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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992



ENROLLED

Committee Substitute for
SENATE BILL NO. 22

(By Senator *Dolliday*)



PASSED *March 6,* 1992

In Effect *from* Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 22

(SENATOR HOLLIDAY, *original sponsor*)

[Passed March 6, 1992; in effect from passage.]

AN ACT to amend and reenact section five, article five-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said chapter by adding thereto a new article, designated article eight-a; and to amend and reenact section one, article three, chapter eighteen-a of said code, all relating to allowing faculty senate funds to be used in accordance with the teacher's opinion; removing obsolete language; providing for the education of homeless children; directing the state board to ascertain certain information and submit a report by a date certain; requiring state board standards to include certain additional provisions by a date certain.

Be it enacted by the Legislature of West Virginia:

That section five, article five-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said chapter be further amended by adding thereto a new article, designated article eight-a; and that section one, article three, chapter eighteen-a of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-5. Public school faculty senates established; election of officers; powers and duties.

1 (a) There is established at every public school in this
2 state a faculty senate which shall be comprised of all
3 permanent, full-time professional educators employed
4 at the school who shall all be voting members. Profes-
5 sional educators as used in this section means profes-
6 sional educators as defined in chapter eighteen-a of
7 this code. A quorum of more than one-half of the
8 voting members of the faculty shall be present at any
9 meeting of the faculty senate at which official business
10 is conducted. Prior to the beginning of the instruc-
11 tional term each year, but within the employment
12 term, the principal shall convene a meeting of the
13 faculty senate to elect a chair, vice chair and secretary
14 and discuss matters relevant to the beginning of the
15 school year. The vice chair shall preside at meetings
16 when the chair is absent. Meetings of the faculty
17 senate shall be held on a regular basis as determined
18 by a schedule approved by the faculty senate and
19 amended from time to time if needed. Emergency
20 meetings may be held at the call of the chair or a
21 majority of the voting members by petition submitted
22 to the chair and vice chair. An agenda of matters to be
23 considered at a scheduled meeting of the faculty
24 senate shall be available to the members at least two
25 employment days prior to the meeting, and in the case
26 of emergency meetings, as soon as possible prior to the
27 meeting. The chair of the faculty senate may appoint
28 such committees as may be desirable to study and
29 submit recommendations to the full faculty senate, but
30 the acts of the faculty senate shall be voted upon by
31 the full body.

32 (b) In addition to any other powers and duties
33 conferred by law, or authorized by policies adopted by
34 the state or county board of education or by-laws
35 which may be adopted by the faculty senate not
36 inconsistent with law, the powers and duties listed in

37 this subsection are specifically reserved for the faculty
38 senate. The intent of these provisions is neither to
39 restrict nor to require the activities of every faculty
40 senate to the enumerated items except as otherwise
41 stated. Each faculty senate shall organize its activities
42 as it deems most effective and efficient based on school
43 size, departmental structure and other relevant factors.

44 (1) Each faculty senate shall control funds allocated
45 to the school from legislative appropriations pursuant
46 to section nine, article nine-a of this chapter. From
47 such funds, each classroom teacher and librarian shall
48 be allotted fifty dollars for expenditure during the
49 instructional year for academic materials, supplies or
50 equipment which in the judgement of the teacher or
51 librarian will assist him or her in providing instruction
52 in his or her assigned academic subjects, or shall be
53 returned to the faculty senate: *Provided*, That nothing
54 contained herein shall prohibit such funds from being
55 used for programs and materials that, in the opinion of
56 the teacher, enhance student behavior, increase
57 academic achievement, improve self-esteem and
58 address the problems of students at-risk. The remain-
59 der of funds shall be expended for academic materials,
60 supplies or equipment in accordance with a budget
61 approved by the faculty senate. Notwithstanding any
62 other provisions of the law to the contrary, funds not
63 expended in one school year shall be available for
64 expenditure in the next school year: *Provided, how-*
65 *ever*, That the amount of county funds budgeted in a
66 fiscal year, shall not be reduced throughout the year
67 as a result of the faculty appropriations in the same
68 fiscal year for such materials, supplies and equipment.
69 Accounts shall be maintained of the allocations and
70 expenditures of such funds for the purpose of financial
71 audit. Academic materials, supplies or equipment shall
72 be interpreted broadly, but shall not include materials,
73 supplies or equipment which will be used in or
74 connected with interscholastic athletic events.

75 (2) A faculty senate may establish a process for
76 faculty members to interview new prospective profes-
77 sional educators and paraprofessional employees at the

78 school and submit recommendations regarding
79 employment to the principal, who may also make
80 independent recommendations, for submission to the
81 county superintendent: *Provided*, That such process
82 must permit the timely employment of persons to
83 perform necessary duties.

84 (3) A faculty senate may nominate teachers for
85 recognition as outstanding teachers under state and
86 local teacher recognition programs and other person-
87 nel at the school, including parents, for recognition
88 under other appropriate recognition programs and
89 may establish such programs for operation at the
90 school.

91 (4) A faculty senate may submit recommendations to
92 the principal regarding the assignment scheduling of
93 secretaries, clerks, aides and paraprofessionals at the
94 school.

95 (5) A faculty senate may submit recommendations to
96 the principal regarding establishment of the master
97 curriculum schedule for the next ensuing school year.

98 (6) A faculty senate may establish a process for the
99 review and comment on sabbatical leave requests
100 submitted by employees at the school pursuant to
101 section eleven, article two of this chapter.

102 (7) Each faculty senate shall elect three faculty
103 representatives to the local school improvement
104 council established pursuant to section two of this
105 article.

106 (8) Each faculty senate may nominate a member for
107 election to the county staff development council
108 pursuant to section eight, article three, chapter
109 eighteen-a of this code.

110 (9) Each faculty senate shall have an opportunity to
111 make recommendations on the selection of faculty to
112 serve as mentors for beginning teachers under begin-
113 ning teacher internship programs at the school.

114 (10) A faculty senate may solicit, accept and expend
115 any grants, gifts, bequests, donations and any other

116 funds made available to the faculty senate: *Provided*,
117 That the faculty senate shall select a member who
118 shall have the duty of maintaining a record of all
119 funds received and expended by the faculty senate,
120 which record shall be kept in the school office and
121 shall be subject to normal auditing procedures.

122 (11) On or after the first day of January, one
123 thousand nine hundred ninety-two, any faculty senate
124 may review the evaluation procedure as conducted in
125 their school to ascertain whether such evaluations
126 were conducted in accordance with the written system
127 required pursuant to section twelve, article two,
128 chapter eighteen-a of this code and the general intent
129 of this Legislature regarding meaningful performance
130 evaluations of school personnel. If a majority of
131 members of the faculty senate determine that such
132 evaluations were not so conducted, they shall submit
133 a report in writing to the state board of education:
134 *Provided*, That nothing herein shall create any new
135 right of access to or review of any individual's
136 evaluations.

137 (12) Each faculty senate shall be provided by its local
138 board of education, at least a two-hour per month
139 block of noninstructional time within the school day:
140 *Provided*, That any such designated day shall consti-
141 tute a full instructional day. This time may be utilized
142 and determined at the local school level and shall
143 include, but not be limited to, faculty senate meetings.

ARTICLE 8A. ATTENDANCE OF HOMELESS CHILDREN.

§18-8A-1. Legislative findings; definition of homeless child.

1 (a) The Legislature hereby finds and declares that
2 because of the growing number of children and
3 families who are homeless in West Virginia there is a
4 need to ensure that all homeless children receive a
5 proper education. It is the intent of the Legislature
6 that no child shall be denied the benefits of a free
7 education in the public schools because the child is
8 homeless.

9 The Legislature further finds that programs and

10 materials must be made available to homeless and at-
11 risk children to assure opportunities for an equal
12 education. Programs shall include but not be limited to
13 incorporating the ideas of academic achievement,
14 career exploration, self-esteem enhancement, behavior
15 modification and other programs relating to student
16 development.

17 (b) As used in this article, unless the context
18 otherwise requires, "homeless child" means:

19 (1) A child who lacks a fixed, regular and adequate
20 nighttime residence; or

21 (2) A child who has a primary nighttime residence
22 which is:

23 (i) A supervised, publicly or privately operated
24 shelter designed to provide temporary living accom-
25 modations, including welfare hotels, congregate shel-
26 ters and transitional housing for the mentally ill;

27 (ii) An institution that provides a temporary resi-
28 dence for individuals intended to be institutionalized;
29 or

30 (iii) A public or private place not designed for, nor
31 ordinarily used as, a regular sleeping accommodation
32 for human beings.

33 (c) "Homeless child" does not include any individual
34 imprisoned or otherwise detained pursuant to an act of
35 Congress or a state law.

§18-8A-2. Residence of child.

1 A child considered to be homeless pursuant to the
2 provisions of section one of this article who presently
3 seeks shelter or is located in a school district shall be
4 considered to reside in that school district and may
5 attend public school in that district.

§18-8A-3. Attendance of homeless children.

1 Nothing in this article may be construed to prohibit
2 a child from attending a public school without the
3 payment of tuition solely because the child is homeless
4 as defined in section one of this article.

§18-8A-4. Report on at-risk children.

1 The state board of education shall present to the
 2 Legislature no later than the first day of January, one
 3 thousand nine hundred ninety-three, a report which
 4 shall include the identification of existing programs
 5 which exemplify academic achievement, career explo-
 6 ration, self-esteem enhancement, behavior modifica-
 7 tion and other programs relating to student develop-
 8 ment. The report shall also include findings and
 9 recommendations for funding such programs so as to
 10 provide delivery to all children at-risk of not succeed-
 11 ing in school. The report shall also include teaching
 12 techniques and learning strategies and the state board
 13 definition of "children at-risk".

CHAPTER 18A. SCHOOL PERSONNEL.**ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFES-
SIONAL DEVELOPMENT.****§18A-3-1. Teacher preparation programs; program approval
and standards; authority to issue teaching
certificates.**

1 (a) The education of professional educators in the
 2 state shall be under the general direction and control
 3 of the state board of education after consultation with
 4 the secretary of education and the arts, who shall
 5 represent the board of directors of the state college
 6 system and the board of trustees of the university of
 7 West Virginia system. The education of professional
 8 educators in the state includes all programs leading to
 9 certification to teach or serve in the public schools
 10 including: (1) Those programs in all institutions of
 11 higher education, including student teaching in the
 12 public schools; (2) beginning teacher internship pro-
 13 grams; (3) the granting of West Virginia certification to
 14 persons who received their preparation to teach
 15 outside the boundaries of this state; (4) any alternative
 16 preparation programs in this state leading to certifica-
 17 tion, including programs established pursuant to the
 18 provisions of section one-a of this article and programs
 19 which are in effect on the effective date of this section;
 20 and (5) any continuing professional education, profes-

21 sional development and in-service training programs
22 for professional educators employed in the public
23 schools in the state.

24 The state board of education, after consultation with
25 the secretary of education and the arts, who shall
26 represent the board of directors of the state college
27 system and the board of trustees of the university of
28 West Virginia system, shall adopt standards for the
29 education of professional educators in the state and for
30 the awarding of certificates valid in the public schools
31 of this state.

32 The standards approved by the board for teacher
33 preparation shall include a provision for the study of
34 multicultural education. As used in this section,
35 multicultural education means the study of the plural-
36 istic nature of American society including its values,
37 institutions, organizations, groups, status positions and
38 social roles.

39 Effective the first day of January, one thousand nine
40 hundred ninety-three, the standards approved by the
41 board shall also include a provision for the study of
42 classroom management techniques and shall include
43 methods of effective management of disruptive behav-
44 ior which shall include societal factors and their
45 impact on student behavior.

46 (b) To give prospective teachers the teaching expe-
47 rience needed to demonstrate competence as a prereq-
48 uisite to certification, the state board of education may
49 enter into an agreement with county boards of educa-
50 tion for the use of the public schools. Such agreement
51 shall recognize student teaching as a joint responsibil-
52 ity of the teacher preparation institution and the
53 cooperating public schools and shall include: (1) The
54 minimum qualifications for the employment of public
55 school teachers selected as supervising teachers; (2) the
56 remuneration to be paid public school teachers by the
57 state board, in addition to their contractual salaries,
58 for supervising student teachers; and (3) minimum
59 standards to guarantee the adequacy of the facilities
60 and program of the public school selected for student

61 teaching. The student teacher, under the direction and
62 supervision of the supervising teacher, shall exercise
63 the authority of a substitute teacher.

64 (c) The state superintendent of schools may issue
65 certificates to graduates of teacher education programs
66 and alternative teacher education programs approved
67 by the state board of education and in accordance with
68 rules adopted by the state board after consultation
69 with the secretary of education and the arts, who shall
70 represent the board of directors of the state college
71 system and the board of trustees of the university of
72 West Virginia system. A certificate to teach shall not
73 be granted to any person who is not a citizen of the
74 United States, is not of good moral character and
75 physically, mentally and emotionally qualified to
76 perform the duties of a teacher and who has not
77 attained the age of eighteen years on or before the
78 first day of October of the year in which his certificate
79 is issued; except, that an exchange teacher from a
80 foreign country, or an alien person who meets the
81 requirements to teach may be granted a permit to
82 teach within the public schools of the state.

83 (d) In consultation with the secretary of education
84 and the arts, who shall represent the board of direc-
85 tors of the state college system and the board of
86 trustees of the university of West Virginia system,
87 institutions of higher education approved for teacher
88 preparation may cooperate with each other, with the
89 center for professional development and with one or
90 more county boards of education in the organization
91 and operation of centers to provide selected phases of
92 the teacher preparation program such as student
93 teaching, beginning teacher internship programs,
94 instruction in methodology and seminar programs for
95 college students, teachers with provisional certifica-
96 tion, professional support team members and supervis-
97 ing teachers.

98 Such institutions of higher education, the center and
99 county boards of education may by mutual agreement
100 budget and expend funds for the operation of such
101 centers through payments to the appropriate fiscal

102 office of the participating institutions, the center and
103 the county boards.

104 The provisions of this section shall not be construed
105 to require the discontinuation of an existing student
106 teacher training center or school which meets the
107 standards of the state board of education.

108 All institutions of higher education approved for
109 teacher preparation in the school year of one thousand
110 nine hundred sixty-two—sixty-three shall continue to
111 hold that distinction so long as they meet the mini-
112 mum standards for teacher preparation. Nothing
113 contained herein shall infringe upon the rights
114 granted to any institution by charter given according
115 to law previous to the adoption of this code.

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

Robert Leach
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Samuel E. Allen
.....
Clerk of the Senate

Donald L. Voss
.....
Clerk of the House of Delegates

Walter Burdette
.....
President of the Senate

Robert C. Allen
.....
Speaker House of Delegates

The within is approved this the *18*.....
day of *April*....., 1992.

Yaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/92

Time 3:05 pm