WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4149

(By Delegates Pino, Perry and C. White)

Passed March 8, 2002

In Effect from Passage
AN ACT to amend and reenact section thirteen-a, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to school consolidation and closure; written statement of reasons; public hearings; and requiring promulgation of rules.

Be it enacted by the Legislature of West Virginia:

That section thirteen-a, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-13a. School closing or consolidation.
(a) In addition to the provisions of section thirteen of this article, prior to any final decision of a county board on any proposal to close or consolidate any school, except in cases in which a construction bond issue was passed by the voters and which bond issue included the schools to be closed or consolidated, the county board shall:

(1) Prepare and reduce to writing its reasons and supporting data regarding the school closing or consolidation. The written reasons shall:

(A) Be available for public inspection in the office of the county school superintendent during the thirty days preceding the date of the public hearing required by this section;

(B) Be delivered in duplicate to the:

(i) Principal of a school which is proposed to be closed or consolidated, and of any school which will receive the students who are relocated as a result of the closure or consolidation; and

(ii) The chair, if any, of the local school improvement council representing a school which is proposed to be closed or consolidated, and any school which will receive the students who are relocated as a result of the closure or consolidation; and

(C) Comply with the rule promulgated pursuant to subsection (b) of this section;

(2) Provide notice for a public hearing. The notice shall be advertised through a Class III legal advertisement, pursuant to the provisions of article three, chapter fifty-nine of this code for the three weeks prior to the date of the hearing. The notice shall contain the time and place of the hearing and the proposed action of the county board. Additionally, the notice shall
contain the statement that the hearing location is subject to change if at the time the meeting is called to order, it is determined that the meeting location is of insufficient size. A copy of the notice shall be posted at any school which is proposed to be closed or consolidated, and at any school which will receive the students who are relocated as a result of the closure or consolidation, in conspicuous working places for all professional and service personnel to observe. The notice shall be posted at least thirty days prior to the date of the hearing;

(3) Conduct a public hearing which meets the following criteria:

(A) At least a quorum of the county board members and the county superintendent from the county wherein an affected school is located shall attend and be present at the public hearing;

(B) Members of the public may be present, submit statements and testimony, and question county school officials at the public hearing;

(C) A separate hearing shall be held for each school closed or consolidated;

(D) More than one hearing may be held during any one day;

(E) The hearing shall be held in a facility of sufficient size to accommodate all those who desire to attend;

(F) If, at the time the hearing is called to order, it is determined by the board that insufficient space is available to accommodate all those who desire to attend, the hearing shall be recessed and moved to a new location of sufficient size to accommodate all those who desire to attend. If the meeting location is changed due to insufficient capacity, the county
board shall cause the new meeting location to be posted at the
original meeting location; and

(G) The hearing is subject to the requirements set forth in
the rule promulgated in accordance with subsection (c) of this
section; and

(4) Receive findings and recommendations from any local
school improvement council representing an affected school
relating to the proposed closure or consolidation prior to or at
the public hearing.

(b) The state board shall promulgate a rule, in accordance
with the provisions of article three-b, chapter twenty-nine-a,
detailing the type of supporting data a county board shall
include as part of its written statement of reason required by
this section for school closing or consolidation. The rule shall
require at least the following data:

(1) The transportation time of the affected students; and

(2) Any data required by the state board to amend a
county's comprehensive educational facilities plan.

(c) The state board shall promulgate a rule, in accordance
with the provisions of article three-b, chapter twenty-nine-a of
this code, that establishes the procedure to be followed by
county boards when conducting a public hearing on the issues
of school consolidation and closing.

(1) The rule shall provide standards for at least the follow-
ing:

(A) The appropriate forum and venue for public hearings to
be held;
(B) A process for affording interested parties the opportunity for their perspectives to be expressed;

(C) Establishing, where necessary, reasonable restrictions on the amount of time allowed each individual desiring to speak so that all parties wishing to speak at the hearing are given an equal amount of time; and

(D) Scheduling and organizing public hearings when more than one school within a county is proposed for consolidation or closure.

(2) It is the purpose of this subsection to provide for uniformity among the counties in the procedures followed when scheduling, organizing and conducting public hearings on the issues of school consolidation and closure.

(d) The state board shall promulgate the rules required by this section by the first day of June, two thousand two.

(e) Any document prepared, notice given, hearing conducted or action taken prior to the effective date of the amendments made to this section during the two thousand two regular session of the Legislature, is considered sufficient if the county board complied with the terms of this section effective at the time and the county board violates no other provision of law which would invalidate the document, notice, hearing or actions.
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 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 3rd day of April, 2002.

Governor