WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

ENROLLED

House Bill No. 4777
(By Delegates Mezzatesta, Williams, Stemple, Davis, Ennis, Shelton and Romine)

Passed March 11, 2000
In Effect July 1, 2000
ENROLLED

H. B. 4777

(BY DELEGATES MEZZATESTA, WILLIAMS, STEMPLE, DAVIS, ENNIS, SHELTON AND ROMINE)

[Passed March 11, 2000; in effect July 1, 2000.]

AN ACT to amend and reenact section thirty-nine, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections eight, eight-a, eight-e, eight-g and fifteen, article four, chapter eighteen-a of said code, all relating to priority for service personnel working during the normal school year when selecting a substitute for summer school personnel; increasing the number of years that service personnel receive the salary increment; increasing the number of college hours or comparable credit for which service personnel receive additional pay; competency tests for service personnel; defining maintenance personnel; seniority of substitute service personnel; employment of service personnel substitutes; leaves of absence; suspension; and time off for sickness or injury.

Be it enacted by the Legislature of West Virginia:

That section thirty-nine, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections eight, eight-a, eight-e, eight-g and fifteen, article four, chapter eighteen-a of said code be amended and reenacted, all to read as follows:
ARTICLE 5. COUNTY BOARD OF EDUCATION.

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

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

(b) The board of any county has the authority to establish a summer school program utilizing the public school facilities and to charge tuition for students who attend the summer school. The tuition may not exceed in any case the actual cost of operation of the summer school program: Provided, That any deserving pupil whose parents, in the judgment of the board, are unable to pay the tuition, may attend the summer school program at a reduced charge or without charge. The county board may determine the term and curriculum of the summer schools based upon the particular needs of the individual county. The curriculum may include, but is not limited to, remedial instruction, accelerated instruction and the teaching of manual arts. The term of the summer school program may not be established in such a manner as to interfere with the regular school term.

(c) The county boards may employ any certified teacher as teachers for this summer school program. Certified teachers employed by the county board to teach in the summer school program shall be paid an amount to be determined by the county board and shall enter into a contract of employment in such form as is prescribed by the county board: Provided, That teachers who teach summer courses of instruction which are offered for credit and which are taught during the regular school year shall be paid at the same daily rate they would receive if paid in accordance with the then current minimum monthly salary in effect for teachers in that county.
(d) Any funds accruing from the tuitions shall be credited to and expended within the existing framework of the general current expense fund of the county board.

(e) Notwithstanding any other provision of this code to the contrary, the board shall fill professional positions established pursuant to the provisions of this section on the basis of certification and length of time the professional has been employed in the county’s summer school program. In the event that no employee who has been previously employed in the summer school program holds a valid certification or licensure, a board shall fill the position as a classroom teaching position in accordance with section seven-a, article four, chapter eighteen-a of this code.

(f) Notwithstanding any other provision of the code to the contrary, the county board may employ school service personnel to perform any related duties outside the regular school term as defined in section eight, article four, chapter eighteen-a of this code. An employee who was employed in any service personnel job or position during the previous summer shall have the option of retaining the job or position if the job or position exists during any succeeding summer. If the employee is unavailable or if the position is newly created, the position shall be filled pursuant to section eight-b, article four, chapter eighteen-a of this code. When any summer employee is absent, qualified regular employees within the same classification category who are not working because their employment term for the school year has ended or has not yet begun the succeeding school employment term, shall be given first opportunity to substitute for the absent summer employee on a rotating and seniority basis. When any summer employee who is employed in a summer position is granted a leave of absence for the summer months, the board shall give regular employment status to the employee for that summer position which shall be filled under the procedure set forth in section eight-b, article four, chapter eighteen-a of this code. The summer employee on leave of absence has the option of returning to that summer position if the position exists the succeeding summer or whenever the
position is reestablished if it were abolished. The salary of a
summer employee shall be in accordance with the salary
schedule of persons regularly employed in the same position in
the county where employed and persons employed in those
positions are entitled to all rights, privileges and benefits
provided in sections five-b, eight, eight-a, ten and fourteen,
article four, chapter eighteen-a of this code: Provided, That
those persons are not entitled to a minimum employment term
of two hundred days for their summer position.

(g) If a county board reduces in force the number of
employees to be employed in a particular summer program or
classification from the number employed in that position in
previous summers, the reductions in force and priority in
reemployment to that summer position shall be based upon the
length of service time in the particular summer program or
classification.

(h) For the purpose of this section, summer employment for
service personnel includes, but is not limited to, filling jobs and
positions as defined in section eight, article four, chapter
eighteen-a of this code and especially established for and which
are to be predominantly performed during the summer months
to meet the needs of a county board.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE FOUR. SALARIES, WAGES AND OTHER BENEFITS.

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

1 (a) The purpose of this section is to establish an employ-
ment term and class titles for service personnel. The employ-
ment term for service personnel may be no less than ten
months. A month is defined as twenty employment days:
Provided, That the county board may contract with all or part
of these service personnel for a longer term. The beginning and
closing dates of the ten-month employment term may not
exceed forty-three weeks.
(b) Service personnel employed on a yearly or twelve-month basis may be employed by calendar months. Whenever there is a change in job assignment during the school year, the minimum pay scale and any county supplement are applicable.

(c) Service personnel employed in the same classification for more than the two hundred-day minimum employment term shall be paid for additional employment at a daily rate of not less than the daily rate paid for the two hundred-day minimum employment term.

(d) No service employee, without his or her agreement, may be required to report for work more than five days per week and no part of any working day may be accumulated by the employer for future work assignments, unless the employee agrees thereto.

(e) If an employee whose regular work week is scheduled from Monday through Friday agrees to perform any work assignments on a Saturday or Sunday, the employee shall be paid for at least one half day of work for each day he or she reports for work, and if the employee works more than three and one-half hours on any Saturday or Sunday, he or she shall be paid for at least a full day of work for each day.

(f) Custodians, aides, maintenance, office and school lunch employees required to work a daily work schedule that is interrupted, that is, who do not work a continuous period in one day, shall be paid additional compensation equal to at least one eighth of their total salary as provided by their state minimum salary and any county pay supplement, and payable entirely from county funds: Provided, That when engaged in duties of transporting students exclusively, aides shall not be regarded as working an interrupted schedule. Maintenance personnel are defined as personnel who hold a classification title other than in a custodial, aide, school lunch, office or transportation category as provided in section one, article one of this chapter.

(g) Upon the change in classification or upon meeting the requirements of an advanced classification of or by any
employee, the employee’s salary shall be made to comply with
the requirements of this article, and to any county salary
schedule in excess of the minimum requirements of this article,
based upon the employee’s advanced classification and
allowable years of employment.

(h) An employee’s contract as provided in section five,
article two of this chapter shall state the appropriate monthly
salary the employee is to be paid, based on the class title as
provided in this article and any county salary schedule in excess
of the minimum requirements of this article.

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

(1) “Pay grade” means the monthly salary applicable to
class titles of service personnel;

(2) “Years of employment” means the number of years
which an employee classified as service personnel has been
employed by a board in any position prior to or subsequent to
the effective date of this section and including service in the
armed forces of the United States, if the employee were
employed at the time of his or her induction. For the purpose of
section eight-a of this article, years of employment shall be
limited to the number of years shown and allowed under the
state minimum pay scale as set forth in section eight-a of this
article;

(3) “Class title” means the name of the position or job held
by service personnel;

(4) “Accountant I” means personnel employed to maintain
payroll records and reports and perform one or more operations
relating to a phase of the total payroll;

(5) “Accountant II” means personnel employed to maintain
accounting records and to be responsible for the accounting
process associated with billing, budgets, purchasing and related
operations;
(6) “Accountant III” means personnel who are employed in the county board office to manage and supervise accounts payable and/or payroll procedures;

(7) “Aide I” means those personnel selected and trained for teacher-aide classifications such as monitor aide, clerical aide, classroom aide or general aide;

(8) “Aide II” means those personnel referred to in the “Aide I” classification who have completed a training program approved by the state board, or who hold a high school diploma or have received a general educational development certificate. Only personnel classified in an Aide II class title may be employed as an aide in any special education program;

(9) “Aide III” means those personnel referred to in the “Aide I” classification who hold a high school diploma or a general educational development certificate and have completed six semester hours of college credit at an institution of higher education or are employed as an aide in a special education program and have one year’s experience as an aide in special education;

(10) “Aide IV” means personnel referred to in the “Aide I” classification who hold a high school diploma or a general educational development certificate and who have completed eighteen hours of state board-approved college credit at a regionally accredited institution of higher education, or who have completed fifteen hours of state board-approved college credit at a regionally accredited institution of higher education and successfully completed an in-service training program determined by the state board to be the equivalent of three hours of college credit;

(11) “Audiovisual technician” means personnel employed to perform minor maintenance on audiovisual equipment, films, supplies and the filling of requests for equipment;

(12) “Auditor” means personnel employed to examine and verify accounts of individual schools and to assist schools and
school personnel in maintaining complete and accurate records of their accounts;

(13) “Autism mentor” means personnel who work with autistic students and who meet standards and experience to be determined by the state board: Provided, That if any employee has held or holds an aide title and becomes employed as an autism mentor, the employee shall hold a multiclassification status that includes aide and autism mentor titles, in accordance with section eight-b of this article;

(14) “Braille or sign language specialist” means personnel employed to provide braille and/or sign language assistance to students: Provided, That if any employee has held or holds an aide title and becomes employed as a braille or sign language specialist, the employee shall hold a multiclassification status that includes aide and braille or sign language specialist title, in accordance with section eight-b of this article;

(15) “Bus operator” means personnel employed to operate school buses and other school transportation vehicles as provided by the state board;

(16) “Buyer” means personnel employed to review and write specifications, negotiate purchase bids and recommend purchase agreements for materials and services that meet predetermined specifications at the lowest available costs;

(17) “Cabinetmaker” means personnel employed to construct cabinets, tables, bookcases and other furniture;

(18) “Cafeteria manager” means personnel employed to direct the operation of a food services program in a school, including assigning duties to employees, approving requisitions for supplies and repairs, keeping inventories, inspecting areas to maintain high standards of sanitation, preparing financial reports and keeping records pertinent to food services of a school;
(19) “Carpenter I” means personnel classified as a carpenter’s helper;

(20) “Carpenter II” means personnel classified as a journeyman carpenter;

(21) “Chief mechanic” means personnel employed to be responsible for directing activities which ensure that student transportation or other board-owned vehicles are properly and safely maintained;

(22) “Clerk I” means personnel employed to perform clerical tasks;

(23) “Clerk II” means personnel employed to perform general clerical tasks, prepare reports and tabulations and operate office machines;

(24) “Computer operator” means qualified personnel employed to operate computers;

(25) “Cook I” means personnel employed as a cook’s helper;

(26) “Cook II” means personnel employed to interpret menus, to prepare and serve meals in a food service program of a school and shall include personnel who have been employed as a “Cook I” for a period of four years, if the personnel have not been elevated to this classification within that period of time;

(27) “Cook III” means personnel employed to prepare and serve meals, make reports, prepare requisitions for supplies, order equipment and repairs for a food service program of a school system;

(28) “Crew leader” means personnel employed to organize the work for a crew of maintenance employees to carry out assigned projects;
(29) “Custodian I” means personnel employed to keep buildings clean and free of refuse;

(30) “Custodian II” means personnel employed as a watchman or groundsman;

(31) “Custodian III” means personnel employed to keep buildings clean and free of refuse, to operate the heating or cooling systems and to make minor repairs;

(32) “Custodian IV” means personnel employed as head custodians. In addition to providing services as defined in “custodian III”, their duties may include supervising other custodian personnel;

(33) “Director or coordinator of services” means personnel who are assigned to direct a department or division. Nothing in this subdivision may prohibit professional personnel or professional educators as defined in section one, article one of this chapter, from holding this class title, but professional personnel may not be defined or classified as service personnel unless the professional personnel held a service personnel title under this section prior to holding class title of “director or coordinator of services”. Directors or coordinators of service positions shall be classified as either a professional personnel or service personnel position for state aid formula funding purposes and funding for directors or coordinators of service positions shall be based upon the employment status of the director or coordinator either as a professional personnel or service personnel;

(34) “Draftsman” means personnel employed to plan, design and produce detailed architectural/engineering drawings;

(35) “Electrician I” means personnel employed as an apprentice electrician helper or who holds an electrician helper license issued by the state fire marshal;

(36) “Electrician II” means personnel employed as an electrician journeyman or who holds a journeyman electrician license issued by the state fire marshal;
(37) “Electronic technician I” means personnel employed at the apprentice level to repair and maintain electronic equipment;

(38) “Electronic technician II” means personnel employed at the journeyman level to repair and maintain electronic equipment;

(39) “Executive secretary” means personnel employed as the county school superintendent’s secretary or as a secretary who is assigned to a position characterized by significant administrative duties;

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

(41) “Foremen” means skilled persons employed for supervision of personnel who work in the areas of repair and maintenance of school property and equipment;

(42) “General maintenance” means personnel employed as helpers to skilled maintenance employees and to perform minor repairs to equipment and buildings of a county school system;

(43) “Glazier” means personnel employed to replace glass or other materials in windows and doors and to do minor carpentry tasks;

(44) “Graphic artist” means personnel employed to prepare graphic illustrations;

(45) “Groundsmen” means personnel employed to perform duties that relate to the appearance, repair and general care of school grounds in a county school system. Additional assign-
ments may include the operation of a small heating plant and routine cleaning duties in buildings;

(46) “Handyman” means personnel employed to perform routine manual tasks in any operation of the county school system;

(47) “Heating and air conditioning mechanic I” means personnel employed at the apprentice level to install, repair and maintain heating and air conditioning plants and related electrical equipment;

(48) “Heating and air conditioning mechanic II” means personnel employed at the journeyman level to install, repair and maintain heating and air conditioning plants and related electrical equipment;

(49) “Heavy equipment operator” means personnel employed to operate heavy equipment;

(50) “Inventory supervisor” means personnel who are employed to supervise or maintain operations in the receipt, storage, inventory and issuance of materials and supplies;

(51) “Key punch operator” means qualified personnel employed to operate key punch machines or verifying machines;

(52) “Locksmith” means personnel employed to repair and maintain locks and safes;

(53) “Lubrication man” means personnel employed to lubricate and service gasoline or diesel-powered equipment of a county school system;

(54) “Machinist” means personnel employed to perform machinist tasks which include the ability to operate a lathe, planer, shaper, threading machine and wheel press. These personnel should also have the ability to work from blueprints and drawings;
(55) “Mail clerk” means personnel employed to receive, sort, dispatch, deliver or otherwise handle letters, parcels and other mail;

(56) “Maintenance clerk” means personnel employed to maintain and control a stocking facility to keep adequate tools and supplies on hand for daily withdrawal for all school maintenance crafts;

(57) “Mason” means personnel employed to perform tasks connected with brick and block laying and carpentry tasks related to such laying;

(58) “Mechanic” means personnel employed who can independently perform skilled duties in the maintenance and repair of automobiles, school buses and other mechanical and mobile equipment to use in a county school system;

(59) “Mechanic assistant” means personnel employed as a mechanic apprentice and helper;

(60) “Multiclassification” means personnel employed to perform tasks that involve the combination of two or more class titles in this section. In these instances the minimum salary scale shall be the higher pay grade of the class titles involved;

(61) “Office equipment repairman I” means personnel employed as an office equipment repairman apprentice or helper;

(62) “Office equipment repairman II” means personnel responsible for servicing and repairing all office machines and equipment. Personnel are responsible for parts being purchased necessary for the proper operation of a program of continuous maintenance and repair;

(63) “Painter” means personnel employed to perform duties of painting, finishing and decorating of wood, metal and concrete surfaces of buildings, other structures, equipment, machinery and furnishings of a county school system;
“Paraprofessional” means a person certified pursuant to section two-a, article three of this chapter to perform duties in a support capacity including, but not limited to, facilitating in the instruction and direct or indirect supervision of pupils under the direction of a principal, a teacher or another designated professional educator. Provided, That no person employed on the effective date of this section in the position of an aide may be reduced in force or transferred to create a vacancy for the employment of a paraprofessional: Provided, however, That if any employee has held or holds an aide title and becomes employed as a paraprofessional, the employee shall hold a multiclassification status that includes aide and paraprofessional titles in accordance with section eight-b of this article: Provided further, That once an employee who holds an aide title becomes certified as a paraprofessional and is required to perform duties that may not be performed by an aide without paraprofessional certification, he or she shall receive the paraprofessional title pay grade;

“Plumber I” means personnel employed as an apprentice plumber and helper;

“Plumber II” means personnel employed as a journeyman plumber;

“Printing operator” means personnel employed to operate duplication equipment, and as required, to cut, collate, staple, bind and shelve materials;

“Printing supervisor” means personnel employed to supervise the operation of a print shop;

“Programmer” means personnel employed to design and prepare programs for computer operation;

“Roofing/sheet metal mechanic” means personnel employed to install, repair, fabricate and maintain roofs, gutters, flashing and duct work for heating and ventilation;
(71) “Sanitation plant operator” means personnel employed to operate and maintain a water or sewage treatment plant to ensure the safety of the plant’s effluent for human consumption or environmental protection;

(72) “School bus supervisor” means qualified personnel employed to assist in selecting school bus operators and routing and scheduling of school buses, operate a bus when needed, relay instructions to bus operators, plan emergency routing of buses and promoting good relationships with parents, pupils, bus operators and other employees;

(73) “Secretary I” means personnel employed to transcribe from notes or mechanical equipment, receive callers, perform clerical tasks, prepare reports and operate office machines;

(74) “Secretary II” means personnel employed in any elementary, secondary, kindergarten, nursery, special education, vocational or any other school as a secretary. The duties may include performing general clerical tasks, transcribing from notes or stenotype or mechanical equipment or a sound-producing machine, preparing reports, receiving callers and referring them to proper persons, operating office machines, keeping records and handling routine correspondence. There is nothing implied in this subdivision that would prevent the employees from holding or being elevated to a higher classification;

(75) “Secretary III” means personnel assigned to the county board office administrators in charge of various instructional, maintenance, transportation, food services, operations and health departments, federal programs or departments with particular responsibilities of purchasing and financial control or any personnel who have served in a position which meets the definition of “secretary II” or “secretary III” in this section for eight years;

(76) “Supervisor of maintenance” means skilled personnel not defined as professional personnel or professional educators as in section one, article one of this chapter. The responsibilities
would include directing the upkeep of buildings and shops, issuing instructions to subordinates relating to cleaning, repairs and maintenance of all structures and mechanical and electrical equipment of a board;

(77) “Supervisor of transportation” means qualified personnel employed to direct school transportation activities, properly and safely, and to supervise the maintenance and repair of vehicles, buses and other mechanical and mobile equipment used by the county school system;

(78) “Switchboard operator-receptionist” means personnel employed to refer incoming calls, to assume contact with the public, to direct and to give instructions as necessary, to operate switchboard equipment and to provide clerical assistance;

(79) “Truck driver” means personnel employed to operate light or heavy duty gasoline and diesel-powered vehicles;

(80) “Warehouse clerk” means personnel employed to be responsible for receiving, storing, packing and shipping goods;

(81) “Watchman” means personnel employed to protect school property against damage or theft. Additional assignments may include operation of a small heating plant and routine cleaning duties; and

(82) “Welder” means personnel employed to provide acetylene or electric welding services for a school system.

(j) In addition to the compensation provided for in section eight-a of this article, for service personnel, each service employee is, notwithstanding any provisions in this code to the contrary, entitled to all service personnel employee rights, privileges and benefits provided under this or any other chapter of this code without regard to the employee’s hours of employment or the methods or sources of compensation.

(k) Service personnel whose years of employment exceed the number of years shown and provided for under the state
minimum pay scale set forth in section eight-a of this article may not be paid less than the amount shown for the maximum years of employment shown and provided for in the classification in which he or she is employed.

(l) The county boards shall review each service personnel employee job classification annually and shall reclassify all service employees as required by the job classifications. The state superintendent of schools may withhold state funds appropriated pursuant to this article for salaries for service personnel who are improperly classified by the county boards. Further, the state superintendent shall order county boards to correct immediately any improper classification matter and with the assistance of the attorney general shall take any legal action necessary against any county board to enforce the order.

(m) No service employee, without his or her written consent, may be reclassified by class title, nor may a service employee, without his or her written consent, be relegated to any condition of employment which would result in a reduction of his or her salary, rate of pay, compensation or benefits earned during the current fiscal year or which would result in a reduction of his or her salary, rate of pay, compensation or benefits for which he or she would qualify by continuing in the same job position and classification held during that fiscal year and subsequent years.

(n) Any board failing to comply with the provisions of this article may be compelled to do so by mandamus, and is liable to any party prevailing against the board for court costs and the prevailing party’s reasonable attorney fee, as determined and established by the court.

(o) Notwithstanding any provisions in this code to the contrary, service personnel who hold a continuing contract in a specific job classification and who are physically unable to perform the job’s duties as confirmed by a physician chosen by the employee shall be given priority status over any employee not holding a continuing contract in filling other service
personnel job vacancies if qualified as provided in section eight-e of this article.

§18A-4-8a. Service personnel minimum monthly salaries.

1. (1) The minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the “state minimum pay scale pay grade I” and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the “state minimum pay scale pay grade I” set forth in this section.

**STATE MINIMUM PAY SCALE PAY GRADE I**

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Subject to a recommendation by the governor for a pay raise through the delivery of an executive message to the Legislature and an appropriation by the Legislature for a pay raise, effective the first day of July, one thousand nine hundred ninety-nine and thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the “state minimum pay scale pay grade II” and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the “state minimum pay scale pay grade II” set forth in this section.

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If “state minimum pay scale pay grade II” becomes effective on the first day of July, one thousand nine hundred ninety-nine, and the governor recommends a pay raise through the delivery of an executive message to the Legislature and the Legislature appropriates money for a pay raise, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the “state minimum pay scale pay grade III” and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the “state minimum pay scale pay grade III” set forth in this section.
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<td>225</td>
<td>Roofing/Sheet Metal Mechanic</td>
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<td>Sanitation Plant Operator</td>
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<td>227</td>
<td>School Bus Supervisor</td>
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(2) An additional ten dollars per month shall be added to the minimum monthly pay of each service employee who holds a high school diploma or its equivalent.

(3) An additional ten dollars per month also shall be added to the minimum monthly pay of each service employee for each of the following:

(A) A service employee who holds twelve college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(B) A service employee who holds twenty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(C) A service employee who holds thirty-six college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(D) A service employee who holds forty-eight college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(E) A service employee who holds sixty college hours or comparable credit obtained in a trade or vocational school as approved by the state board; and
(F) A service employee who holds seventy-two college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

(4) When any part of a school service employee’s daily shift of work is performed between the hours of six o’clock p.m. and five o’clock a.m. the following day, the employee shall be paid no less than an additional ten dollars per month and one half of the pay shall be paid with local funds.

(5) Any service employee required to work on any legal school holiday shall be paid at a rate one and one-half times the employee’s usual hourly rate.

(6) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid shall be paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(7) No service employee may have his or her daily work schedule changed during the school year without the employee’s written consent and the employee’s required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(8) The minimum hourly rate of pay for extra duty assignments as defined in section eight-b of this article shall be no less than one seventh of the employee’s daily total salary for each hour the employee is involved in performing the assignment and paid entirely from local funds: Provided, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be utilized if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time employees within that classification category of employment within that county: Provided, however, That the vote shall be by secret ballot if requested by a service personnel employee within that classifi-
The salary for any fraction of an hour the employee is involved in performing the assignment shall be prorated accordingly. When performing extra duty assignments, employees who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the employee were employed on a full-day salary basis.

(9) The minimum pay for any service personnel employees engaged in the removal of asbestos material or related duties required for asbestos removal shall be their regular total daily rate of pay and no less than an additional three dollars per hour or no less than five dollars per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos related duties outside of the employee’s regular employment county, the daily rate of pay shall be no less than the minimum amount as established in the employee’s regular employment county for asbestos removal and an additional thirty dollars per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel employees may be utilized in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(10) For the purpose of qualifying for additional pay as provided in section eight, article five of this chapter, an aide shall be considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort or render service to a
child or children when not under the direct supervision of certificated professional personnel within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds or wherever supervision is required. For purposes of this section, “under the direct supervision of certificated professional personnel” means that certificated professional personnel is present, with and accompanying the aide.

§18A-4-8e. Competency testing for service personnel.

(a) The state board of education shall develop and cause to be made available competency tests for all of the classification titles defined in section eight and listed in section eight-a of this article for service personnel. Each classification title defined and listed shall be considered a separate classification category of employment for service personnel and shall have a separate competency test, except for those class titles having Roman numeral designations, which shall be considered a single classification of employment and shall have a single competency test. The cafeteria manager class title shall be included in the same classification category as cooks and shall have the same competency test. The executive secretary class title shall be included in the same classification category as secretaries and shall have the same competency test. The classification titles of chief mechanic, mechanic and assistant mechanic shall be included in one classification title and shall have the same competency test.

(b) The purpose of these tests shall be to provide county boards of education a uniform means of determining whether school service personnel employees who do not hold a classification title in a particular category of employment can meet the definition of the classification title in another category of employment as defined in section eight of this article. Competency tests shall not be used to evaluate employees who hold the classification title in the category of their employment.

(c) The competency test shall consist of an objective written and/or performance test: Provided, That applicants shall have
the opportunity of taking the written test orally if requested. Oral tests shall be recorded mechanically and kept on file. Persons administering the oral test shall not know the applicant personally. The performance test for all classifications and categories other than bus operator shall be administered by a vocational school which serves the county board of education. A standard passing score shall be established by the state department of education for each test and shall be used by county boards of education. The subject matter of each competency test shall be commensurate with the requirements of the definitions of the classification titles as provided in section eight of this article. The subject matter of each competency test shall be designed in such a manner that achieving a passing grade will not require knowledge and skill in excess of the requirements of the definitions of the classification titles. Achieving a passing score shall conclusively demonstrate the qualification of an applicant for a classification title. Once an employee passes the competency test of a classification title, the applicant shall be fully qualified to fill vacancies in that classification category of employment as provided in section eight-b of this article and shall not be required to take the competency test again.

(d) An applicant who fails to achieve a passing score shall be given other opportunities to pass the competency test when making application for another vacancy within the classification category.

e) Competency tests shall be administered to applicants in a uniform manner under uniform testing conditions. County boards of education are responsible for scheduling competency tests, notifying applicants of the date and time of the one day of training prior to taking the test and the date and time of the test. County boards of education shall not utilize a competency test other than the test authorized by this section.

(f) When scheduling of the competency test conflicts with the work schedule of a school employee who has applied for a
(g) A minimum of one day of appropriate inservice training shall be provided employees to assist them in preparing to take the competency tests.

(h) Competency tests shall be utilized to determine the qualification of new applicants seeking initial employment in a particular classification title as either a regular or substitute employee.

(i) Notwithstanding any provisions in this code to the contrary, once an employee holds or has held a classification title in a category of employment, that employee shall be considered qualified for the classification title even though that employee no longer holds that classification.

(j) The requirements of this section shall not be construed to alter the definitions of class titles as provided in section eight of this article nor the procedure and requirements of section eight-b of this article.

§18A-4-8g. Determination of seniority for service personnel.

(a) Seniority accumulation for a regular school service employee begins on the date the employee enters upon regular employment duties pursuant to a contract as provided in section five, article two of this chapter and continues until the employee’s employment as a regular employee is severed with the county board. Seniority shall not cease to accumulate when an employee is absent without pay as authorized by the county board or the absence is due to illness or other reasons over which the employee has no control as authorized by the county board. Seniority accumulation for a substitute employee shall begin upon the date the employee enters upon the duties of a substitute as provided in section fifteen of this article, after executing with the board a contract of employment as provided in section five, article two of this chapter. The seniority of a substitute employee, once established, shall continue until the
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employee enters into the duties of a regular employment contract as provided in section five, article two of this chapter or employment as a substitute with the county board is severed. Seniority of a regular or substitute employee shall continue to accumulate except during the time when an employee is willfully absent from employment duties because of a concerted work stoppage or strike or is suspended without pay.

(b) For all purposes including the filling of vacancies and reduction in force, seniority shall be accumulated within particular classification categories of employment as those classification categories are referred to in section eight-e of this article: Provided, That when implementing a reduction in force, an employee with the least seniority within a particular classification category shall be properly released and placed on the preferred recall list. The particular classification title held by an employee within the classification category shall not be taken into consideration when implementing a reduction in force.

(c) On or before the first day of September and the fifteenth day of January of each school year, county boards shall post at each county school or working station the current seniority list or lists of each school service classification. Each list shall contain the name of each regularly employed school service personnel employed in each classification and the date that each employee began performing his or her assigned duties in each classification. Current seniority lists of substitute school service personnel shall be available to employees upon request at the county board office.

(d) The seniority of an employee who transfers out of a class title or classification category of employment and subsequently returns to that class title or classification category of employment shall be calculated as follows:

The county board shall establish the number of calendar days between the date the employee left the class title or category of employment in question and the date of return to the class title or classification category of employment. This number of days shall be added to the employee’s initial
seniority date to establish a new beginning seniority date within
the class title or classification category. The employee shall
then be considered as having held uninterrupted service within
the class title or classification category from the newly estab-
lished seniority date. The seniority of an employee who has had
a break in the accumulation of seniority as a result of being
willfully absent from employment duties because of a concerted
work stoppage or strike shall be calculated in the same manner.

(e) A substitute school service employee shall acquire
regular employment status and seniority if the employee
receives a position pursuant to subsections (2) and (5), section
fifteen of this article: Provided, That a substitute employee who
accumulates regular employee seniority while holding a
position acquired pursuant to said subsections shall simulta-
neously accumulate substitute seniority; Provided, further, That
upon termination of a leave of absence or a suspension, the
employee shall return to the status previously held. If the
employee returns to substitute status, the employee shall retain
any regular employee seniority accrued, however, this seniority
may not be used in the bidding process for regular positions
unless the employee again attains regular employee status or
has attained preferred recall status. County boards shall not be
prohibited from providing any benefits of regular employment
for substitute employees, but the benefits shall not include
regular employee status and seniority.

(f) If two or more employees accumulate identical senior-
ity, the priority shall be determined by a random selection
system established by the employees and approved by the
county board. A board shall conduct the random selection
within thirty days upon the employees establishing an identical
seniority date. All employees with an identical seniority date
within the same class title or classification category shall
participate in the random selection. As long as the affected
employees hold identical seniority within the same classifica-
tion category, the initial random selection conducted by the
board shall be permanent for the duration of the employment
within the same classification category of the employees by the
board. This random selection priority applies to the filling of
vacancies and to the reduction in force of school service
personnel: Provided, That if another employee or employees
subsequently acquire seniority identical to the employees
involved in the original random selection, a second random
selection shall be held within thirty days to determine the
seniority ranking of the new employee or employees within the
group. The priority between the employees who participated in
the original random selection shall remain the same. The second
random selection shall be performed by placing numbered
pieces of paper equal to the number of employees with identical
seniority in a container. The employees who were not involved
in the original random selection shall draw a number from the
container which will determine their seniority within the group
as a whole. This process will be repeated if additional employ-
pees subsequently acquire identical seniority. The same process
shall be utilized if additional employees are subsequently
discovered to have the same seniority as the original group of
employees but who did not participate in the original random
selection through oversight or mistake.

(g) Service personnel who are employed in a classification
category of employment at the time when a vacancy is posted
in the same classification category of employment shall be
given first opportunity to fill the vacancy.

(h) Seniority acquired as a substitute and as a regular
employee shall be calculated separately and shall not be
combined for any purpose. Seniority acquired within different
classification categories shall be calculated separately: Provided, That when a school service employee makes application
for a position outside of the classification category currently
held, if the vacancy is not filled by an applicant within the
classification category of the vacancy, the applicant shall
combine all regular employment seniority acquired for the
purposes of bidding on the position.

(i) School service personnel who hold multi-classification
titles shall accrue seniority in each classification category of
employment which the employee holds and shall be considered an employee of each classification category contained within his or her multi-classification title. Multi-classified employees are subject to reduction in force in any category of employment contained within their multi-classification title based upon the seniority accumulated within that category of employment:

Provided, That if a multi-classified employee is reduced in force in one classification category, the employee shall retain employment in any of the other classification categories that he or she holds within his multi-classification title. In that case, the county board shall delete the appropriate classification title or classification category from the contract of the multi-classified employee.

(j) When applying to fill a vacancy outside the classification categories held by the multi-classified employee, seniority acquired simultaneously in different classification categories shall be calculated as if accrued in one classification category only.

(k) The seniority conferred in this section applies retroactively to all affected school service personnel, but the rights incidental to the seniority shall commence as of the effective date of this section.

§18A-4-15. Employment of service personnel substitutes.

(a) The county board shall employ and the county superintendent, subject to the approval of the county board, shall assign substitute service personnel on the basis of seniority to perform any of the following duties:

(1) To fill the temporary absence of another service employee;

(2) To fill the position of a regular service employee who requests a leave of absence from the county board in writing and who is granted the leave in writing by the county board:

Provided, That if the leave of absence is to extend beyond thirty days, the board, within twenty working days from the com-
mencement of the leave of absence, shall give regular employee
status to a person hired to fill the position. The person em-
ployed on a regular basis shall be selected under the procedure
set forth in section eight-b of this article. The substitute shall
hold the position and regular employee status only until the
regular employee returns to the position and the substitute shall
have and shall be accorded all rights, privileges and benefits
pertaining to the position: Provided, however, That if a regular
or substitute employee fills a vacancy that is related to a leave
of absence in any manner as provided in this section, upon
termination of the leave of absence the employee shall be
returned to his or her original position: Provided further, That
no service person may be required to request or to take a leave
of absence: And provided further, That no service person shall
be deprived of any right or privilege of regular employment
status for refusal to request or failure to take a leave of absence;

(3) To perform the service of a service employee who is
authorized to be absent from duties without loss of pay;

(4) To temporarily fill a vacancy in a permanent position
caused by severance of employment by the resignation, transfer,
retirement, permanent disability, dismissal pursuant to section
eight, article two of this chapter, or death of the regular service
employee who had been assigned to fill the position: Provided,
That within twenty working days from the commencement of
the vacancy, the board shall fill the vacancy under the proce-
dures set out in section eight-b of this article and section five,
article two of this chapter and the person hired to fill the
vacancy shall have and shall be accorded all rights, privileges
and benefits pertaining to the position;

(5) To fill the vacancy created by a regular employee’s
suspension: Provided, That if the suspension is for more than
thirty working days the substitute service employee shall be
assigned to fill the vacancy on a regular basis and shall have
and be accorded all rights, privileges and benefits pertaining to
the position until the termination by the county board becomes
final. If the suspended employee is not returned to his or her
job, the board shall fill the vacancy under the procedures set out in section eight-b of this article and section five, article two of this chapter; and

(6) To temporarily fill a vacancy in a newly created position prior to employment of a service personnel on a regular basis under the procedure set forth in section eight-b of this article.

(b) Substitutes shall be assigned in the following manner: A substitute with the greatest length of service time, that is, from the date he or she began his or her assigned duties as a substitute in that particular category of employment, shall be given priority in accepting the assignment throughout the period of the regular employee’s absence or until the vacancy is filled on a regular basis under the procedures set out in section eight-b of this article. All substitutes shall be employed on a rotating basis according to the length of their service time until each substitute has had an opportunity to perform similar assignments: Provided, That if there are regular service employees employed in the same building or working station as the absent employee and who are employed in the same classification category of employment, the regular employees shall be first offered the opportunity to fill the position of the absent employee on a rotating and seniority basis with the substitute then filling the regular employee’s position. A regular employee assigned to fill the position of an absent employee shall be given the opportunity to hold that position throughout the absence.

(c) Regular school service personnel shall be returned by the county board of education to the same position held prior to any approved leave of absence or period of recovery from injury or illness. The school service personnel shall retain all rights, privileges and benefits which had accrued at the time of the absence or accrued under any other provision of law during the absence and shall have all rights, privileges and benefits generally accorded school service employees at the time of return to work.
(d) The salary of a substitute service employee shall be based upon his or her years of employment as defined in section eight of this article and as provided in the state minimum pay scale set forth in section eight-a of this article and shall be in accordance with the salary schedule of persons regularly employed in the same position in the county in which he or she is employed.

(e) Before any substitute service employee enters upon his or her duties, he or she shall execute with the county board a written contract as provided in section five, article two of this chapter.

(f) To establish a uniform system of providing a fair and equitable opportunity for substitutes to enter upon their duties for the first time, the following method shall be used: The initial order of assigning newly employed substitutes shall be determined by a random selection system established by the affected substitute employees and approved by the county board. This initial priority order shall be in effect only until the substitute service personnel have entered upon their duties for the first time.

(g) Substitute service employees who have worked thirty days for a school system shall have all rights pertaining to suspension, dismissal and contract renewal as is granted to regular service personnel in sections six, seven, eight and eight-a, article two of this chapter.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect July 1, 2000.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the day of , 2000.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/21/00
Time 3:30 pm