher, student or other person for  
127 the benefit of the school system as a result of curricular or  
128 noncurricular activities.

129 The board of each county shall expend under such  
130 regulations as it establishes for each child an amount not to  
131 exceed the proportion of all school funds of the district that  
132 each child would be entitled to receive if all the funds were  
133 distributed equally among all the children of school age in the  
134 district upon a per capita basis.

**ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

**§18-20-2. Providing suitable educational facilities, equipment and services.**

1 The board of education of each county is empowered and  
2 is responsible for providing suitable educational facilities,  
3 special equipment and such special services as may be  
4 necessary. Special services include provisions and procedures  
5 for finding and enumerating exceptional children of each type,  
6 diagnosis by appropriate specialists who will certify the child's  
7 need and eligibility for special education and make recommen-  
8 dations for such treatment and prosthesis as may alleviate his  
9 disability, special teaching by qualified and especially trained  
10 teachers, transportation, lunches and remedial therapeutic  
11 services. Qualifications of teachers and therapists shall be in  
12 accordance with standards prescribed or approved by the state  
13 board of education.

14 Counties may provide for educating their resident excep-  
15 tional children by contracting with other counties or other  
16 educational agencies which maintain such special education  
17 facilities. Fiscal matters will follow policies approved by the  
18 state board of education.

19 Any teacher aide employed to assist teachers in providing  
20 services to exceptional children under this article shall, prior  
21 to assuming such duties, complete a four-clock-hour course of  
22 training in areas specifically related to the education of

23 exceptional children, to be provided by the county in  
24 accordance with rules and regulations of the state board of  
25 education. Such training shall occur during normal working  
26 hours and an opportunity to be trained shall be provided such  
27 employee prior to the filling of a vacancy in accordance with  
28 the provisions of section eight-b, article four, chapter eighteen-  
29 a of this code.

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

*Warren Estabrook*  
Chairman Senate Committee

*Floyd Fuller*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Judd C. Willis*  
Clerk of the Senate

*Donald Hoff*  
Clerk of the House of Delegates

*Don Tomback*  
President of the Senate

*Joseph P. Albright*  
Speaker of the House of Delegates

The within *approved* this the *1st*  
*May* day of \_\_\_\_\_, 1985.

*Richard A. Spruce*  
Governor



PRESENTED TO THE

GOVERNOR

Date 4/14/85

Time 6:48 p.m.

RECEIVED

1985 MAY -2 PM 3:18

OFFICE OF THE ATTORNEY GENERAL  
SECRETARY OF STATE