

RECEIVED

03 APR 12 PM 3:18

OFFICE OF THE CLERK  
SENATE

# 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

RECEIVED  
03 APR 22 PM 3:18  
OFFICE OF THE CLERK  
STATE OF WEST VIRGINIA

# ENROLLED

COMMITTEE SUBSTITUTE

FOR

## H. B. 2083

(BY DELEGATES MEZZATESTA, STEMPLER 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.**

**§18-5-13. Authority of boards generally.**

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

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

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

19 (c) To close any school which is unnecessary and to assign  
20 the pupils of the school to other schools. *Provided*, That the  
21 closing shall be officially acted upon, and teachers and service  
22 personnel involved notified on or before the first Monday in  
23 April, in the same manner as provided in section four of this

24 article, except in an emergency, subject to the approval of the  
25 state superintendent, or under subdivision (e) of this section;

26 (d) To consolidate schools;

27 (e) To close any elementary school whose average daily  
28 attendance falls below twenty pupils for two months in succes-  
29 sion and send the pupils to other schools in the district or to  
30 schools in adjoining districts. If the teachers in the closed  
31 school are not transferred or reassigned to other schools, they  
32 shall receive one month's salary;

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

49 (A) All costs and expenses incident in any way to transpor-  
50 tation for projects connected with the commission on aging  
51 shall be borne by the commission, or the local or county chapter  
52 of the commission;

53 (B) In all cases, the school buses owned by the county  
54 board shall be driven or operated only by drivers regularly  
55 employed by the county board;

56 (C) The county board may provide, under rules established  
57 by the state board, for the certification of professional employ-  
58 ees as drivers of county board-owned vehicles with a seating  
59 capacity of less than ten passengers used for the transportation  
60 of pupils for school-sponsored activities other than transporting  
61 students between school and home. The use of the vehicles shall  
62 be limited to one for each school-sponsored activity; and

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

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

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

79 (2) To contract with any college or university or officially  
80 recognized campus organizations to provide transportation for  
81 college or university students, faculty or staff to and from the  
82 college or university. Only college and university students,  
83 faculty and staff may be transported pursuant to this section.  
84 The contract shall include consideration and compensation for  
85 bus operators, repairs and other costs of service, insurance and  
86 any rules concerning student behavior;

87 (h) To provide at public expense for insurance against the  
88 negligence of the drivers of school buses, trucks or other  
89 vehicles operated by the board; and if the transportation of  
90 pupils is contracted, then the contract for the transportation  
91 shall provide that the contractor shall carry insurance against  
92 negligence in an amount specified by the board;

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

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

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

111 (l) To employ legal counsel;

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

114 (n) To provide at public expense and under rules as  
115 established by any county board for the payment of traveling  
116 expenses incurred by any person invited to appear to be

117 interviewed concerning possible employment by the county  
118 board;

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

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

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

134 (r) To provide information about vocational or higher  
135 education opportunities to students with handicapping condi-  
136 tions. The county board shall provide in writing to the students  
137 and their parents or guardians information relating to programs  
138 of vocational education and to programs available at state  
139 funded institutions of higher education. The information may  
140 include sources of available funding, including grants,  
141 mentorships and loans for students who wish to attend classes  
142 at institutions of higher education;

143 (s) To enter into agreements with one another, with the  
144 approval of the state board, for the transfer and receipt of any  
145 and all funds determined to be fair when students are permitted  
146 or required to attend school in a district other than the district  
147 of their residence; and

148 (t) To enter into job-sharing arrangements, as defined in  
149 section one, article one, chapter eighteen-a of this code, with its  
150 employees, subject to the following provisions:

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

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

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

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

173 (5) When entering into a job sharing agreement, the county  
174 board and the employees involved in the job-sharing agreement  
175 shall consider issues such as retirement benefits, termination of  
176 the job sharing agreement and any other issue the parties to the  
177 agreement consider appropriate. Any provision in the agree-  
178 ment relating to retirement benefits shall not cause any cost to  
179 be incurred by the retirement system that is more than the cost

180 that would be incurred if a single employee were filling the  
181 position.

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

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

## **CHAPTER 18A. SCHOOL PERSONNEL.**

### **ARTICLE 1. GENERAL PROVISIONS.**

#### **§18A-1-1. Definitions.**

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

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

10 (b) “Professional personnel” means persons who meet the  
11 certification requirements of the state, licensing requirements  
12 of the state or both and includes the professional educator and  
13 other professional employees;

14 (c) “Professional educator” has the same meaning as  
15 “teacher” as defined in section one, article one, chapter eighteen  
16 of this code. Professional educators shall be classified as:

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

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

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

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

37 (d) “Other professional employee” means that person from  
38 another profession who is properly licensed and is employed to  
39 serve the public schools and includes a registered professional  
40 nurse, licensed by the West Virginia board of examiners for  
41 registered professional nurses and employed by a county board,  
42 who has completed either a two-year (sixty-four semester  
43 hours) or a three-year (ninety-six semester hours) nursing  
44 program;

45 (e) “Service personnel” means those who serve the school  
46 or schools as a whole, in a nonprofessional capacity, including  
47 such areas as secretarial, custodial, maintenance, transportation,  
48 school lunch and as aides;

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

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

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

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

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

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

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

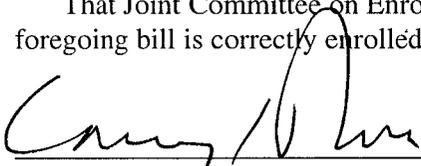
65 (4) Have obtained a baccalaureate degree from an accred-  
66 ited institution of higher education within the past year;

67 (j) “Dangerous student” means a pupil who is substantially  
68 likely to cause serious bodily injury to himself, herself or  
69 another individual within that pupil’s educational environment,  
70 which may include any alternative education environment, as  
71 evidenced by a pattern or series of violent behavior exhibited by  
72 the pupil, and documented in writing by the school, with the

73 documentation provided to the student and parent or guardian  
74 at the time of any offense; and

75 (k) "Alternative education" means an authorized departure  
76 from the regular school program designed to provide educa-  
77 tional and social development for students whose disruptive  
78 behavior places them at risk of not succeeding in the traditional  
79 school structures and in adult life without positive interven-  
80 tions.

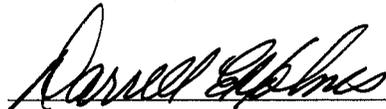
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

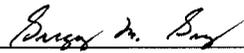
  
\_\_\_\_\_  
Chairman Senate Committee

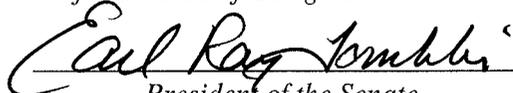
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage

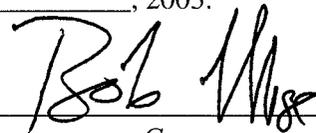
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

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

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/25/03

Time 9:35 AM