

FILED

2005 MAY -4 A 11: 08

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



# ENROLLED

## House Bill No. 3152

(By Delegates Michael, Stalnaker, Frederick,  
Proudfoot, R. M. Thompson and Ashley)



Passed April 9, 2005

In Effect from Passage

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**E N R O L L E D**

## **H. B. 3152**

(BY DELEGATES MICHAEL, STALNAKER, FREDERICK,  
PROUDFOOT, R. M. THOMPSON AND ASHLEY)

[Passed April 9, 2005; in effect from passage]

AN ACT to amend and reenact §29-12-5a of the Code of West Virginia, 1931, as amended, relating to liability insurance for county boards of education, their employees and members, the county superintendent of schools, and for employees and officers of the State Department of Corrections; and clarifying that the Board of Risk and Insurance Management is not required to provide insurance for every property, activity or responsibility.

*Be it enacted by the Legislature of West Virginia:*

That §29-12-5a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

### **ARTICLE 12. STATE INSURANCE.**

**§29-12-5a. Liability insurance for county boards of education, their employees and members, the county superintendent of schools, and for employees and officers of the State Department of Corrections.**

1 (a) In accordance with the provisions of this article, the  
2 state Board of Risk and Insurance Management shall provide  
3 appropriate professional or other liability insurance for all  
4 county boards of education, teachers, supervisory and adminis-  
5 trative staff members, service personnel, county superinten-  
6 dents of schools and school board members and for all employ-  
7 ees and officers of the State Department of Corrections:  
8 *Provided*, That the Board of Risk and Insurance Management  
9 is not required to provide insurance for every property, activity  
10 or responsibility of county boards of education, teachers,  
11 supervisory and administrative staff members, service person-  
12 nel, county superintendents of schools and school board  
13 members and for all employees and officers of the State  
14 Department of Corrections.

15 (b) Insurance provided by the Board of Risk and Insurance  
16 Management pursuant to the provisions of subsection (a) of this  
17 section shall cover claims, demands, actions, suits or judgments  
18 by reason of alleged negligence or other acts resulting in bodily  
19 injury or property damage to any person within or without any  
20 school building or correctional institution if, at the time of the  
21 alleged injury, the teacher, supervisor, administrator, service  
22 personnel employee, county superintendent, school board  
23 member, or employee or officer of the Department of Correc-  
24 tions was acting in the discharge of his or her duties, within the  
25 scope of his or her office, position or employment, under the  
26 direction of the Board of Education or Commissioner of  
27 Corrections or in an official capacity as a county superintendent  
28 or as a school board member or as Commissioner of Correc-  
29 tions.

30 (c) Insurance coverage provided by the Board of Risk and  
31 Insurance Management pursuant to subsection (a) of this  
32 section shall be in an amount to be determined by the state  
33 Board of Risk and Insurance Management, but in no event less  
34 than one million dollars for each occurrence. In addition, each

35 county board of education shall purchase, through the Board of  
36 Risk and Insurance Management, excess coverage of at least  
37 five million dollars for each occurrence. The cost of this excess  
38 coverage will be paid by the respective county boards of  
39 education. Any insurance purchased under this section shall be  
40 obtained from a company licensed to do business in this state.

41 (d) The insurance policy provided by the Board of Risk and  
42 Insurance Management pursuant to subsection (a) of this  
43 section shall include comprehensive coverage, personal injury  
44 coverage, malpractice coverage, corporal punishment coverage,  
45 legal liability coverage as well as a provision for the payment  
46 of the cost of attorney's fees in connection with any claim,  
47 demand, action, suit or judgment arising from such alleged  
48 negligence or other act resulting in bodily injury under the  
49 conditions specified in this section.

50 (e) The county superintendent and other school personnel  
51 shall be defended by the county board or an insurer in the case  
52 of suit, unless the act or omission shall not have been within the  
53 course or scope of employment or official responsibility or was  
54 motivated by malicious or criminal intent.

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

*Randy White*

Chairman Senate Committee

*D. Rich Bay*

Chairman House Committee

Originating in the House.

In effect from passage.

*Darrell B. Johns*

Clerk of the Senate

*Gregg R. Bay*

Clerk of the House of Delegates

*Earl Ray Tomblin*

President of the Senate

*Robert L. Taylor*

Speaker of the House of Delegates

The within *is approved* this the *6<sup>th</sup>*  
day of *May* 2005.

*Robert M. Anderson*  
Governor

PRESENTED TO THE  
GOVERNOR

MAY 2 2005

Time 10:35 am