WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

Com. Sub. for
HOUSE BILL No. 4064

(By Delegate Mr. Speaker, Ms. Chambers, Mr. Chambers, and Delegate Ashley)
(By Request of the Executive)

Passed
March 9, 1996

In Effect Ninety Days From Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4064

(BY MR. SPEAKER, MR. CHAMBERS, AND DELEGATE ASHLEY)

[By Request of the Executive]

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nineteen-d, relating to limiting the liability of boards of education generally.

Be it enacted by the Legislature of West Virginia:

That article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nineteen-d, to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-19d. Conditional immunity from liability for community activities; liability insurance; authority of state board of risk and insurance management.

1 (a)(1) If the requirements of this subsection are met,

2 the board of education is not liable under any theory of

3 vicarious or imputed liability for the acts or omissions of:
(A) Any person, organization or association using school property for a community activity described in section nineteen of this article;

(B) Any member, employee or agent of such person, organization or association; or

(C) Any person attending or participating in the community activity other than an employee of the board while acting within the scope of employment.

(2) The limitation of liability extended the board of education pursuant to this subsection does not apply unless:

(A) The person, organization or association using school property for a community activity has in effect, at the time of the act or omission described in subdivision (1) of this subsection, a contract of insurance which provides general comprehensive liability coverage of any claim, demand, action, suit or judgment by reason of alleged negligence or other acts resulting in bodily injury or property damage to any person arising out of the use of school property for a community activity described in subdivision (1) of this subsection;

(B) The contract of insurance provides for the payment of any attorney fees, court costs and other litigation expenses incurred by the board in connection with any claim, demand, action, suit or judgment arising from such alleged negligence or other act; and

(C) The insurance coverage is in the amounts specified in the provisions of section five-a, article twelve, chapter twenty-nine of this code.

(3)(A) The insurance described in subdivision (2) of this subsection may be obtained privately or may be obtained pursuant to the provisions of this subdivision. If requested by any person, organization or association seeking such insurance coverage, the state board of risk and insurance management is authorized to provide such insurance and to enter into any necessary contract of insur-
ance to further the intent of this subdivision.

(B) Where provided by the state board of risk and insurance management, the cost of the insurance, as determined by the such board, shall be paid by the person, organization or association and may include administrative expenses. All funds received by such board shall be deposited with the West Virginia board of investments for investment purposes.

(C) The state board of risk and insurance management is hereby authorized and empowered to negotiate and effect settlement of any and all claims covered by the insurance provided by such board pursuant to this subdivision to the extent the board is authorized and empowered to negotiate and effect settlement of claims described in section five, article twelve, chapter twenty-nine of this code.

(4) As used in this subsection, "organization" or "association" means a bona fide, not for profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, eleemosynary, incorporated or unincorporated association or organization or a rescue unit or other similar volunteer community service organization or association, but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or advocating or opposing the nomination, election or defeat of any candidate, or the passage or defeat of any issue, thing or item to be voted upon.

(b) Nothing in this section shall affect the rights, duties, defenses, immunities or causes of action under other statutes or the common law of this state which may be applicable to boards of education.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 20th
day of March, 1996.

Governor