

165
95
SB 391

FILED

2010 MAR -3 AM 11:03

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010



ENROLLED

Senate Bill No. 391

(BY SENATORS PALUMBO, YOST AND GREEN)

[Passed February 22, 2010; in effect from passage.]

FILED

2010 MAR -3 AM 11:03

C. PAUL WOLF, JR.
SECRETARY OF STATE

ENROLLED

Senate Bill No. 391

(BY SENATORS PALUMBO, YOST AND GREEN)

[Passed February 22, 2010; in effect from passage.]

AN ACT to amend and reenact §18-5-1a of the Code of West Virginia, 1931, as amended, relating to county boards of education; modifying eligibility requirements for a candidate for membership on a board and for a member-elect of a board; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

That §18-5-1a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

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

1 (a) A person who is a member of a county board:

2 (1) Shall be a citizen and resident in the county in which
3 he or she serves on the county board. Also, a person who
4 is a candidate for membership on a county board or who
5 is a member-elect of a county board shall be a citizen and
6 resident in the county in which he or she seeks to serve on
7 the county board;

8 (2) May not be employed by the county board on which
9 he or she serves, including employment as a teacher or
10 service person;

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

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

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

20 (ii) The term “public office” as used in this section does
21 not include service on any other board, elected or ap-
22 pointed, profit or nonprofit, under the following condi-
23 tions:

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

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

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

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

31 (D) Solicit or receive political contributions to support
32 the election of, or to retire the campaign debt of, any
33 candidate for partisan office;

34 (4) May engage in any or all of the following political
35 activities:

36 (A) Make campaign contributions to partisan or biparti-
37 san candidates;

38 (B) Attend political fund raisers for partisan or biparti-
39 san candidates;

40 (C) Serve as an unpaid volunteer on a partisan cam-
41 paign;

42 (D) Politically endorse any candidate in a partisan or
43 bipartisan election; or

44 (E) Attend a county, state or national political party
45 convention.

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

54 (1) Within thirty days of receipt of the request, the
55 Ethics Commission shall issue a written advisory opinion
56 in response to the request and also shall publish the
57 opinion in a manner which, to the fullest extent possible,
58 does not reveal the identity of the person making the
59 request.

60 (2) A county board member who relies in good faith upon
61 an advisory opinion issued by the West Virginia Ethics
62 Commission to the effect that holding a particular office
63 or public office is not a bar from membership on a county
64 board and against whom proceedings are subsequently
65 brought for removal from the county board on the basis of
66 holding that office or offices is entitled to reimbursement
67 by the county board for reasonable attorney's fees and
68 court costs incurred by the member in defending against
69 these proceedings, regardless of the outcome of the
70 proceedings.

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

75 (4) Good faith reliance on a written advisory opinion of
76 the West Virginia Ethics Commission that a particular
77 office or public office is not a bar to membership on a
78 county board is an absolute defense to any civil suit or
79 criminal prosecution arising from any proper action taken
80 within the scope of membership on the county board,
81 becoming a member-elect of the county board or seeking
82 election to the county board.

83 (c) To be eligible for election or appointment as a
84 member of a county board, a person shall possess at least
85 a high school diploma or a general educational develop-
86 ment (GED) diploma. This provision does not apply to
87 members or members-elect who have taken office prior to
88 May 5, 1992, and who serve continuously from that date
89 forward.

90 (d) A person elected to a county board after July 1, 1990,
91 may not assume the duties of county board member unless
92 he or she has first attended and completed a course of
93 orientation relating to boardsmanship and governance
94 effectiveness which shall be given between the date of
95 election and the beginning of the member's term of office
96 under the following conditions:

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

100 (2) Attendance at the session of orientation given
101 between the date of election and the beginning of the
102 member's term of office permits the member-elect to
103 assume the duties of county board member, as specified in
104 this section;

105 (3) Members appointed to the county board shall attend
106 and complete the next orientation course offered following
107 their appointment; and

108 (4) The provisions of this subsection relating to orienta-
109 tion do not apply to members who have taken office prior
110 to July 1, 1988, and who serve continuously from that date
111 forward.

112 (e) Annually, each member of a county board shall
113 receive seven clock hours of training in areas relating to
114 boardsmanship, governance effectiveness, and school
115 performance issues including, but not limited to, pertinent
116 state and federal statutes such as the “Process for Improv-
117 ing Education” set forth in section five, article two-e of
118 this chapter and the “No Child Left Behind Act” and their
119 respective administrative rules.

120 (1) The orientation and training shall be approved by the
121 state board and conducted by the West Virginia School
122 Board Association or other organization or organizations
123 approved by the state board:

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

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

131 (2) Failure to attend and complete the approved course
132 of orientation and training relating to boardsmanship and
133 governance effectiveness without good cause as deter-
134 mined by the state board by duly promulgated legislative
135 rules constitutes neglect of duty under section seven,
136 article six, chapter six of this code.

137 (f) In the final year of any four-year term of office, a
138 member shall satisfy the annual training requirement
139 before January 1. Failure to comply with the training
140 requirements of this section without good cause as defined
141 by the state board by duly promulgated legislative rules
142 constitutes neglect of duty under section seven, article six,
143 chapter six of this code.

144 (g) The state board shall appoint a committee named the
145 "county board member training standards review commit-
146 tee" whose members shall meet at least annually. Subject
147 to state board approval, the committee shall determine
148 which particular trainings and training organizations shall
149 be approved and whether county board members have
150 satisfied the annual training requirement. Members of the
151 committee serve without compensation, but may be
152 reimbursed by their agencies or employers for all reason-
153 able and necessary expenses actually incurred in the
154 performance of their duties under this subsection.

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

.....
Chairman Senate Committee

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker House of Delegates

The within *is approved* this the *3rd*
Day of *March* 2010.

.....
Governor

PRESENTED TO THE
GOVERNOR

FEB 26 2010

Time, 3:05 pm