WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1992

ENROLLED
Committee Substitute for
SENATE BILL NO. 22
(By Senator Holliday)

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.

(a) There is established at every public school in this state a faculty senate which shall be comprised of all permanent, full-time professional educators employed at the school who shall all be voting members. Professional educators as used in this section means professional educators as defined in chapter eighteen-a of this code. A quorum of more than one-half of the voting members of the faculty shall be present at any meeting of the faculty senate at which official business is conducted. Prior to the beginning of the instructional term each year, but within the employment term, the principal shall convene a meeting of the faculty senate to elect a chair, vice chair and secretary and discuss matters relevant to the beginning of the school year. The vice chair shall preside at meetings when the chair is absent. Meetings of the faculty senate shall be held on a regular basis as determined by a schedule approved by the faculty senate and amended from time to time if needed. Emergency meetings may be held at the call of the chair or a majority of the voting members by petition submitted to the chair and vice chair. An agenda of matters to be considered at a scheduled meeting of the faculty senate shall be available to the members at least two employment days prior to the meeting, and in the case of emergency meetings, as soon as possible prior to the meeting. The chair of the faculty senate may appoint such committees as may be desirable to study and submit recommendations to the full faculty senate, but the acts of the faculty senate shall be voted upon by the full body.

(b) In addition to any other powers and duties conferred by law, or authorized by policies adopted by the state or county board of education or by-laws which may be adopted by the faculty senate not inconsistent with law, the powers and duties listed in
this subsection are specifically reserved for the faculty senate. The intent of these provisions is neither to restrict nor to require the activities of every faculty senate to the enumerated items except as otherwise stated. Each faculty senate shall organize its activities as it deems most effective and efficient based on school size, departmental structure and other relevant factors.

(1) Each faculty senate shall control funds allocated to the school from legislative appropriations pursuant to section nine, article nine-a of this chapter. From such funds, each classroom teacher and librarian shall be allotted fifty dollars for expenditure during the instructional year for academic materials, supplies or equipment which in the judgement of the teacher or librarian will assist him or her in providing instruction in his or her assigned academic subjects, or shall be returned to the faculty senate: Provided, That nothing contained herein shall prohibit such funds from being used for programs and materials that, in the opinion of the teacher, enhance student behavior, increase academic achievement, improve self-esteem and address the problems of students at-risk. The remainder of funds shall be expended for academic materials, supplies or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to the contrary, funds not expended in one school year shall be available for expenditure in the next school year: Provided, however, That the amount of county funds budgeted in a fiscal year, shall not be reduced throughout the year as a result of the faculty appropriations in the same fiscal year for such materials, supplies and equipment. Accounts shall be maintained of the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies or equipment shall be interpreted broadly, but shall not include materials, supplies or equipment which will be used in or connected with interscholastic athletic events.

(2) A faculty senate may establish a process for faculty members to interview new prospective professional educators and paraprofessional employees at the
provide such process must permit the timely employment of persons to
perform necessary duties.

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

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

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

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

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

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

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

(10) A faculty senate may solicit, accept and expend
any grants, gifts, bequests, donations and any other
funds made available to the faculty senate: Provided, That the faculty senate shall select a member who shall have the duty of maintaining a record of all funds received and expended by the faculty senate, which record shall be kept in the school office and shall be subject to normal auditing procedures.

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

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

ARTICLE 8A. ATTENDANCE OF HOMELESS CHILDREN.
§18-8A-1. Legislative findings; definition of homeless child.

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

The Legislature further finds that programs and
materials must be made available to homeless and at-risk children to assure opportunities for an equal education. Programs shall include but not be limited to incorporating the ideas of academic achievement, career exploration, self-esteem enhancement, behavior modification and other programs relating to student development.

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

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

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

(i) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters and transitional housing for the mentally ill;

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

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

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


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


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

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, PROFESSIONAL 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-
sional development and in-service training programs for professional educators employed in the public schools in the state.

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

The standards approved by the board for teacher preparation shall include a provision for the study of multicultural education. As used in this section, multicultural education means the study of the pluralistic nature of American society including its values, institutions, organizations, groups, status positions and social roles.

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

(b) To give prospective teachers the teaching experience needed to demonstrate competence as a prerequisite to certification, the state board of education may enter into an agreement with county boards of education for the use of the public schools. Such agreement shall recognize student teaching as a joint responsibility of the teacher preparation institution and the cooperating public schools and shall include: (1) The minimum qualifications for the employment of public school teachers selected as supervising teachers; (2) the remuneration to be paid public school teachers by the state board, in addition to their contractual salaries, for supervising student teachers; and (3) minimum standards to guarantee the adequacy of the facilities and program of the public school selected for student
teaching. The student teacher, under the direction and supervision of the supervising teacher, shall exercise the authority of a substitute teacher.

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

(d) In consultation with the secretary of education and the arts, who shall represent the board of directors of the state college system and the board of trustees of the university of West Virginia system, institutions of higher education approved for teacher preparation may cooperate with each other, with the center for professional development and with one or more county boards of education in the organization and operation of centers to provide selected phases of the teacher preparation program such as student teaching, beginning teacher internship programs, instruction in methodology and seminar programs for college students, teachers with provisional certification, professional support team members and supervising teachers.

Such institutions of higher education, the center and county boards of education may by mutual agreement budget and expend funds for the operation of such centers through payments to the appropriate fiscal
office of the participating institutions, the center and
the county boards.

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

All institutions of higher education approved for
teacher preparation in the school year of one thousand
nine hundred sixty-two—sixty-three shall continue to
hold that distinction so long as they meet the mini-
mum standards for teacher preparation. Nothing
contained herein shall infringe upon the rights
granted to any institution by charter given according
to law previous to the adoption of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the .................

day of ......................................, 1992.

Governor