

SB 599 S

FILED

2007 APR -4 PM 3: 55

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

OFFICE OF THE CLERK OF THE WEST VIRGINIA
LEGISLATURE
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 599

(Senators Plymale and Edgell, *original sponsors*)

[Passed March 10, 2007; in effect ninety days from passage.]

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AN ACT to amend and reenact §18A-2-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18A-2-5a, all relating to employment of teachers and other school employees; eliminating the early notification payment for a classroom teacher who gives notice of resignation; authorizing a payment for early notification of retirement to employees other than classroom teachers under certain circumstances; and making certain technical changes.

Be it enacted by the Legislature of West Virginia:

That §18A-2-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18A-2-5a, all to read as follows:

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-2. Employment of teachers; contracts; continuing contract status; how terminated; dismissal for lack of need; released time; failure of teacher to perform contract or violation thereof.

1 (a) Before entering upon their duties, all teachers shall
2 execute a contract with their county boards, which shall
3 state the salary to be paid and shall be in the form
4 prescribed by the state superintendent. Each contract
5 shall be signed by the teacher and by the president and
6 secretary of the county board and shall be filed,
7 together with the certificate of the teacher, by the
8 secretary of the office of the county board.

9 (b) A teacher's contract, under this section, shall be
10 for a term of not less than one nor more than three
11 years, one of which shall be for completion of a
12 beginning teacher internship pursuant to the provisions
13 of section two-b, article three of this chapter, if
14 applicable. If, after three years of such employment, the
15 teacher who holds a professional certificate, based on at
16 least a bachelor's degree, has met the qualifications for
17 a bachelor's degree and the county board enter into a
18 new contract of employment, it shall be a continuing
19 contract, subject to the following:

20 (1) Any teacher holding a valid certificate with less

21 than a bachelor's degree who is employed in a county
22 beyond the three-year probationary period shall upon
23 qualifying for the professional certificate based upon a
24 bachelor's degree, if reemployed, be granted continuing
25 contract status; and

26 (2) A teacher holding continuing contract status with
27 one county shall be granted continuing contract status
28 with any other county upon completion of one year of
29 acceptable employment if the employment is during the
30 next succeeding school year or immediately following
31 an approved leave of absence extending no more than
32 one year.

33 (c) The continuing contract of any teacher shall
34 remain in full force and effect except as modified by
35 mutual consent of the school board and the teacher,
36 unless and until terminated, subject to the following:

37 (1) A continuing contract may not be terminated
38 except:

39 (A) By a majority vote of the full membership of the
40 county board on or before the first Monday of April of
41 the then current year, after written notice, served upon
42 the teacher, return receipt requested, stating cause or
43 causes and an opportunity to be heard at a meeting of
44 the board prior to the board's action on the termination
45 issue; or

46 (B) By written resignation of the teacher before that
47 date to initiate termination of a continuing contract;

48 (2) The termination shall take effect at the close of the
49 school year in which the contract is terminated;

50 (3) The contract may be terminated at any time by
51 mutual consent of the school board and the teacher;

52 (4) This section does not affect the powers of the
53 school board to suspend or dismiss a principal or
54 teacher pursuant to section eight of this article;

55 (5) A continuing contract for any teacher holding a
56 certificate valid for more than one year and in full force
57 and effect during the school year one thousand nine
58 hundred eighty-four—one thousand nine hundred
59 eighty-five shall remain in full force and effect;

60 (6) A continuing contract shall not operate to prevent
61 a teacher's dismissal based upon the lack of need for the
62 teacher's services pursuant to the provisions of law
63 relating to the allocation to teachers and pupil-teacher
64 ratios. The written notification of teachers being
65 considered for dismissal for lack of need shall be limited
66 to only those teachers whose consideration for dismissal
67 is based upon known or expected circumstances which
68 will require dismissal for lack of need. An employee
69 who was not provided notice and an opportunity for a
70 hearing pursuant to this subsection may not be included
71 on the list. In case of dismissal for lack of need, a
72 dismissed teacher shall be placed upon a preferred list
73 in the order of their length of service with that board.
74 No teacher shall be employed by the board until each
75 qualified teacher upon the preferred list, in order, has
76 been offered the opportunity for reemployment in a
77 position for which he or she is qualified, not including
78 a teacher who has accepted a teaching position
79 elsewhere. The reemployment shall be upon a teacher's
80 preexisting continuing contract and has the same effect
81 as though the contract had been suspended during the

82 time the teacher was not employed.

83 (d) In the assignment of position or duties of a teacher
84 under a continuing contract, the board may provide for
85 released time of a teacher for any special professional or
86 governmental assignment without jeopardizing the
87 contractual rights of the teacher or any other rights,
88 privileges or benefits under the provisions of this
89 chapter. Released time shall be provided for any
90 professional educator while serving as a member of the
91 Legislature during any duly constituted session of that
92 body and its interim and statutory committees and
93 commissions without jeopardizing his or her contractual
94 rights or any other rights, privileges, benefits or accrual
95 of experience for placement on the state minimum
96 salary schedule in the following school year under the
97 provisions of this chapter, board policy and law.

98 (e) Any teacher who fails to fulfill his or her contract
99 with the board, unless prevented from doing so by
100 personal illness or other just cause or unless released
101 from his or her contract by the board, or who violates
102 any lawful provision of the contract, shall be
103 disqualified to teach in any other public school in the
104 state for a period of the next ensuing school year and
105 the State Department of Education or board may hold
106 all papers and credentials of the teacher on file for a
107 period of one year for the violation: *Provided*, That
108 marriage of a teacher shall not be considered a failure
109 to fulfill, or violation of, the contract.

110 (f) Any classroom teacher, as defined in section one,
111 article one of this chapter, who desires to resign
112 employment with a county board or request a leave of
113 absence, the resignation or leave of absence to become

114 effective on or before the fifteenth day of July of the
115 same year and after completion of the employment
116 term, may do so at any time during the school year by
117 written notification of the resignation or leave of
118 absence and any notification received by a county board
119 shall automatically extend the teacher's public
120 employee insurance coverage until the thirty-first day
121 of August of the same year.

122 (g) Any classroom teacher who gives written notice to
123 the county board on or before the first day of February
124 of the school year of their retirement from employment
125 with the board at the conclusion of the school year shall
126 be paid five hundred dollars from the Early Notification
127 of Retirement line item established for the Department
128 of Education for this purpose, subject to appropriation
129 by the Legislature. If the appropriations to the
130 Department of Education for this purpose are
131 insufficient to compensate all applicable teachers, the
132 Department of Education shall request a supplemental
133 appropriation in an amount sufficient to compensate all
134 such teachers. Additionally, if funds are still
135 insufficient to compensate all applicable teachers, the
136 priority of payment is for teachers who give written
137 notice the earliest. This payment shall not be counted
138 as part of the final average salary for the purpose of
139 calculating retirement.

**§18A-2-5a. Authorizing payment for notification of
retirement.**

1 Each county board is authorized to pay, entirely from
2 local funds, five hundred dollars or less to any service
3 employee, or to any professional employee who is not a
4 classroom teacher, who gives written notice to the

5 county board on or before the first day of February of
6 the school year of his or her retirement from
7 employment with the board at the conclusion of the
8 school year.

Enr. Com. Sub. for S. B. No. 599] 8

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

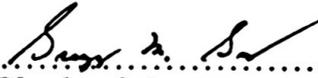

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Chairman Senate Committee


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Chairman House Committee

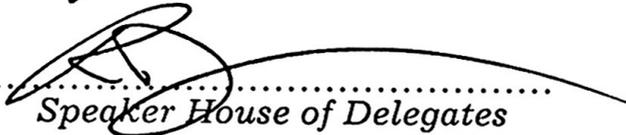
Originated in the Senate.

In effect ninety days from passage.

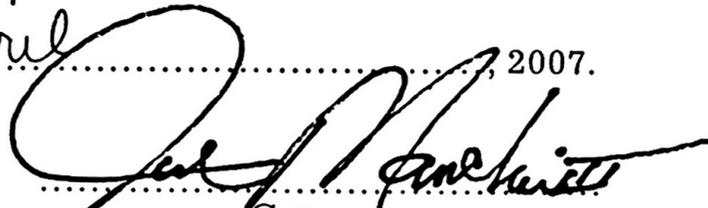

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this
the 4th Day of April 2007.


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Governor

PRESENTED TO THE
GOVERNOR

APR 03 2007

Time 1:40 pm