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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

House Bill No. 4428

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

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Passed March 7, 2002

In Effect July 1, 2002

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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
- 2 board may divide the county into such districts as are necessary
- 3 to determine the schools the students of its county shall attend.
- 4 Upon the written request of any parent or guardian, or person
- 5 legally responsible for any student, or for reasons affecting the

6 best interests of the schools, the superintendent may transfer
7 students from one school to another within the county. Any
8 aggrieved person may appeal the decision of the county
9 superintendent to the county board, and the decision of the
10 county board shall be final.

11 (b) *Transfers between counties; legislative findings* —

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

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

28 Therefore the Legislature makes the following findings:

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

31 (B) Students often must endure long bus rides to a school
32 within their county of residence when a school in an adjacent
33 county is a fraction of the distance away;

34 (C) The wishes of parents or guardians to have their
35 children transferred to a county other than their county of
36 residence should be considered by the county boards; and

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

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

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

47 (i) Travel time for the student;

48 (ii) Impact on levies or bonds;

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

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

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

57 (C) If multiple appeals are received from the same geo-
58 graphical area of a county, the state superintendent may impose
59 on the receiving county restrictions including, but not limited
60 to, requiring the receiving county to accept all students in that

61 geographical area of the sending county who wish to transfer to
62 the receiving county.

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

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

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

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

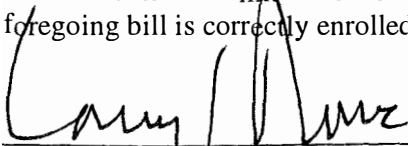
81 (c) *Transfers between high schools* — In any county where
82 a high school is maintained, but topography, impassable roads,
83 long bus rides or other conditions prevent the practicable
84 transportation of any students to such high school, the board
85 may transfer them to a high school in an adjoining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

89 (d) *Transfers between states* — Transfer of students from
90 this state to another state shall be upon such terms as shall be

91 mutually agreed upon by the board of the transferring county
92 and the authorities of the school to which the transfer is made.

93 (e) No parent, guardian or person acting as parent or
94 guardian shall be required to pay for the transfer of a student or
95 for the tuition of the student after the transfer when such
96 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.



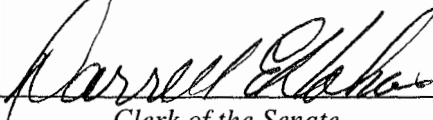
Chairman Senate Committee



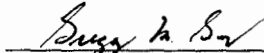
Chairman House Committee

Originating in the House.


In effect July 1, 2002.



Clerk of the Senate



Clerk of the House of Delegates

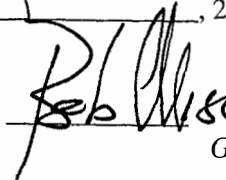


President of the Senate



Speaker of the House of Delegates

The within is approved this the 15th
day of March, 2002.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/11/02

Time 4:05 pm