WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2083

(By Delegates Mezzatesta, Stemple and Williams)

Passed March 7, 2003

In Effect Ninety Days from Passage
AN ACT to amend and reenact section thirteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section one, article one, chapter eighteen-a of said code, all relating to county boards of education generally and expanding job sharing arrangements to include employees who are not professional employees; requiring written agreements for job-sharing arrangements; requiring agreements to specify which employee is eligible for insurance coverage; requiring certain issues be considered when entering into a job sharing agreement; and limiting cost to retirement system.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.


Each county board, subject to the provisions of this chapter
and the rules of the state board, has the authority:

(a) To control and manage all of the schools and school
interests for all school activities and upon all school property,
whether owned or leased by the county, including the authority
to require that records be kept of all receipts and disbursements
of all funds collected or received by any principal, teacher,
student or other person in connection with the schools and
school interests, any programs, activities or other endeavors of
any nature operated or carried on by or in the name of the
school, or any organization or body directly connected with the
school, to audit the records and to conserve the funds, which
shall be considered quasi-public moneys, including securing
surety bonds by expenditure of board moneys;

(b) To establish schools, from preschool through high
school, inclusive of vocational schools; and to establish schools,
programs or both, for post high school instruction, subject to
approval of the state board;

(c) To close any school which is unnecessary and to assign
the pupils of the school to other schools. Provided, That the
closing shall be officially acted upon, and teachers and service
personnel involved notified on or before the first Monday in
April, in the same manner as provided in section four of this
article, except in an emergency, subject to the approval of the state superintendent, or under subdivision (e) of this section;

(d) To consolidate schools;

(e) To close any elementary school whose average daily attendance falls below twenty pupils for two months in succession and send the pupils to other schools in the district or to schools in adjoining districts. If the teachers in the closed school are not transferred or reassigned to other schools, they shall receive one month’s salary;

(f) (1) To provide at public expense adequate means of transportation, including transportation across county lines for students whose transfer from one district to another is agreed to by both county boards as reflected in the minutes of their respective meetings, for all children of school age who live more than two miles distance from school by the nearest available road; to provide at public expense, according to such rules as the board may establish, adequate means of transportation for school children participating in county board-approved curricular and extracurricular activities; to provide at public expense, by rules and within the available revenues, transportation for those within two miles distance; and to provide, at no cost to the county board and according to rules established by the board, transportation for participants in projects operated, financed, sponsored or approved by the commission on aging, all subject to the following:

(A) All costs and expenses incident in any way to transportation for projects connected with the commission on aging shall be borne by the commission, or the local or county chapter of the commission;

(B) In all cases, the school buses owned by the county board shall be driven or operated only by drivers regularly employed by the county board;
(C) The county board may provide, under rules established by the state board, for the certification of professional employees as drivers of county board-owned vehicles with a seating capacity of less than ten passengers used for the transportation of pupils for school-sponsored activities other than transporting students between school and home. The use of the vehicles shall be limited to one for each school-sponsored activity; and

(D) Buses shall be used for extracurricular activities as provided in this section only when the insurance provided for by this section is in effect.

(2) To enter into agreements with one another as reflected in the minutes of their respective meetings to provide, on a cooperative basis, adequate means of transportation across county lines for children of school age subject to the conditions and restrictions of this subsection and subsection (h) of this section;

(g) (1) To lease school buses operated only by drivers regularly employed by the county board to public and private nonprofit organizations or private corporations to transport school-age children to and from camps or educational activities in accordance with rules established by the county board. All costs and expenses incurred by or incidental to the transportation of the children shall be borne by the lessee;

(2) To contract with any college or university or officially recognized campus organizations to provide transportation for college or university students, faculty or staff to and from the college or university. Only college and university students, faculty and staff may be transported pursuant to this section. The contract shall include consideration and compensation for bus operators, repairs and other costs of service, insurance and any rules concerning student behavior;
(h) To provide at public expense for insurance against the negligence of the drivers of school buses, trucks or other vehicles operated by the board; and if the transportation of pupils is contracted, then the contract for the transportation shall provide that the contractor shall carry insurance against negligence in an amount specified by the board;

(i) To provide solely from county board funds for all regular full-time employees of the county board all or any part of the cost of a group plan or plans of insurance coverage not provided or available under the West Virginia public employees insurance act;

(j) To employ teacher aides, to provide in-service training for teacher aides, the training to be in accordance with rules of the state board and, in the case of service personnel assuming duties as teacher aides in exceptional children programs, to provide a four-clock-hour program of training prior to the assignment which shall, in accordance with rules of the state board, consist of training in areas specifically related to the education of exceptional children;

(k) To establish and conduct a self-supporting dormitory for the accommodation of the pupils attending a high school or participating in a post high school program and of persons employed to teach in the high school or post high school program;

(l) To employ legal counsel;

(m) To provide appropriate uniforms for school service personnel;

(n) To provide at public expense and under rules as established by any county board for the payment of traveling expenses incurred by any person invited to appear to be
Interviewed concerning possible employment by the county board;

(o) To allow or disallow their designated employees to use publicly provided carriage to travel from their residences to their workplace and return: Provided, That the usage is subject to the supervision of the county board and is directly connected with and required by the nature and in the performance of the employee’s duties and responsibilities;

(p) To provide, at public expense, adequate public liability insurance, including professional liability insurance for county board employees;

(q) To enter into agreements with one another to provide, on a cooperative basis, improvements to the instructional needs of each district. The cooperative agreements may be used to employ specialists in a field of academic study or support functions or services, for the academic study. The agreements are subject to approval by the state board;

(r) To provide information about vocational or higher education opportunities to students with handicapping conditions. The county board shall provide in writing to the students and their parents or guardians information relating to programs of vocational education and to programs available at state funded institutions of higher education. The information may include sources of available funding, including grants, mentorships and loans for students who wish to attend classes at institutions of higher education;

(s) To enter into agreements with one another, with the approval of the state board, for the transfer and receipt of any and all funds determined to be fair when students are permitted or required to attend school in a district other than the district of their residence; and
(t) To enter into job-sharing arrangements, as defined in section one, article one, chapter eighteen-a of this code, with its employees, subject to the following provisions:

(1) A job-sharing arrangement shall meet all the requirements relating to posting, qualifications and seniority, as provided for in article four, chapter eighteen-a of this code;

(2) Notwithstanding any provisions of this code or legislative rule and specifically the provisions of article sixteen, chapter five of this code to the contrary, a county board which enters into a job-sharing arrangement in which two or more employees voluntarily share an authorized full-time position shall provide the mutually agreed upon employee coverage but shall not offer insurance coverage to more than one of the job-sharing employees, including any group plan or group plans available under the state public employees insurance act;

(3) Each job-sharing agreement shall be in writing on a form prescribed and furnished by the county board. The agreement shall designate specifically one employee only who is entitled to the insurance coverage. Any employee who is not so designated is not eligible for state public employees insurance coverage regardless of the number of hours he or she works;

(4) All employees involved in the job-sharing agreement meet the requirements of subdivision (3), section two, article sixteen, chapter five of this code; and

(5) When entering into a job sharing agreement, the county board and the employees involved in the job-sharing agreement shall consider issues such as retirement benefits, termination of the job sharing agreement and any other issue the parties to the agreement consider appropriate. Any provision in the agreement relating to retirement benefits shall not cause any cost to be incurred by the retirement system that is more than the cost
that would be incurred if a single employee were filling the position.

“Quasi-public funds” as used in this section means any money received by any principal, teacher, student or other person for the benefit of the school system as a result of curricular or noncurricular activities.

Each county board shall expend under rules it establishes for each child an amount not to exceed the proportion of all school funds of the district that each child would be entitled to receive if all the funds were distributed equally among all the children of school age in the district upon a per capita basis.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 1. GENERAL PROVISIONS.

§18A-1-1. Definitions.

The definitions contained in section one, article one, chapter eighteen of this code apply to this chapter. In addition, the following words used in this chapter and in any proceedings pursuant to this chapter shall, unless the context clearly indicates a different meaning, be construed as follows:

(a) “School personnel” means all personnel employed by a county board whether employed on a regular full-time basis, an hourly basis or otherwise. School personnel shall be comprised of two categories: Professional personnel and service personnel;

(b) “Professional personnel” means persons who meet the certification requirements of the state, licensing requirements of the state or both and includes the professional educator and other professional employees;
(c) “Professional educator” has the same meaning as “teacher” as defined in section one, article one, chapter eighteen of this code. Professional educators shall be classified as:

(1) “Classroom teacher” means a professional educator who has direct instructional or counseling relationship with pupils, spending the majority of his or her time in this capacity;

(2) “Principal” means a professional educator who, as agent of the county board, has responsibility for the supervision, management and control of a school or schools within the guidelines established by the county board. The major area of the responsibility shall be the general supervision of all the schools and all school activities involving pupils, teachers and other school personnel;

(3) “Supervisor” means a professional educator who, whether by this or other appropriate title, is responsible for working primarily in the field with professional and other personnel in instructional and other school improvement; and

(4) “Central office administrator” means a superintendent, associate superintendent, assistant superintendent and other professional educators, whether by these or other appropriate titles, who are charged with the administering and supervising of the whole or some assigned part of the total program of the countywide school system;

(d) “Other professional employee” means that person from another profession who is properly licensed and is employed to serve the public schools and includes a registered professional nurse, licensed by the West Virginia board of examiners for registered professional nurses and employed by a county board, who has completed either a two-year (sixty-four semester hours) or a three-year (ninety-six semester hours) nursing program;
(e) “Service personnel” means those who serve the school or schools as a whole, in a nonprofessional capacity, including such areas as secretarial, custodial, maintenance, transportation, school lunch and as aides;

(f) “Principals academy” or “academy” means the academy created pursuant to section two-b, article three-a of this chapter;

(g) “Center for professional development” means the center created pursuant to section one, article three-a of this chapter;

(h) “Job-sharing arrangement” means a formal, written agreement voluntarily entered into by a county board with two or more of its employees who wish to divide between them the duties and responsibilities of one authorized full-time position;

(i) “Prospective employable professional personnel” means certified professional educators who:

(1) Have been recruited on a reserve list of a county board;

(2) Have been recruited at a job fair or as a result of contact made at a job fair;

(3) Have not obtained regular employee status through the job posting process provided for in section seven-a, article four of this chapter; and

(4) Have obtained a baccalaureate degree from an accredited institution of higher education within the past year;

(j) “Dangerous student” means a pupil who is substantially likely to cause serious bodily injury to himself, herself or another individual within that pupil’s educational environment, which may include any alternative education environment, as evidenced by a pattern or series of violent behavior exhibited by the pupil, and documented in writing by the school, with the
documentation provided to the student and parent or guardian at the time of any offense; and

(k) “Alternative education” means an authorized departure from the regular school program designed to provide educational and social development for students whose disruptive behavior places them at risk of not succeeding in the traditional school structures and in adult life without positive interventions.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

In effect ninety days from passage

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 2nd day of April, 2003.

[Signature]
Governor