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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2677

(By ~~Mr.~~ Del. Ashcraft, By Request)

— ● —

Passed March 9, 1991

In Effect 90 Days From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2677
(By DELEGATE ASHCRAFT, By Request)

[Passed March 9, 1991; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and four, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section thirty-nine, article five of said chapter; to amend and reenact section four, article two, chapter eighteen-a; and to amend and reenact sections eight and ten, article four of said chapter, relating to clarifying qualifications of superintendents; the employment of school personnel during the summer; providing for seniority in summer service positions; licensing of school electricians; providing priority status to certain disabled service personnel in certain instances; and enlarging conditions of personal leave for service employees.

Be it enacted by the Legislature of West Virginia:

That sections two and four, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section thirty-nine, article five of said chapter be amended and reenacted; that section four, article two, chapter eighteen-a be amended and reenacted; and that sections eight and ten, article four of said chapter be amended and reenacted to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.

§18-4-2. **Qualifications; health certificate; disability; acting superintendent.**

1 Superintendents employed prior to the twenty-eighth
2 day of June, one thousand nine hundred eighty-eight
3 shall hold a certificate valid in West Virginia and an
4 approved master's degree including at least twelve
5 semester hours in school administration and supervision,
6 and at least five years experience in public school
7 teaching and/or supervision.

8 Any superintendent appointed as superintendent after
9 the twenty-seventh day of June, one thousand nine
10 hundred eighty-eight shall meet requirements for the
11 professional administrative certificate endorsed for
12 superintendent by the first day of July, one thousand
13 nine hundred ninety-three. Any new superintendent
14 appointed as of the thirtieth day of August, one thousand
15 nine hundred ninety shall hold a professional adminis-
16 trative certificate endorsed for superintendent. Any
17 person employed as assistant superintendent or educa-
18 tional administrator prior to the twenty-seventh day of
19 June, one thousand nine hundred eighty-eight and who
20 was previously employed as superintendent shall not be
21 required to hold the professional administrative certif-
22 icate endorsed for superintendent.

23 Before entering upon the discharge of his duties the
24 superintendent shall file with the president of the board
25 a health certificate from a reputable physician, on a
26 form prescribed by the state department of schools,
27 certifying that he is physically fit for the duties of his
28 office and that he has no infectious or contagious disease;
29 and if the superintendent, due to accident or illness,
30 should become incapacitated to an extent that could lead
31 to a prolonged absence, the board, upon unanimous vote,
32 shall have authority to enter an order declaring such
33 incapacity and it shall appoint an acting superintendent
34 until such time as a majority of the members of the
35 board shall determine that the incapacity no longer
36 exists. However, an acting superintendent shall not

37 serve as such for more than one year, or later than the
38 expiration date of the superintendent's term, whichever
39 is less, without being reappointed by the board of
40 education.

§18-4-4. Compensation.

1 On or before the first day of May of the year in which
2 the superintendent is appointed, the board shall fix the
3 annual salary of the superintendent for the period of
4 appointment for the term beginning on the first day of
5 July following. The board shall pay the salary from the
6 general current expense fund of the district.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

**§18-5-39. Establishment of summer school programs;
tuition.**

1 Inasmuch as the present county school facilities for
2 the most part lie dormant and unused during the
3 summer months, and inasmuch as there are many
4 students who are in need of remedial instruction and
5 others who desire accelerated instruction, it is the
6 purpose of this section to provide for the establishment
7 of a summer school program, which program is to be
8 separate and apart from the full school term as
9 established by each county.

10 The board of education of any county shall have
11 authority to establish a summer school program utiliz-
12 ing the public school facilities and to charge tuition for
13 students who attend such summer school, such tuition
14 not to exceed in any case the actual cost of operation of
15 such summer school program: *Provided*, That any
16 deserving pupil whose parents, in the judgment of the
17 board, are unable to pay such tuition, may attend at a
18 reduced charge or without charge. The county board of
19 education shall have the authority to determine the term
20 and curriculum of such summer schools based upon the
21 particular needs of the individual county. The curricu-
22 lum may include, but is not limited to, remedial
23 instruction, accelerated instruction, and the teaching of
24 manual arts. The term of such summer school program
25 may not be established in such a manner as to interfere

26 with the regular school term.

27 The county boards may employ as teachers for this
28 summer school program any certified teacher. Certified
29 teachers employed by the county board to teach in the
30 summer school program shall be paid an amount to be
31 determined by the county board and shall enter into a
32 contract of employment in such form as is prescribed
33 by the county board: *Provided*, That teachers who teach
34 summer courses of instruction which are offered for
35 credit and which are taught during the regular school
36 year shall be paid at the same daily rate such teacher
37 would receive if paid in accordance with the then
38 current minimum monthly salary in effect for teachers
39 in that county.

40 Any funds accruing from such tuitions shall be
41 credited to and expended within the existing framework
42 of the general current expense fund of the county board.

43 Notwithstanding any other provision of this code to
44 the contrary, the board shall fill professional positions
45 established pursuant to the provisions of this section on
46 the basis of certification and length of time the
47 professional has been employed in the county's summer
48 school program. In the event that no employee who has
49 been previously employed in the summer school pro-
50 gram holds a valid certification or licensure, a board
51 shall fill the position as a classroom teaching position in
52 accordance with section eight-b, article four, chapter
53 eighteen-a of this code.

54 Notwithstanding any other provision of the code to the
55 contrary, the county board of education is authorized to
56 employ school service personnel to perform any related
57 duties outside the regular school term as defined in
58 section eight, article four, chapter eighteen-a of this
59 code. An employee who was employed in any service
60 personnel job or position during the immediate previous
61 summer shall have the option of retaining such job or
62 position if such exists during any succeeding summer.
63 If such employee is unavailable or if the position is
64 newly created, the position shall be filled pursuant to
65 section eight-b, article four, chapter eighteen-a of this

66 code. When any summer employee who is employed in
67 a summer position is granted a leave of absence for the
68 summer months, the board shall give regular employ-
69 ment status to such employee for that summer position
70 which shall be filled under the procedure set forth in
71 section eight-b, article four, chapter eighteen-a of this
72 code. The summer employee on leave of absence shall
73 have the option of returning to that summer position if
74 such exists the succeeding summer or whenever such
75 position is reestablished if it were abolished. The salary
76 of a summer employee shall be in accordance with the
77 salary schedule of persons regularly employed in the
78 same position in the county where employed.

79 If a county board reduces in force the number of
80 employees to be employed in a particular summer
81 program or classification from the number employed in
82 such position in previous summers, such reductions in
83 force and priority in reemployment to such summer
84 positions shall be based upon the length of service time
85 in the particular summer program or classification.

86 For the purpose of this section, summer employment
87 for service personnel shall be defined, but not limited
88 to, filling jobs and positions as defined in section eight,
89 article four, chapter eighteen-a of this code and
90 especially established for and which are to be predom-
91 inantly performed during the summer months to meet
92 the needs of a county board of education.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-4. Commercial driver's license for school person- nel; reimbursement of electrician's and commercial driver's license when required.

1 If a commercial driver's license is required as a
2 condition of employment for any school employee or
3 qualified applicant who becomes an employee by a
4 county board of education, the cost shall be paid in full
5 by the employer.

6 It is unlawful for any county board of education to
7 require any employee or applicant who becomes an

8 employee of the board to pay the cost of acquiring a
9 commercial driver's license as a condition of
10 employment.

11 The division of motor vehicles shall accept the West
12 Virginia department of education physical and psy-
13 chomotor test result forms in lieu of the division of
14 motor vehicles vision report form.

15 If a county board of education requires of any
16 employee who is employed as an electrician any license
17 renewal when the employee is exempt from renewing
18 the license pursuant to section three, article three-b,
19 chapter twenty-nine of this code the cost of such license
20 renewal shall be paid in full by the county board of
21 education.

**§18A-4-8. Employment term and class titles of service
personnel; definitions.**

1 The purpose of this section is to establish an employ-
2 ment term and class titles for service personnel. The
3 employment term for service personnel shall be no less
4 than ten months, a month being defined as twenty
5 employment days: *Provided*, That the county board of
6 education may contract with all or part of these
7 personnel for a longer term. The beginning and closing
8 dates of the ten-month employment term shall not
9 exceed forty-three weeks. Service personnel employed
10 on a yearly or twelve-month basis may be employed by
11 calendar months. Whenever there is a change in job
12 assignment during the school year, the minimum pay
13 scale and any county supplement shall be applicable.

14 Service personnel employed in the same classification
15 for more than the two hundred day minimum employ-
16 ment term shall be paid for additional employment at
17 a daily rate of not less than the daily rate paid for the
18 two hundred day minimum employment term.

19 No service employee, without his agreement, shall be
20 required to report for work more than five days per
21 week and no part of any working day may be accum-
22 ulated by the employer for future work assignments,
23 unless the employee agrees thereto.

24 Should an employee whose regular work week is
25 scheduled from Monday through Friday agree to
26 perform any work assignments on a Saturday or
27 Sunday, the employee shall be paid for at least one-half
28 day of work for each such day he reports for work, and
29 if the employee works more than three and one-half
30 hours on any Saturday or Sunday, he shall be paid for
31 a least a full day of work for each such day.

32 Custodians required to work a daily work schedule
33 that is interrupted, that is, who do not work a continuous
34 period in one day, shall be paid additional compensation
35 which shall be equal to at least one eighth of their total
36 salary as provided by their state minimum salary and
37 any county pay supplement, and payable entirely from
38 county funds.

39 Upon the change in classification or upon meeting the
40 requirements of an advanced classification of or by any
41 employee, his salary shall be made to comply with the
42 requirements of this article, and to any county salary
43 schedule in excess of the minimum requirements of this
44 article, based upon his advanced classification and
45 allowable years of employment.

46 An employee's contract as provided in section five,
47 article two of this chapter shall state the appropriate
48 monthly salary the employee is to be paid, based on the
49 class title as provided in this article and any county
50 salary schedule in excess of the minimum requirements
51 of this article.

52 The column heads of the state minimum pay scale and
53 class titles, set forth in section eight-a of this article, are
54 defined as follows:

55 "Pay grade" means the monthly salary applicable to
56 class titles of service personnel.

57 "Years of employment" means the number of years
58 which an employee classified as service personnel has
59 been employed by a board of education in any position
60 prior to or subsequent to the effective date of this section
61 and including service in the armed forces of the United
62 States if the employee were employed at the time of his

63 induction. For the purpose of section eight-a of this
64 article, years of employment shall be limited to the
65 number of years shown and allowed under the state
66 minimum pay scale as set forth in section eight-a of this
67 article.

68 “Class title” means the name of the position or job held
69 by service personnel.

70 “Accountant I” means personnel employed to maintain
71 payroll records and reports and perform one or more
72 operations relating to a phase of the total payroll.

73 “Accountant II” means personnel employed to main-
74 tain accounting records and to be responsible for the
75 accounting process associated with billing, budgets,
76 purchasing and related operations.

77 “Accountant III” means personnel who are employed
78 in the county board of education office to manage and
79 supervise accounts payable and/or payroll procedures.

80 “Aide I” means those personnel selected and trained
81 for teacher-aide classifications such as monitor aide,
82 clerical aide, classroom aide or general aide.

83 “Aide II” means those personnel referred to in the
84 “Aide I” classification who have completed a training
85 program approved by the state board of education, or
86 who hold a high school diploma or have received a
87 general educational development certificate. Only
88 personnel classified in an Aide II class title shall be
89 employed as an aide in any special education program.

90 “Aide III” means those personnel referred to in the
91 “Aide I” classification who hold a high school diploma
92 or a general educational development certificate, and
93 have completed six semester hours of college credit at
94 an institution of higher education or are employed as an
95 aide in a special education program and have one year’s
96 experience as an aide in special education.

97 “Aide IV” means personnel referred to in the “Aide
98 I” classification who hold a high school diploma or a
99 general educational development certificate and who
100 have completed eighteen hours of state board-approved

101 college credit at a regionally accredited institution of
102 higher education, or who have completed fifteen hours
103 of state board-approved college credit at a regionally
104 accredited institution of higher education and success-
105 fully completed an in-service training program deter-
106 mined by the state board to be the equivalent of three
107 hours of college credit.

108 “Audiovisual technician” means personnel employed
109 to perform minor maintenance on audiovisual equip-
110 ment, films, supplies and the filling of requests for
111 equipment.

112 “Auditor” means personnel employed to examine and
113 verify accounts of individual schools and to assist schools
114 and school personnel in maintaining complete and
115 accurate records of their accounts.

116 “Braille or sign language specialist” means personnel
117 employed to provide braille and/or sign language
118 assistance to students.

119 “Bus operator” means personnel employed to operate
120 school buses and other school transportation vehicles as
121 provided by the state board of education.

122 “Buyer” means personnel employed to review and
123 write specifications, negotiate purchase bids and
124 recommend purchase agreements for materials and
125 services that meet predetermined specifications at the
126 lowest available costs.

127 “Cabinetmaker” means personnel employed to con-
128 struct cabinets, tables, bookcases and other furniture.

129 “Cafeteria manager” means personnel employed to
130 direct the operation of a food services program in a
131 school, including assigning duties to employees, approv-
132 ing requisitions for supplies and repairs, keeping
133 inventories, inspecting areas to maintain high standards
134 of sanitation, preparing financial reports and keeping
135 records pertinent to food services of a school.

136 “Carpenter I” means personnel classified as a carpen-
137 ter’s helper.

138 “Carpenter II” means personnel classified as a
139 journeyman carpenter.

140 "Chief mechanic" means personnel employed to be
141 responsible for directing activities which ensure that
142 student transportation or other board-owned vehicles
143 are properly and safely maintained.

144 "Clerk I" means personnel employed to perform
145 clerical tasks.

146 "Clerk II" means personnel employed to perform
147 general clerical tasks, prepare reports and tabulations
148 and operate office machines.

149 "Computer operator" means qualified personnel
150 employed to operate computers.

151 "Cook I" means personnel employed as a cook's helper.

152 "Cook II" means personnel employed to interpret
153 menus, to prepare and serve meals in a food service
154 program of a school and shall include personnel who
155 have been employed as a "Cook I" for a period of four
156 years, if such personnel have not been elevated to this
157 classification within that period of time.

158 "Cook III" means personnel employed to prepare and
159 serve meals, make reports, prepare requisitions for
160 supplies, order equipment and repairs for a food service
161 program of a school system.

162 "Crew leader" means personnel employed to organize
163 the work for a crew of maintenance employees to carry
164 out assigned projects.

165 "Custodian I" means personnel employed to keep
166 buildings clean and free of refuse.

167 "Custodian II" means personnel employed as a
168 watchman or groundsman.

169 "Custodian III" means personnel employed to keep
170 buildings clean and free of refuse, to operate the heating
171 or cooling systems and to make minor repairs.

172 "Custodian IV" means personnel employed as head
173 custodians. In addition to providing services as defined
174 in "Custodian III," their duties may include supervising
175 other custodian personnel.

176 “Director or coordinator of services” means personnel
177 not defined as professional personnel or professional
178 educators in section one, article one of this chapter, who
179 are assigned to direct a department or division.

180 “Draftsman” means personnel employed to plan,
181 design and produce detailed architectural/engineering
182 drawings.

183 “Electrician I” means personnel employed as an
184 apprentice electrician helper or who holds an electrician
185 helper license issued by the state fire marshal.

186 “Electrician II” means personnel employed as an
187 electrician journeyman or who holds a journeyman
188 electrician license issued by the state fire marshal.

189 “Electronic technician I” means personnel employed
190 at the apprentice level to repair and maintain electronic
191 equipment.

192 “Electronic technician II” means personnel employed
193 at the journeyman level to repair and maintain elec-
194 tronic equipment.

195 “Executive secretary” means personnel employed as
196 the county school superintendent’s secretary or as a
197 secretary who is assigned to a position characterized by
198 significant administrative duties.

199 “Food services supervisor” means qualified personnel
200 not defined as professional personnel or professional
201 educators in section one, article one of this chapter,
202 employed to manage and supervise a county school
203 system’s food service program. The duties would include
204 preparing in-service training programs for cooks and
205 food service employees, instructing personnel in the
206 areas of quantity cooking with economy and efficiency,
207 and keeping aggregate records and reports.

208 “Foremen” means skilled persons employed for
209 supervision of personnel who work in the areas of repair
210 and maintenance of school property and equipment.

211 “General maintenance” means personnel employed as
212 helpers to skilled maintenance employees and to
213 perform minor repairs to equipment and buildings of a

214 county school system.

215 "Glazier" means personnel employed to replace glass
216 or other materials in windows and doors and to do minor
217 carpentry tasks.

218 "Graphic artist" means personnel employed to prepare
219 graphic illustrations.

220 "Groundsmen" means personnel employed to perform
221 duties that relate to the appearance, repair and general
222 care of school grounds in a county school system.
223 Additional assignments may include the operation of a
224 small heating plant and routine cleaning duties in
225 buildings.

226 "Handyman" means personnel employed to perform
227 routine manual tasks in any operation of the county
228 school system.

229 "Heating and air conditioning mechanic I" means
230 personnel employed at the apprentice level to install,
231 repair and maintain heating and air conditioning plants
232 and related electrical equipment.

233 "Heating and air conditioning mechanic II" means
234 personnel employed at the journeyman level to install,
235 repair and maintain heating and air conditioning plants
236 and related electrical equipment.

237 "Heavy equipment operator" means personnel em-
238 ployed to operate heavy equipment.

239 "Inventory supervisor" means personnel who are
240 employed to supervise or maintain operations in the
241 receipt, storage, inventory and issuance of materials and
242 supplies.

243 "Key punch operator" means qualified personnel
244 employed to operate key punch machines or verifying
245 machines.

246 "Locksmith" means personnel employed to repair and
247 maintain locks and safes.

248 "Lubrication man" means personnel employed to
249 lubricate and service gasoline or diesel-powered equip-
250 ment of a county school system.

251 "Machinist" means personnel employed to perform
252 machinist tasks which include the ability to operate a
253 lathe, planer, shaper, threading machine and wheel
254 press. Such personnel should also have ability to work
255 from blueprints and drawings.

256 "Mail clerk" means personnel employed to receive,
257 sort, dispatch, deliver or otherwise handle letters,
258 parcels and other mail.

259 "Maintenance clerk" means personnel employed to
260 maintain and control a stocking facility to keep ade-
261 quate tools and supplies on hand for daily withdrawal
262 for all school maintenance crafts.

263 "Mason" means personnel employed to perform tasks
264 connected with brick and block laying and carpentry
265 tasks related to such laying.

266 "Mechanic" means personnel employed who can
267 independently perform skilled duties in the maintenance
268 and repair of automobiles, school buses and other
269 mechanical and mobile equipment to use in a county
270 school system.

271 "Mechanic assistant" means personnel employed as a
272 mechanic apprentice and helper.

273 "Multi-classification" means personnel employed to
274 perform tasks that involve the combination of two or
275 more class titles in this section or as created by the West
276 Virginia board of education. In such instances the
277 minimum salary scale shall be the higher pay grade of
278 the class titles involved.

279 "Office equipment repairman I" means personnel
280 employed as an office equipment repairman apprentice
281 or helper.

282 "Office equipment repairman II" means personnel
283 responsible for servicing and repairing all office
284 machines and equipment. Personnel shall be responsible
285 for parts being purchased necessary for the proper
286 operation of a program of continuous maintenance and
287 repair.

288 "Painter" means personnel employed to perform

289 duties of painting, finishing and decorating of wood,
290 metal and concrete surfaces of buildings, other struc-
291 tures, equipment, machinery and furnishings of a
292 county school system.

293 "Paraprofessional" means a person certified pursuant
294 to section two-a, article three of this chapter to perform
295 duties in a support capacity including, but not limited
296 to, facilitating in the instruction and direct or indirect
297 supervision of pupils under the direction of a principal,
298 a teacher, or another designated professional educator:
299 *Provided*, That no person employed on the effective date
300 of this section in the position of an aide may be reduced
301 in force or transferred to create a vacancy for the
302 employment of a paraprofessional.

303 "Plumber I" means personnel employed as an appren-
304 tice plumber and helper.

305 "Plumber II" means personnel employed as a journey-
306 man plumber.

307 "Printing operator" means personnel employed to
308 operate duplication equipment, and as required, to cut,
309 collate, staple, bind and shelve materials.

310 "Printing supervisor" means personnel employed to
311 supervise the operation of a print shop.

312 "Programmer" means personnel employed to design
313 and prepare programs for computer operation.

314 "Roofing/sheet metal mechanic" means personnel
315 employed to install, repair, fabricate and maintain roofs,
316 gutters, flashing and duct work for heating and
317 ventilation.

318 "Sanitation plant operator" means personnel employed
319 to operate and maintain a water or sewage treatment
320 plant to ensure the safety of the plant's effluent for
321 human consumption or environmental protection.

322 "School bus supervisor" means qualified personnel
323 employed to assist in selecting school bus operators and
324 routing and scheduling of school buses, operate a bus
325 when needed, relay instructions to bus operators, plan
326 emergency routing of buses and promoting good

327 relationships with parents, pupils, bus operators and
328 other employees.

329 “Secretary I” means personnel employed to transcribe
330 from notes or mechanical equipment, receive callers,
331 perform clerical tasks, prepare reports and operate
332 office machines.

333 “Secretary II” means personnel employed in any
334 elementary, secondary, kindergarten, nursery, special
335 education, vocational or any other school as a secretary.
336 The duties may include performing general clerical
337 tasks, transcribing from notes or stenotype or mechan-
338 ical equipment or a sound-producing machine, prepar-
339 ing reports, receiving callers and referring them to
340 proper persons, operating office machines, keeping
341 records and handling routine correspondence. There is
342 nothing implied herein that would prevent such em-
343 ployees from holding or being elevated to a higher
344 classification.

345 “Secretary III” means personnel assigned to the
346 county board of education office administrators in
347 charge of various instructional, maintenance, transpor-
348 tation, food services, operations and health departments,
349 federal programs or departments with particular
350 responsibilities of purchasing and financial control or
351 any personnel who have served in a position which meets
352 the definition of “Secretary II” or “Secretary III” herein
353 for twelve years.

354 “Supervisor of maintenance” means skilled personnel
355 not defined as professional personnel or professional
356 educators as in section one, article one of this chapter.
357 The responsibilities would include directing the upkeep
358 of buildings and shops, issuing instructions to subordi-
359 nates relating to cleaning, repairs and maintenance of
360 all structures and mechanical and electrical equipment
361 of a board of education.

362 “Supervisor of transportation” means qualified
363 personnel employed to direct school transportation
364 activities, properly and safely, and to supervise the
365 maintenance and repair of vehicles, buses, and other
366 mechanical and mobile equipment used by the county

367 school system.

368 "Switchboard operator-receptionist" means personnel
369 employed to refer incoming calls, to assume contact with
370 the public, to direct and to give instructions as neces-
371 sary, to operate switchboard equipment and to provide
372 clerical assistance.

373 "Truck driver" means personnel employed to operate
374 light or heavy duty gasoline and diesel-powered vehicles.

375 "Warehouse clerk" means personnel employed to be
376 responsible for receiving, storing, packing and shipping
377 goods.

378 "Watchman" means personnel employed to protect
379 school property against damage or theft. Additional
380 assignments may include operation of a small heating
381 plant and routine cleaning duties.

382 "Welder" means personnel employed to provide
383 acetylene or electric welding services for a school
384 system.

385 In addition to the compensation provided for in section
386 eight-a of this article, for service personnel, each service
387 employee shall, notwithstanding any provisions in this
388 code to the contrary, be entitled to all service personnel
389 employee rights, privileges and benefits provided under
390 this or any other chapter of this code without regard to
391 such employee's hours of employment or the methods or
392 sources of compensation.

393 Service personnel whose years of employment exceed
394 the number of years shown and provided for under the
395 state minimum pay scale set forth in section eight-a of
396 this article, may not be paid less than the amount shown
397 for the maximum years of employment shown and
398 provided for in the classification in which he is
399 employed.

400 The county boards shall review each service personnel
401 employee job classification annually and shall reclassify
402 all service employees as required by such job classifi-
403 cations. The state superintendent of schools is hereby
404 authorized to withhold state funds appropriated pursu-

405 ant to this article for salaries for service personnel who
406 are improperly classified by such county boards.
407 Further, he shall order county boards to correct
408 immediately any improper classification matter and
409 with the assistance of the attorney general shall take any
410 legal action necessary against any county board to
411 enforce such order.

412 The state board of education is authorized to establish
413 other class titles of service personnel positions and jobs
414 not listed in this section. The state board of education
415 is further authorized to provide appropriate pay grades
416 for such positions and jobs but pay shall be established
417 within the minimum salary scale in section eight-a of
418 this article.

419 No service employee, without his written consent, may
420 be reclassified by class title, nor may a service employee,
421 without his written consent, be relegated to any
422 condition of employment which would result in a
423 reduction of his salary, rate of pay, compensation or
424 benefits earned during the current fiscal year or which
425 would result in a reduction of his salary, rate of pay,
426 compensation or benefits for which he would qualify by
427 continuing in the same job position and classification
428 held during said fiscal year and subsequent years.

429 Any board failing to comply with the provisions of this
430 article may be compelled to do so by mandamus, and
431 shall be liable to any party prevailing against the board
432 for court costs and his reasonable attorney fee, as
433 determined and established by the court.

434 Notwithstanding any provisions in this code to the
435 contrary, service personnel who hold a continuing
436 contract in a specific job classification and are physi-
437 cally unable to perform the job's duties as confirmed by
438 a physician chosen by the employee shall be given
439 priority status over any employee not holding a contin-
440 uing contract in filling other service personnel job
441 vacancies if qualified as provided in section eight-e of
442 this article.

**§18A-4-10. Personal leave for illness and other causes;
leave banks; substitutes.**

1 At the beginning of the employment term, any full-
2 time employee of a county board of education shall be
3 entitled annually to at least one and one-half days
4 personal leave for each employment month or major
5 fraction thereof in the employee's employment term.
6 Unused leave shall be accumulative without limitation
7 and shall be transferable within the state. A change in
8 job assignment during the school year shall in no way
9 affect the employee's rights or benefits.

10 A regular full-time employee who is absent from
11 assigned duties due to accident, sickness, death in the
12 immediate family, or life threatening illness of the
13 employee's spouse, parents or child, or other cause
14 authorized or approved by the board, shall be paid the
15 full salary from his regular budgeted salary appropri-
16 ation during the period which such employee is absent,
17 but not to exceed the total amount of leave to which such
18 employee is entitled: *Provided*, That each such employee
19 shall be permitted three days of such leave annually,
20 which may be taken without regard to the cause for the
21 absence, except that personal leave without cause may
22 not be taken on consecutive work days unless authorized
23 or approved by the employee's principal or immediate
24 supervisor, as the case may be: *Provided, however*, That
25 notice of such leave day shall be given to the employee's
26 principal or immediate supervisor, as the case may be,
27 at least twenty-four hours in advance, except that in the
28 case of sudden and unexpected circumstances, such
29 notice shall be given as soon as reasonably practicable;
30 however, the use of such day may be denied if, at the
31 time notice is given, either fifteen percent of the
32 employees or three employees, whichever is greater,
33 under the supervision of the principal or immediate
34 supervisor, as the case may be, have previously notified
35 the principal or immediate supervisor of their intention
36 to use that day for such leave: *Provided further*, That
37 such leave shall not be used in connection with a
38 concerted work stoppage or strike. Where the cause for
39 leave had its origin prior to the beginning of the
40 employment term, the employee shall be paid for time
41 lost after the start of the employment term. If an
42 employee should use personal leave which the employee

43 has not yet accumulated on a monthly basis and
44 subsequently leave the employment, the employee shall
45 be required to reimburse the board for the salary or
46 wages paid to him for such unaccumulated leave.

47 Prior to the first day of January, one thousand nine
48 hundred eighty-nine, the state board shall establish
49 rules, effective on said date, to restrict the payment of
50 personal leave benefits and the charging of personal
51 leave time used to an employee receiving a workers'
52 compensation benefit from a claim filed against and
53 billed to the employee's board. If an employee is
54 awarded such benefit, such employee shall receive
55 personal leave compensation only to the extent such
56 compensation is required, when added to the workers'
57 compensation benefit, to equal the amount of compen-
58 sation regularly paid such employee. If personal leave
59 compensation equal to the employee's regular pay is
60 paid prior to the award of the workers' compensation
61 benefit, such amount which, when added to the benefit,
62 is in excess of the employee's regular pay shall be
63 deducted from the employee's subsequent pay. The
64 employee's accrued personal leave days shall be charged
65 only for such days as equal the amount of personal leave
66 compensation required to compensate the employee at
67 the employee's regular rate of pay.

68 The board may establish reasonable rules for report-
69 ing and verification of absences for cause; and if any
70 error in reporting absences should occur it shall have
71 authority to make necessary salary adjustments in the
72 next pay after the employee has returned to duty or in
73 the final pay if the absence should occur during the last
74 month of the employment term.

75 A county board of education may establish a personal
76 leave bank or banks to which employees may contribute
77 no more than two days of personal leave per school year:
78 *Provided*, That such bank or banks be established either
79 jointly or separately for both professional personnel and
80 school service personnel and that a bank be available to
81 all school personnel. Such personal leave bank shall be
82 established and operated pursuant to rules adopted by
83 the county board: *Provided, however*, That such rules

84 may limit the maximum number of days used by an
85 employee, shall require that leave bank days be used
86 only by an active employee with less than five days
87 accumulated personal leave who is absent from work
88 due to accident or illness of such employee, and shall
89 prohibit the use of such days with the extension of
90 insurance coverage pursuant to section twelve, article
91 sixteen, chapter five of this code. Such rules shall
92 require that contributions shall reduce, to the extent of
93 such contribution, the number of personal leave days to
94 which an employee is entitled by this section: *Provided*
95 *further*, That such contribution shall not reduce personal
96 leave days without cause to which an employee is
97 entitled. No employee may be compelled to contribute
98 to such personal leave bank.

99 When an allowable absence does not directly affect the
100 instruction of the pupils or when a substitute employee
101 may not be required because of the nature of the work
102 and the duration of the cause for the allowable absence
103 of the regular employee, the administration, subject to
104 board approval, may use its discretion as to the need for
105 a substitute where limited absence may prevail.

106 If funds in any fiscal year, including transfers, are
107 insufficient to pay the full cost of substitutes for meeting
108 the provisions of this section, the remainder shall be
109 paid on or before the thirty-first day of August from the
110 budget of the next fiscal year.

111 Any board of education shall have authority to
112 supplement such leave provisions in any manner it may
113 deem advisable in accordance with applicable rules of
114 the state board and the provisions of this chapter and
115 chapter eighteen of this code.

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

Thomas Heck

Chairman Senate Committee

Ernest C Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Harrell E. Adams

Clerk of the Senate

Donald G. Kopp

Clerk of the House of Delegates

Kirk Buntline

President of the Senate

Robt. Curran

Speaker of the House of Delegates

The within *is approved* this the *3rd*
day of *April*, 1991.

Yaston Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 3/2/91

Time 5:10 pm