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2012 MAR 15 PM 3: 51

WEST VIRGINIA LEGISLATURE

OFFICE OF THE CLERK
SECRETARY OF STATE

EIGHTIETH LEGISLATURE

REGULAR SESSION, 2012



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 371

(BY SENATORS KESSLER (MR. PRESIDENT) AND HALL,
BY REQUEST OF THE EXECUTIVE)

[PASSED MARCH 10, 2012; IN EFFECT FROM PASSAGE.]

SB 371 (veto)

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(BY SENATORS KESSLER (MR. PRESIDENT) AND HALL,
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[Passed March 10, 2012; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5B-12, relating to allowing flexibility within county school systems; authorizing the State Board of Education to select a county school system to serve as a school system collaborative innovation zone; giving McDowell County first opportunity to submit application; specifying effect of change in school system approval status; requiring the State Board of Education to promulgate rules and emergency rules; providing the procedure and criteria for application and selection as a school system collaborative innovation zone; requiring development of school system collaborative innovation zone plan; setting forth potential innovations; requiring public town hall meetings; requiring meeting to review input from town hall meetings and develop plan; requiring meeting to educate employees about the plan and to allow examination and discussion of plan; requiring vote to determine level of school employee support; authorizing a designated school system to submit requests for exceptions from county and state board rules, policies and

interpretations; permitting exceptions from statutes subject to legislative approval; allowing revision and resubmission of approved plan; setting forth duration of plan; requiring annual performance reviews and reports; permitting the posting of certain teaching vacancies; and including, for a school system collaborative innovation zone and to the extent applicable, any land and infrastructure needs in the land use master plan, authorizing an area health association to work with county board in addressing health, wellness and fitness needs and authorizing an area institution of higher education to work with the county board to address certain challenges.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5B-12, to read as follows:

ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.

§18-5B-12. School system collaborative innovation zone; requirements to qualify; application for designation; required plans for innovation zones; plan approval; waiver of statutes, policies, rules or interpretations; progress reviews and annual reports; teacher vacancies, job postings and approval.

1 (a) The Legislature makes the following findings and
2 expressions of legislative intent:

3 (1) The Legislature created a performance-based accredi-
4 tation system in 1988 and has amended these provisions
5 several times, significantly in 1998 to set forth a process for
6 improving education consisting of four elements: (i) High
7 quality education standards; (ii) an assessment of the
8 performance and progress of schools and school systems in
9 achieving these standards with a primary focus on student
10 learning; (iii) holding schools and school systems account-
11 able for performance and progress to provide assurances that
12 a thorough and efficient education is being provided; and (iv)
13 a process for targeting resources strategically to improve

14 teaching and learning. These provisions include a process for
15 the state board to declare a state of emergency and intervene
16 in the operation of a school system when its educational
17 program does not meet the standards and it fails to imple-
18 ment an improvement plan or meet the plan's deadlines and
19 improve with a reasonable time. Since the inception of these
20 provisions, the state board has declared a state of emergency
21 in nine county school systems and intervened, including
22 delegating decision-making authority to the state superin-
23 tendent or his or her designee for system operations. Of these
24 nine school systems, three improved sufficiently over a
25 period of time for the state of emergency to be rescinded, the
26 longest of which took ten years and six months. Of the six
27 systems remaining under state board intervention, although
28 most are fairly recent, one school system has been under
29 state intervention for more than ten years and its improve-
30 ment is progressing slowly;

31 (2) School systems do not exist in a vacuum and external
32 circumstances and events can have a significant impact on
33 them and the students they serve, as well as on the system's
34 capacity to deliver the thorough and efficient education to
35 which those students are entitled. For example, the
36 McDowell County school system which in the 1950's at its
37 height of employment in coal production had a total popula-
38 tion of about 100,000 residents, faced much different chal-
39 lenges than it does today with that county's total population
40 now at 22,113 based on the 2010 census. This school system
41 has lost nearly 70% of its enrollment in the past 30 years,
42 declining from 11,715 students in 1981-82 to 3,535 in 2011-
43 12. Along with the steep decline in the historical bedrock of
44 employment in the county in the coal industry and the large
45 number of middle class workers and services it supported,
46 including housing, utilities and medical care, the county's
47 rugged mountainous topography contributes to its vulnera-
48 bility to natural disasters such as the devastating floods in
49 2001 and 2002 that swept away many homes and much of the
50 infrastructure along the creek beds throughout the county.
51 This topography also significantly limits the amount of land
52 suitable for development and transportation networks, and

53 makes planning for future economic development alterna-
54 tives difficult. The social and economic byproducts of these
55 external circumstances and events leave a school system
56 with many atypical challenges for addressing the needs of its
57 students and making the improvements in performance and
58 progress needed to assure a thorough and efficient education;

59 (3) Among the findings, intent and purposes of this
60 article are that: (i) Allowing exceptions from certain statutes,
61 policies, rules and interpretations through the creation of
62 innovation zones will enable greater local control over the
63 important educational factors that impact student achieve-
64 ment and the delivery of educational services to improve
65 student learning; and (ii) Innovation zones will provide
66 greater flexibility and local control to meet the needs of a
67 diverse population of students. In addition, among the
68 findings of the Local Solution Dropout Prevention and
69 Recovery Innovation Zone Act as set forth in section eleven
70 of this article are findings that when educators, parents,
71 elected officials, business leaders, faith-based leaders,
72 human service personnel, judicial personnel and civic leaders
73 collectively work together they are often able to find innova-
74 tive solutions to address school and community problems.
75 Since the creation of this article, forty-five innovation zone
76 projects have been approved by the state board, nine of
77 which were Dropout Prevention and Recovery Innovation
78 Zone projects. Twenty-seven policy waivers and five statu-
79 tory waivers have been granted to enable implementation of
80 these projects. In one county, an innovation zone project was
81 expanded to all of the remaining schools in the county when
82 the schools used the Local School Improvement Council
83 waiver process to request and receive a statutory waiver to
84 implement a comprehensive new teacher induction process
85 county-wide. Collectively, these projects illustrate how local
86 schools, and in some cases school systems, have increased
87 their capacity by using the innovation zone process to
88 collaboratively plan and implement a variety of changes to
89 increase student engagement, develop more flexible sched-
90 ules, enhance student and teacher ownership of the learning
91 process and increase student achievement;

92 (4) Choosing one county school system under a declared
93 state of emergency due to nonapproval status to designate as
94 an innovation zone would allow the testing of innovations
95 that could be replicated in other school systems facing
96 similar circumstances across the state, nation and world;

97 (5) Numerous studies have shown an association between
98 a young person's health status and his or her ability to
99 succeed in educational settings;

100 (6) McDowell County is unique and should be given the
101 first opportunity to use innovative solutions to improve its
102 education system when the totality of the circumstances set
103 forth in this subsection are considered. Other facts specifi-
104 cally applicable to McDowell County include the following:

105 (A) The McDowell County school system has been under
106 a continuous declared state of emergency by the state board
107 due to nonapproval status longer than any other county that
108 is currently under a declared state of emergency;

109 (B) McDowell County school system is engaged in a
110 public-private partnership to begin addressing challenges
111 both within the school system and in the community at large;
112 and

113 (C) McDowell County has a chronic shortage of good
114 roads, public transportation, housing, Internet bandwidth,
115 recreation centers and health clinics;

116 (7) This section is intended as an additional tool for an
117 eligible school system in collaboration with community and
118 business partners to plan and implement new approaches to
119 improve the performance and progress of the students,
120 schools and system to achieve full approval at the earliest
121 possible date. It is further the intent of the Legislature that
122 the process for an eligible school system to apply for excep-
123 tions under this section should allow multiple opportunities
124 to apply for additional exceptions as the system moves
125 forward with its partners toward fulfillment of its improve-
126 ment goals; and

127 (8) In accordance with the intent of this section as an
128 additional tool for planning and implementing new ap-
129 proaches to improve the performance and progress of the
130 students, schools and school system to achieve full approval
131 at the earliest possible date, the state board shall rescind the
132 state of emergency and nonapproval status of a school system
133 designated as a school system collaborative innovation zone
134 as soon as the requisite conditions are met as provided in
135 section five, article two-e of this chapter, notwithstanding
136 the designation. If a school system that has been designated
137 as a school system collaborative innovation zone is subse-
138 quently issued a school system approval status that would
139 make it ineligible for the designation, the designation shall
140 remain in effect as provided in this section.

141 (b) The state board is authorized to choose one county
142 school system currently under a declared state of emergency
143 by the state board due to nonapproval status to participate
144 a program to test the effectiveness of allowing such county
145 school systems to be considered school system collaborative
146 innovation zones. Due to the reasons set forth in subsection
147 (a) of this section, the McDowell County Board of Education
148 shall be provided the first opportunity to submit a school
149 system collaborative innovation zone application under this
150 article. If the McDowell County Board of Education has not
151 submitted an application by April 1, 2013 or less than fifty
152 percent cast ballots in an election to approve a school system
153 collaborative innovation zone plan, the state board may
154 accept applications from other county boards under a
155 declared state of emergency by the state board due to
156 nonapproval status.

157 (c) The Legislature finds that an emergency exists and,
158 therefore, no later than April 16, 2012, the state board shall
159 promulgate an emergency rule in accordance with section
160 ten, article three-b, chapter twenty-nine-a of this code, to
161 implement the provisions of this article. The state board also
162 shall promulgate a legislative rule, in accordance with article
163 three-b, chapter twenty-nine-a of this code, to implement
164 this section. Both rules shall include, but not be limited to,
165 the following provisions:

166 (1) The manner, time and process for the submission of a
167 school system collaborative innovation zone application;

168 (2) The contents of the application, which must include
169 a general description of the innovations the county school
170 district seeks to institute;

171 (3) Factors to be considered by the state board when
172 evaluating an application, which shall include, but are not
173 limited to, the following factors:

174 (A) Support from teachers, staff, parents, students, the
175 county board of education, the local school improvement
176 council and school business partners; and

177 (B) The potential for an applicant to be successful in
178 raising student achievement as a school system collaborative
179 innovation zone; and

180 (4) Standards for the state board to review applications
181 for designation as a school system collaborative innovation
182 zone and to make determinations on the designation of a
183 school system collaborative innovation zone.

184 (d) The state board shall review school system collabora-
185 tive innovation zone applications in accordance with the
186 standards adopted by the board and shall determine whether
187 to designate the applicant as a school system collaborative
188 innovation zone. The state board shall notify an applicant of
189 the board's determination within thirty days of receipt of the
190 application.

191 (e) Prior to designation by the state board as a school
192 system collaborative innovation zone, county school systems
193 submitting applications shall develop school system collabo-
194 rative innovation zone plans. The school system collabora-
195 tive innovation zone plan may include, but is not limited to,
196 the following proposals:

197 (1) Allowing increased collaborative site-based deci-
198 sion-making powers over the budgeting for and spending on
199 programs and services for students;

200 (2) Allowing increased collaborative site-based deci-
201 sion-making powers over teacher recruitment;

202 (3) Allowing a collaborative process which ensures
203 accountability and transparency to all stakeholders;

204 (4) Allowing a collaborative process which provides
205 input and demonstrative buy-in from education personnel
206 regarding appropriate professional development, supports,
207 resources and working conditions.

208 (5) Allowing a collaborative site-based process to reduce
209 certain requirements to allow staff to meet the school's
210 mission;

211 (6) Allowing, through a collaborative site-based process,
212 flexibility to the alternative teacher certification provided in
213 section one-a, article three, chapter eighteen-a of this code;

214 (7) Utilizing virtual school courses aligned with the
215 Southern Regional Education Board's Standards for Quality
216 Online Courses; and

217 (8) Other innovation zone plans approved under the
218 provisions of this article and being implemented in other
219 schools and school systems throughout the state.

220 (f) Prior to submitting a school system collaborative
221 innovation zone plan to the state board:

222 (1) The school system in collaboration with its public-
223 private partnership shall conduct public town hall meetings
224 in at least two schools in the county for the purpose of
225 soliciting input from those in attendance on the challenges
226 affecting the quality of education in the county and the
227 potential strategies and priorities for addressing them. The
228 two meetings shall occur within ten days of each other;

229 (2) Within fifteen days after the town hall meetings, the
230 county superintendent shall hold a meeting for the purpose
231 of reviewing the input gathered at the public town hall
232 meetings and developing the school system collaborative

233 innovation zone plan. The meeting shall include the princi-
234 pals employed within the county, the chairs of the faculty
235 senates of each school in the county, employee organization
236 representatives, school service person from each work-site,
237 parents and other stakeholders;

238 (3) Within fifteen days after the meeting to develop the
239 school system collaborative innovation zone plan, the county
240 superintendent shall hold a meeting of all regularly em-
241 ployed school employees for the purpose of educating those
242 employees about the plan and for the purpose of providing
243 the employees an opportunity to examine and discuss the
244 school system collaborative innovation zone plan; and

245 (4) At the meeting required by subdivision (3) of this
246 subsection, the county superintendent shall direct that a vote
247 of all regularly employed school employees in the county be
248 conducted to determine the level of school employee support
249 for the school system collaborative innovation zone plan. The
250 vote shall be completed within fifteen days after the meeting
251 required by subdivision (3) of this subsection. The vote shall
252 be by secret ballot administered by the panels created in
253 subsection (c) section six of this article for each school and
254 shall be administered in accordance with that subsection.
255 For the vote to be valid, ballots must be cast by at least fifty
256 percent of all regularly employed school employees in the
257 county. The plan may not be submitted to the state board
258 and the state board may not designate the school system as
259 a school system collaborative innovation zone unless at least
260 two-thirds of the employees voting vote to submit the plan.

261 (g) Approval of a school system collaborative innovation
262 zone plan pursuant to this section is at the sole discretion of
263 the state board. Any approval requirement not contained
264 within this section does not apply.

265 (h) The plan is intended to serve as the basis for the
266 innovation zone activities of the school system and to
267 provide a vision for the school improvement goals it will
268 work to accomplish in collaboration with its school and
269 community partners. The plan is not intended as a limit on

270 the normal school improvement activities that all school
271 systems are expected to pursue, nor is the plan intended as
272 a restriction on the ability of the school system or its schools
273 to pursue other innovative strategies in accordance with the
274 other provisions of this article, specifically the designation
275 as a Local Solution Dropout Prevention and Recovery
276 Innovation Zone in accordance with section eleven of this
277 article.

278 (i) The designation as a school system collaborative
279 innovation zone authorizes the school system to submit
280 requests as provided in subsection (j) of this section to the
281 state board for exceptions to statutes, policies, rules and
282 interpretations that are required to permit implementation
283 by the school system of the innovative strategies contem-
284 plated in its strategic plan for school improvement. The
285 designation shall be for a period of five years, during which
286 the school system may submit multiple individual requests
287 for exceptions to permit implementation of different strate-
288 gies contemplated in the plan as the strategies are developed.
289 Each request for an exception shall be submitted and may be
290 approved by the state board in accordance with subsection
291 (j) of this subsection.

292 (j)(1) A school system designated as a school system
293 collaborative innovation zone may request an exception to a
294 statute, policy, rule or interpretation by submitting an
295 application to the state board that contains the following
296 information:

297 (A) A description of the program or initiative the school
298 system intends to implement as an innovative strategy to
299 improve student achievement if the request is approved by
300 the state board;

301 (B) An explanation of the specific exception to a statute,
302 policies, rule or interpretation, in the singular or plural, that
303 the school system has identified as prohibiting or constrain-
304 ing the implementation of the program or initiative and why
305 the exception is necessary;

306 (C) An explanation of how the program or initiative
307 furthers the activities contemplated in the strategic plan for
308 improvement;

309 (D) A certification by the county superintendent that the
310 request for an exception was approved by a vote of the
311 eligible employees in accordance with the process for voting
312 as set forth in section six of this article, except that notwith-
313 standing subsection (d) of said section six, at least two-thirds
314 of the eligible employees voting must vote to request the
315 exception for it to be approved for submission to the state
316 board: *Provided*, That for the vote to be valid, ballots must
317 be cast by at least fifty percent of the eligible employees; and

318 (E) Any other information the state board requires as set
319 forth in its rule pursuant to subsection (c) of this section.

320 (2) The state board shall review request in accordance
321 with the standards adopted by the board in its rule and shall
322 determine whether to approve or disapprove the request. The
323 approval or disapproval of a request is at the sole discretion
324 of the state board. Any approval requirement not contained
325 within this section does not apply.

326 (3) Except as provided in subdivision (5) of this subsec-
327 tion, the state board shall approve or disapprove the request
328 within thirty days of receipt, subject to the following:

329 (A) No exceptions to state board policies, rules or
330 interpretations are granted unless the state board approves
331 the request at least conditionally pursuant to subdivisions (2)
332 and (5) of this subsection; and

333 (B) If the request is disapproved, the state board shall
334 communicate its reasons for the disapproval to the school
335 system and shall make recommendations for improving the
336 request. The school system may amend and resubmit the
337 request.

338 (4) Upon approval of the request by the state board, all
339 of the exceptions to state board policies, rules and interpre-
340 tations the were requested are granted; and

341 (5) If a request, or a part thereof, may not be imple-
342 mented unless an exception to a statute is granted by an Act
343 of the Legislature, the state board may approve the request,
344 or the part thereof, only upon the condition that the Legisla-
345 ture acts to grant the exception. If the state board approves
346 a request on that condition, the state board shall submit the
347 request for an exception to a statute, along with supporting
348 reasons, to the Legislative Oversight Commission of Educa-
349 tion Accountability. The commission shall review the request
350 and make a recommendation to the Legislature regarding the
351 exception requested.

352 (k) Upon approval of the exception by the state board, all
353 exceptions to county and state board rules, policies and
354 interpretations listed in the plan are granted.

355 (l) A county board designated as an school system
356 collaborative innovation zone pursuant to this section that
357 has an approved innovation zone plan may revise its plan
358 and resubmit its plan to the state board for approval after
359 conducting the vote pursuant to subdivision (4), subsection
360 (f) of this section and complying with all other applicable
361 plan requirements set forth in this section except for holding
362 the public town hall meetings required by subdivision (1),
363 subsection (f) of this section.

364 (m) The designation of a county school system as a school
365 system collaborative innovation zone shall be for a period of
366 five years. The state board, upon request of the school
367 system, may extend the designation for an additional two
368 years if the school system has outstanding items in its school
369 system collaborative innovation zone plan that it still wants
370 to pursue and only for the purpose of pursuing those out-
371 standing items. The expiration of the designation does not
372 negate any exceptions to statutes, policies, rules or interpre-
373 tations granted to the school system, unless and until
374 specifically revoked, repealed or modified by the state board
375 or by the Legislature, as applicable.

376 (n) The state board or its designated committee shall
377 perform annual performance reviews and provide annual
378 reports in accordance with section seven of this article.

379 (o) A county school system whose plan has been approved
380 may make a job posting for a teacher vacancy in accordance
381 with the procedures and approval provided by section eight
382 of this article.

383 (p) For any county that is designated as a school system
384 collaborative innovation zone under the provisions of this
385 section and to the extent the following provisions are
386 applicable:

387 (1) The county commission of the designated county shall
388 collaborate with the Office of Coalfield Community Develop-
389 ment in including any land and infrastructure needs in the
390 land use master plan provided for in section nine, article
391 two-a, chapter five-b of this code. These needs may include,
392 but are not limited to, advancement of public education,
393 economic development, highway development, recreational
394 amenities and housing development;

395 (2) An area health organization, such as Tug River Health
396 Association, Inc. is authorized to work with the county board
397 to address the health, wellness and fitness needs of students,
398 parents, school personnel and all others in the county. Tug
399 River Health Association may partner with the Robert C.
400 Byrd Center for Rural Health and the Marshall University
401 Medical School in addressing these needs. In addressing the
402 health, wellness and fitness needs, the following should be
403 considered:

404 (A) New evaluations of school-aged children are needed
405 to reassess their health status and direct further interven-
406 tions;

407 (B) Prior to developing new assessment tools and initiat-
408 ing programs, a comprehensive inventory of prior assessment
409 tools and programs is needed to determine their strengths
410 and weaknesses. This can direct further studies and inter-
411 ventions;

412 (C) New assessment tools should include objective
413 markers of disease as well as subjective opinions of individ-
414 ual health status and barriers to health;

415 (D) Objective and subjective data should be linked at
416 individual and disease-specific levels;

417 (E) Disease-specific data may be used to address common
418 barriers to health as perceived by a specific population and
419 tailor interventions to these specific populations;

420 (F) The effectiveness of interventions should be assessed
421 using the same health status markers used to develop the
422 intervention;

423 (G) Interventions should use available technology that
424 allows individuals to track measures of health and provide
425 assistance in making informed decisions about their health;

426 (H) Assessments and interventions should be developed
427 and implemented using community-based participatory
428 research models; and

429 (I) Assessments and interventions should be multi-
430 disciplinary, collaborative efforts with existing organizations
431 and programs; and

432 (3) Area institutions of higher education, such as Concord
433 University and the June Harless Center at Marshall Univer-
434 sity, are authorized to work with the county board on
435 innovative strategies to address challenges facing the school
436 system and community, including but not limited to, the
437 areas of critical need and shortage in the teaching force,
438 educator professional development and improving the college
439 going rate. In addressing the areas of critical need shortage
440 in the teaching force, consideration should be given to the
441 implementation of an intensively supervised and mentored
442 teacher-in-residence program for prospective teachers
443 during their senior year in lieu of student teaching.

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


.....
Chairman Senate Committee

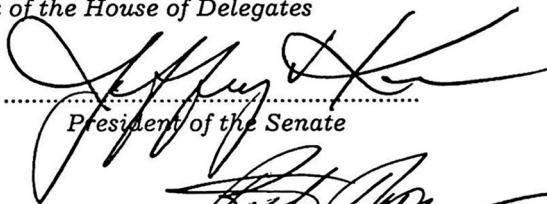

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.


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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 of the House of Delegates

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2012 MAR 15 PM 3:52

FILED

The within is disapproved this the 15th
March Day of, 2012.


.....
Governor

PRESENTED TO THE GOVERNOR

MAR 15 2012

Time 1:45 pm