House Bill No. 4428

(By Delegates Williams, Hubbard, Paxton, Romine, Perry, Dempsey and Morgan)

Passed March 7, 2002

In Effect July 1, 2002
ENROLLED

H. B. 4428

(BY DELEGATES WILLIAMS, HUBBARD, PAXTON, ROMINE, PERRY, DEMPSEY AND MORGAN)

[Passed March 7, 2002; in effect July 1, 2002.]

AN ACT to amend and reenact section sixteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to county school districts and student attendance; student transfers; legislative findings; appeals process; counting students for purposes of determining net enrollment; and fees for transfer.

Be it enacted by the Legislature of West Virginia:

That section sixteen, 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:

§18-5-16. Student transfers; legislative findings; appeals; calculating net enrollment; fees for transfer.

1 (a) County districts and school attendance — The county board may divide the county into such districts as are necessary to determine the schools the students of its county shall attend.
2 Upon the written request of any parent or guardian, or person legally responsible for any student, or for reasons affecting the
best interests of the schools, the superintendent may transfer students from one school to another within the county. Any aggrieved person may appeal the decision of the county superintendent to the county board, and the decision of the county board shall be final.

(b) Transfers between counties; legislative findings —

(1) Transfers of students from one county to another may be made by the county board of the county in which the student desiring to be transferred resides. The transfer shall be subject to the approval of both the board of the county in which the student resides and the board to which the student wishes to be transferred.

(2) Legislative findings — Over the past several years, counties have been forced to close a number of schools because of declining student enrollment. School officials predict that an additional eighteen percent loss in enrollment may occur between two thousand two and two thousand twelve. This continued decrease in the number of students enrolled in the public schools of the state may result in more instances of consolidation which will increase the problem of long bus rides for students if they remain in a school in their county of residence.

Therefore the Legislature makes the following findings:

(A) County lines may impede the effective and efficient delivery of education services;

(B) Students often must endure long bus rides to a school within their county of residence when a school in an adjacent county is a fraction of the distance away;
(C) The wishes of parents or guardians to have their children transferred to a county other than their county of residence should be considered by the county boards; and

(D) Where counties can not agree, it is necessary to establish a process to determine when transfers are appropriate.

(3) The state board shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to enter into an agreement to transfer or accept the transfer of the student.

(A) The process shall designate the state superintendent to hear the appeal. In determining whether to overturn a decision of a county board, the state superintendent shall consider such factors as the following:

(i) Travel time for the student;

(ii) Impact on levies or bonds;

(iii) Other financial impact on the county of residence; and

(iv) Such other factors as the state superintendent may determine.

(B) If, during the appeal process, the state superintendent discovers that the education and the welfare of students in the transferring county could be enhanced, the state superintendent may direct that students may be permitted to attend a school in another county.

(C) If multiple appeals are received from the same geographical area of a county, the state superintendent may impose on the receiving county restrictions including, but not limited to, requiring the receiving county to accept all students in that
geographical area of the sending county who wish to transfer to
the receiving county.

(D) If a student is transferred on either a full-time or a part-
time basis without the agreement of both boards by official
action as reflected in the minutes of their respective meetings
and if the student’s parent or guardian fails to appeal or loses
the appeal under the process established in subdivision (3) of
this subsection, the student shall be counted only in the net
enrollment of the county in which the student resides.

(4) If, after two county boards have agreed to a transfer
arrangement for a student, that student chooses to return to a
school in his or her county of residence after the second month
of any school year, the following shall apply:

(A) The county of residence may issue an invoice to the
county from which the student transferred for the amount,
determined on a pro rata basis, that the county of residence
otherwise would have received under the state basic foundation
program established in article nine-a of this chapter; and

(B) The county from which the student transferred shall
reimburse the county of residence for the amount of the invoice.

(c) Transfers between high schools — In any county where
a high school is maintained, but topography, impassable roads,
long bus rides or other conditions prevent the practicable
transportation of any students to such high school, the board
may transfer them to a high school in an adjoining county. In
any such case, the county boards may enter into an agreement
providing for the payment of the cost of transportation, if any,
of the students.

(d) Transfers between states — Transfer of students from
this state to another state shall be upon such terms as shall be
mutually agreed upon by the board of the transferring county
and the authorities of the school to which the transfer is made.

(e) No parent, guardian or person acting as parent or
guardian shall be required to pay for the transfer of a student or
for the tuition of the student after the transfer when such
transfer is carried out under the terms of this section.
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, 2002.

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 15th day of March, 2002.

Governor