

HB 3208

FILED

2009 MAY 13 PM 4: 52

OFFICE WEST VIRGINIA
SECRETARY OF STATE

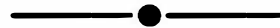
WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 3208**

(By Delegates Fragale, Williams, Duke,
Shott and Smith)



Passed April 11, 2009

In Effect Ninety Days from Passage

ENROLLED FILED

COMMITTEE SUBSTITUTE **2009 MAY 13 PM 4: 52**

FOR

OFFICE WEST VIRGINIA
SECRETARY OF STATE

H. B. 3208

(BY DELEGATES FRAGALE, WILLIAMS, DUKE,
SHOTT AND SMITH)

[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §18-2E-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-4-1 and §18-4-4 of said code; and to amend and reenact §18-5-1a of said code, all relating to reporting hours of certain training received by county board members on county report card; clarifying eligibility for county board of education generally; providing for appointment and term of interim county superintendents to fill vacancies; providing for appointment and terms of acting county superintendents under certain circumstances; requiring certification to state superintendent of certain appointments, reappointments and appointment terminations; modifying deadline for setting annual compensation of county superintendents; establishing county board member training standards review committee; providing for member appointments, duties and certain expenses under certain circumstances; clarifying eligibility requirements for candidates, members and members-elect of county boards of education; prohibiting certain political activities and clarifying

which political activities are permissible; removing certain duty of state board of education regarding members of county boards of education; making technical clarifications of current law; authorizing candidates for county boards of education to hold public office until taking the oath of office as members of county boards; adding definition of neglect of duty; making other technical changes; and clarifying terms.

Be it enacted by the Legislature of West Virginia:

That §18-2E-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §18-4-1 and §18-4-4 of said code be amended and reenacted; and that §18-5-1a of said code be amended and reenacted, all to read as follows:

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-4. Better schools accountability; school, school district and statewide school report cards.

1 (a) For the purpose of providing information to the
2 parents of public school children and the general public on
3 the quality of education in the public schools which is
4 uniform and comparable between schools within and among
5 the various school districts, the state board shall prepare
6 forms for school, school district and statewide school report
7 cards and shall promulgate rules concerning the collection
8 and reporting of data and the preparation, printing and
9 distribution of report cards under this section. The forms
10 shall provide for brief, concise reporting in nontechnical
11 language of required information. Any technical or
12 explanatory material a county board wishes to include shall
13 be contained in a separate appendix available to the general
14 public upon request.

15 (b) The school report cards shall include information as
16 prescribed by lawfully promulgated rule by the state board to

17 give the parents of students at the school and the general
18 public an indication of the quality of education at the school
19 and other programs supportive of community needs,
20 including, but not limited to, the following:

21 (1) Indicators of student performance at the school in
22 comparison with the county, state, regional and national
23 student performance, as applicable, including student
24 performance by grade level in the various subjects measured
25 pursuant to a uniform statewide assessment program adopted
26 by the state board; school attendance rates; the percent of
27 students not promoted to next grade; and the graduation rate;

28 (2) Indicators of school performance in comparison with
29 the aggregate of all other schools in the county and the state,
30 as applicable, including average class size; percent of
31 enrollments in courses in high school mathematics, science,
32 English and social science; amount of time per day devoted
33 to mathematics, science, English and social science at
34 middle, junior high and high school grade levels; percentage
35 distribution of students by career cluster as indicated on the
36 individualized student transition plan; pupil-teacher ratio;
37 number of exceptions to pupil-teacher ratio requested by the
38 county board and the number of exceptions granted; the
39 number of split-grade classrooms; pupil-administrator ratio;
40 operating expenditure per pupil; county expenditure by fund
41 in graphic display; and the average degree classification and
42 years of experience of the administrators and teachers at the
43 school;

44 (3) The names of the members of the local school
45 improvement council, created pursuant to section two, article
46 five-a of this chapter; and

47 (4) The name or names of the business partner or partners
48 of the school.

49 In addition, every county board annually shall determine
50 the number of administrators, classroom teachers and service
51 personnel employed that exceeds the number allowed by the
52 public school support plan and determine the amount of
53 salary supplements that would be available per state
54 authorized employee if all expenditures for the excess
55 employees were converted to annual salaries for state
56 authorized administrators, classroom teachers and service
57 personnel within their county. The information shall be
58 published annually in each school report card of each such
59 county.

60 (c) The school district report card shall include the data
61 for each school for each separately listed applicable indicator
62 and the aggregate of the data for all schools, as applicable, in
63 the county for each indicator. The statewide school report
64 card shall include the data for each county for each separately
65 listed indicator and the aggregate for all counties for each
66 indicator.

67 (d) The report cards shall be prepared using actual local
68 school, county, state, regional and national data indicating the
69 present performance of the school and also shall include the
70 state norms and the upcoming year's targets for the school
71 and the county board.

72 The state board shall provide technical assistance to each
73 county board in preparing the school and school district
74 report cards.

75 Each county board shall prepare report cards in
76 accordance with the guidelines set forth in this section. The
77 school district report cards shall be presented at a regular
78 school board meeting subject to applicable notice
79 requirements and shall be made available to a newspaper of
80 general circulation serving the district. The school report
81 cards shall be mailed directly to the parent or parents of each

82 child enrolled in that school. In addition, each county board
83 shall submit the completed report cards to the state board
84 which shall make copies available to any person requesting
85 them.

86 The report cards shall be completed and disseminated
87 prior to January 1, 1989, and in each year thereafter, and shall
88 be based upon information for the current school year, or for
89 the most recent school year for which the information is
90 available, in which case the year shall be clearly footnoted.

91 (e) In addition to the requirements of subsection (c) of
92 this section, the school district report card shall list the
93 following information:

94 (1) The names of the members of the county board, the
95 dates upon which their terms expire and whether they have
96 attended an orientation program for new members approved
97 by the state board and conducted by the West Virginia School
98 Board Association or other approved organizations;

99 (2) The number of hours of training that meets state board
100 standards that county board members have received during
101 the school term reported; and

102 (3) The names of the county school superintendent and
103 every assistant and associate superintendent and any training
104 programs related to their area of school administration which
105 they have attended.

106 The information also shall be reported by district in the
107 statewide school report card.

108 (f) The state board shall develop and implement a
109 separate report card for nontraditional public schools
110 pursuant to the appropriate provisions of this section to the
111 extent practicable.

ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.

§18-4-1. Election and term; interim superintendent.

1 (a) The county superintendent shall be appointed by the
2 board upon a majority vote of the members thereof to serve
3 for a term of not less than one, nor more than four years. At
4 the expiration of the term or terms for which he or she shall
5 have been appointed, each county superintendent shall be
6 eligible for reappointment for additional terms of not less
7 than one, nor more than four years.

8 (1) At the expiration of his or her term or terms of service
9 the county superintendent may transfer to any teaching
10 position in the county for which he or she is qualified and has
11 seniority, unless dismissed for statutory reasons.

12 (2) The appointment of the county superintendent shall be
13 made between January 1 and June 1 for a term beginning on
14 July 1 following the appointment.

15 (b) In the event of a vacancy in the superintendent's
16 position that results in an incomplete term, the board may
17 appoint an interim county superintendent:

18 (1) To serve until the following July 1 if the vacancy
19 occurs before March 1.

20 (2) To serve until July 1 of the next following year if the
21 vacancy occurs on or after March 1, unless a superintendent
22 is appointed sooner.

23 (c) If the superintendent becomes incapacitated due to
24 accident or illness to an extent that may lead to prolonged
25 absence, the county board, by unanimous vote, may enter an
26 order declaring that an incapacity exists in which case the
27 county board shall appoint an acting superintendent to serve

28 until a majority of the members of the board determine that
29 the incapacity no longer exists. An acting superintendent
30 may not serve in that capacity for more than one year, nor
31 later than the expiration date of the superintendent's term,
32 whichever occurs sooner, unless he or she is reappointed by
33 the county board.

34 (d) Immediately following the appointment of a county
35 superintendent or an interim county superintendent, the
36 president of the county board shall certify the appointment to
37 the state superintendent. Immediately following the
38 appointment of an acting county superintendent or a vote by
39 a majority of the members of the county board that an
40 incapacity no longer exists, the president of the county board
41 shall certify the appointment, reappointment, or appointment
42 termination of the acting superintendent to the state
43 superintendent.

44 (e) During his or her term of appointment, the county
45 superintendent shall be a state resident and shall reside in the
46 county which he or she serves or in a contiguous county. The
47 county superintendent in office on the effective date of this
48 section shall continue in office until the expiration of his or
49 her term.

§18-4-4. Compensation.

1 On or before June 1 of the year in which the
2 superintendent is appointed, the board shall fix the annual
3 salary of the superintendent for the period of appointment for
4 the term beginning on the following July 1. The board shall
5 pay the salary from the general current expense fund of the
6 district.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-1a. Eligibility of members; training requirements.

1 (a) A person who is a candidate for membership on a
2 county board or who is a member or member-elect of a
3 county board:

4 (1) Shall be a citizen and resident in the county in which
5 he or she serves or seeks to serve on the county board;

6 (2) May not be employed by the county board on which
7 he or she serves or seeks to serve, including employment as
8 a teacher or service person;

9 (3) May not engage in the following political activities:

10 (A) Become a candidate for or hold any other public
11 office, other than to succeed him or herself as a member of a
12 county board subject to the following:

13 (i) A candidate for a county board, who is not currently
14 serving on a county board, may hold another public office
15 while a candidate if he or she resigns from the other public
16 office prior to taking the oath of office as a county board
17 member.

18 (ii) The term “public office” as used in this section does
19 not include service on any other board, elected or appointed,
20 profit or nonprofit, under the following conditions:

21 (I) The person does not receive compensation; and

22 (II) The primary scope of the board is not related to
23 public schools.

24 (B) Become a candidate for, or serve as, an elected
25 member of any political party executive committee;

26 (C) Become a candidate for, or serve as, a delegate,
27 alternate or proxy to a national political party convention;

28 (D) Solicit or receive political contributions to support
29 the election of, or to retire the campaign debt of, any
30 candidate for partisan office;

31 (4) May engage in any or all of the following political
32 activities:

33 (A) Make campaign contributions to partisan or
34 bipartisan candidates;

35 (B) Attend political fund raisers for partisan or bipartisan
36 candidates;

37 (C) Serve as an unpaid volunteer on a partisan campaign;

38 (D) Politically endorse any candidate in a partisan or
39 bipartisan election; or

40 (E) Attend a county, state or national political party
41 convention.

42 (b) A member or member-elect of a county board, or a
43 person desiring to become a member of a county board, may
44 make a written request to the West Virginia Ethics
45 Commission for an advisory opinion to determine if another
46 elected or appointed position held or sought by the person is
47 an office or public office which would bar service on a
48 county board pursuant to subsection (a) of this section.

49 (1) Within thirty days of receipt of the request, the Ethics
50 Commission shall issue a written advisory opinion in
51 response to the request and also shall publish the opinion in
52 a manner which, to the fullest extent possible, does not reveal
53 the identity of the person making the request.

54 (2) A county board member who relies in good faith upon
55 an advisory opinion issued by the West Virginia Ethics

56 Commission to the effect that holding a particular office or
57 public office is not a bar from membership on a county board
58 and against whom proceedings are subsequently brought for
59 removal from the county board on the basis of holding that
60 office or offices is entitled to reimbursement by the county
61 board for reasonable attorney's fees and court costs incurred
62 by the member in defending against these proceedings,
63 regardless of the outcome of the proceedings.

64 (3) A vote cast by the member at a meeting of the county
65 board may not be invalidated due to a subsequent finding that
66 holding the particular office or public office is a bar to
67 membership on the county board.

68 (4) Good faith reliance on a written advisory opinion of
69 the West Virginia Ethics Commission that a particular office
70 or public office is not a bar to membership on a county board
71 is an absolute defense to any civil suit or criminal prosecution
72 arising from any proper action taken within the scope of
73 membership on the county board, becoming a member-elect
74 of the county board or seeking election to the county board.

75 (c) To be eligible for election or appointment as a
76 member of a county board on or after May 5, 1992, a person
77 shall possess at least a high school diploma or a general
78 educational development (GED) diploma. This provision
79 does not apply to members or members-elect who have taken
80 office prior to May 5, 1992, and who serve continuously from
81 that date forward.

82 (d) A person elected to a county board after July 1, 1990,
83 may not assume the duties of county board member unless he
84 or she has first attended and completed a course of
85 orientation relating to boardsmanship and governance
86 effectiveness which shall be given between the date of
87 election and the beginning of the member's term of office
88 under the following conditions:

89 (1) A portion or portions of subsequent training such as
90 that offered in orientation may be provided to members after
91 they have commenced their term of office;

92 (2) Attendance at the session of orientation given
93 between the date of election and the beginning of the
94 member's term of office permits the member-elect to assume
95 the duties of county board member, as specified in this
96 section;

97 (3) Members appointed to the county board shall attend
98 and complete the next such course offered following their
99 appointment; and

100 (4) The provisions of this subsection relating to
101 orientation do not apply to members who have taken office
102 prior to July 1, 1988, and who serve continuously from that
103 date forward.

104 (e) Annually, each member of a county board shall
105 receive seven clock hours of training in areas relating to
106 boardsmanship, governance effectiveness, and school
107 performance issues including, but not limited to, pertinent
108 state and federal statutes such as the "Process for Improving
109 Education" set forth in section five, article two-e of this
110 chapter and the "No Child Left Behind Act" and their
111 respective administrative rules.

112 (1) The orientation and training shall be approved by the
113 state board and conducted by the West Virginia School Board
114 Association or other organization or organizations approved
115 by the state board:

116 (A) The state board may exclude time spent in training on
117 school performance issues from the requisite seven hours
118 herein required; and

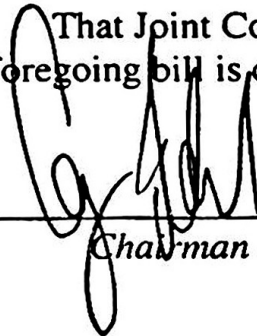
119 (B) If the state board elects to exclude time spent in
120 training on school performance issues from the requisite
121 seven hours, the state board shall limit the training to a
122 feasible and practicable amount of time.

123 (2) Failure to attend and complete the approved course
124 of orientation and training relating to boardsmanship and
125 governance effectiveness without good cause as determined
126 by the state board by duly promulgated legislative rules
127 constitutes neglect of duty under section seven, article six,
128 chapter six of this code.

129 (g) In the final year of any four-year term of office, a
130 member shall satisfy the annual training requirement before
131 January 1. Failure to comply with the training requirements
132 of this section without good cause as defined by the state
133 board by duly promulgated legislative rules constitutes
134 neglect of duty under section seven, article six, chapter six of
135 this code.

136 (h) The state board shall appoint a committee named the
137 "county board member training standards review committee"
138 whose members shall meet at least annually. Subject to state
139 board approval, the committee shall determine which
140 particular trainings and training organizations shall be
141 approved and whether county board members have satisfied
142 the annual training requirement. Members of the committee
143 serve without compensation, but may be reimbursed by their
144 agencies or employers for all reasonable and necessary
145 expenses actually incurred in the performance of their duties
146 under this subsection.

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.

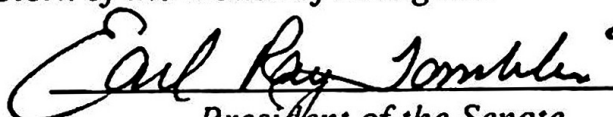
In effect ninety days from passage.



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 13th
day of May, 2009.



Governor

PRESENTED TO THE
GOVERNOR

MAY · 8 2009

Time 2:25 p