WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 3157

(By Delegate(s) M. Poling, Stowers, Lawrence, Williams, Perry, Pethtel, Tomblin, Young, Pasdon, Evans and Westfall)

Passed April 13, 2013

In effect July 1, 2013.
AN ACT to repeal §18-2-15, §18-2-15a, §18-2-18, §18-2-23, §18-2-30, §18-2-31, §18-2-36, §18-2-37 and §18-2-38 of the code of West Virginia, 1931, as amended; to repeal §18-2E-3c and §18-2E-3d of said code; to repeal §18-5-40 of said code; to repeal §18-9-2b, §18-9-5, §18-9-7 and §18-9-8 of said code; to repeal §18-9A-3a, §18-9A-3b, §18-9A-13, §18-9A-13a, §18-9A-13b, §18-9A-25 and §18-9A-26 of said code; to repeal §18-9B-11 and §18-9B-16 of said code; to repeal §18A-3-2b of said code; to amend and reenact §18-2-5g of said code; to amend and reenact §18-5-45 of said code; to amend said code by adding thereto a new section, designated §18-8-6a; to amend and reenact §18-9A-10 of said code; and to amend and reenact §18-17-8 of said code, all relating to restoring the authority, flexibility and capacity of schools and school systems to improve student
earning; eliminating requirement for biennial report on public schools and institutions; eliminating expired provisions for RESA study; eliminating expired provisions for study on staff fluctuations at certain schools; eliminating outdated provisions on comprehensive education program plans; eliminating requirement for statewide curriculum technology resource center; eliminating outdated provisions for automatic cost of living adjustment plan; eliminating outdated provisions for student learning abilities grant program; eliminating expired provisions on flood and property insurance study; eliminating expired provisions on study of school teams and committees; eliminating prescriptive summer reading and math grant program provisions; eliminating provisions pilot program for operation on schools on semester basis; eliminating outdated provisions for transferring school funds from magisterial and independent school districts; eliminating outdated provisions related to the board of the school fund; eliminating outdated provisions related to supplemental aid for districts with institutional home for orphans and homeless children; eliminating expired provisions for transition to new provisions on school finance; eliminating expired provisions for school finance in certain fiscal year; eliminating expired provisions for one-year transitional allocation appropriation for certain rural districts; eliminating expired provisions related to levies subsequent to passage of statewide uniform excess levy; eliminating inoperable provisions for legislative reserve fund; eliminating requirement for appropriation for teacher of the year salary; eliminating allowance for workers' compensation for unpaid work-based learning; eliminating outdated provisions related to board of school finance; eliminating provisions pertaining to proceeds of the permanent improvement fund; eliminating provisions related to beginning teacher internship; replacing requirement for annual summary and submission of certain county board policies with requirement for state board to review and evaluate certain reports and report to legislative oversight commission; modifying effective date for certain school calendar amendments; providing reimbursement in certain circumstances for county board costs
of probation officers for truant juveniles; reducing percent of increase in local share added to allowance to improve instructional programs; requiring certain funds available for use for personnel to be used for only certain personnel subject to certain condition; increasing percent of increase in local share added for instructional technology purposes; changing purpose to county and school strategic improvement plans; changing method of allocation to counties; expanding provisions pertaining to suspension or dismissal of West Virginia Schools for the Deaf and the Blind teachers to include auxiliary and service personnel; and allowing the state board to employ a hearing examiner to preside at the taking of evidence.

Be it enacted by the Legislature of West Virginia:

That §§ 18-2-15, §§ 18-2-15a, §§ 18-2-18, §§ 18-2-23, §§ 18-2-30, §§ 18-2-31, §§ 18-2-36, §§ 18-2-37 and §§ 18-2-38 of the code of West Virginia, 1931, as amended, be repealed; that §§ 18-2E-3c and §§ 18-2E-3d of said code be repealed; that §§ 18-5-40 of said code be repealed; that §§ 18-9-2b, §§ 18-9-5, §§ 18-9-7 and §§ 18-9-8 of said code be repealed; that §§ 18-9A-3a, §§ 18-9A-3b, §§ 18-9A-13, §§ 18-9A-13a, §§ 18-9A-13b, §§ 18-9A-25 and §§ 18-9A-26 of said code be repealed; that §§ 18-9B-11 and §§ 18-9B-16 of said code be repealed; that §§ 18A-3-2b of said code be repealed; that §§ 18-2-5g of said code be amended and reenacted; that §§ 18-5-45 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §§ 18-8-6a; that §§ 18-9A-10 of said code be amended and reenacted; and that §§ 18-17-8 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5g. Review and determination of principal and teacher reports; identify reports with recommendations to Legislative Oversight Commission on Education Accountability.

1 (a) The state board annually shall review and evaluate the list of reports required to be written by principals and teachers in
order to determine which reports are repetitive, unnecessary, counterproductive or outdated so that the administrative burden on principals and teachers may be lessened.

(b) The state board shall submit a report to the Legislative Oversight Commission on Education Accountability no later than December 31 of each year identifying those unnecessary reports, together with any comments and recommendations on how to reduce or consolidate principal and teacher reports.

ARTICLE 5. COUNTY BOARD OF EDUCATION.
§18-5-45. School calendar.

(a) As used in this section:

(1) “Instructional day” means a day within the instructional term which meets the following criteria:

(A) Instruction is offered to students for at least the minimum amount of hours provided by state board rule;

(B) Instructional time is used for instruction and cocurricular activities; and

(C) Other criteria as the state board determines appropriate.

(2) “Cocurricular activities” are activities that are closely related to identifiable academic programs or areas of study that serve to complement academic curricula as further defined by the state board.

(b) Findings. –

(1) The primary purpose of the school system is to provide instruction for students.

(2) The school calendar, as defined in this section, is designed to define the school term both for employees and for instruction.
(3) The school calendar shall provide for one hundred eighty separate instructional days.

(c) The county board shall provide a school term for its schools that contains the following:

(1) An employment term that excludes Saturdays and Sundays and consists of at least two hundred days, which need not be successive. The beginning and closing dates of the employment term may not exceed forty-eight weeks;

(2) Within the employment term, an instructional term for students of no less than one hundred eighty separate instructional days, which includes an inclement weather and emergencies plan designed to guarantee an instructional term for students of no less than one hundred eighty separate instructional days;

(3) Within the employment term, noninstructional days shall total twenty and shall be comprised of the following:

(A) Seven paid holidays;

(B) Election day as specified in section two, article five, chapter eighteen-a of this code;

(C) Six days to be designated by the county board to be used by the employees outside the school environment, with at least four outside the school environment days scheduled to occur after the one hundred and thirtieth instructional day of the school calendar; and

(D) The remaining days to be designated by the county board for purposes to include, but not be limited to:

(i) Curriculum development;

(ii) Preparation for opening and closing school;

(iii) Professional development;

(iv) Teacher-pupil-parent conferences;
(v) Professional meetings;

(vi) Making up days when instruction was scheduled but not conducted; and

(vii) At least four two-hour blocks of time for faculty senate meetings with each two-hour block of time scheduled once at least every forty-five instructional days; and

(4) Scheduled out-of-calendar days that are to be used for instructional days in the event school is canceled for any reason.

(d) A county board of education shall develop a policy that requires additional minutes of instruction in the school day or additional days of instruction to recover time lost due to late arrivals and early dismissals.

(e) If it is not possible to complete one hundred eighty separate instructional days with the current school calendar, the county board shall schedule instruction on any available noninstructional day, regardless of the purpose for which the day originally was scheduled, or an out-of-calendar day and the day will be used for instruction of students: Provided, That the provisions of this subsection do not apply to:

(A) Holidays;

(B) Election day;

(C) Saturdays and Sundays.

(f) The instructional term shall commence and terminate on a date selected by the county board.

(g) The state board may not schedule the primary statewide assessment program more than thirty days prior to the end of the instructional year unless the state board determines that the nature of the test mandates an earlier testing date.

(h) The following applies to cocurricular activities:
(1) The state board shall determine what activities may be considered cocurricular;

(2) The state board shall determine the amount of instructional time that may be consumed by cocurricular activities; and

(3) Other requirements or restrictions the state board may provide in the rule required to be promulgated by this section.

(i) Extracurricular activities may not be used for instructional time.

(j) Noninstructional interruptions to the instructional day shall be minimized to allow the classroom teacher to teach.

(k) Prior to implementing the school calendar, the county board shall secure approval of its proposed calendar from the state board or, if so designated by the state board, from the state superintendent.

(l) In formulation of a school’s calendar, a county school board shall hold at least two public meetings that allow parents, teachers, teacher organizations, businesses and other interested parties within the county to discuss the school calendar. The public notice of the date, time and place of the public hearing must be published in a local newspaper of general circulation in the area as a Class II legal advertisement, in accordance with the provisions of article three, chapter fifty-nine of this code.

(m) The county board may contract with all or part of the personnel for a longer term of employment.

(n) The minimum instructional term may be decreased by order of the state superintendent in any county declared a federal disaster area and where the event causing the declaration is substantially related to a reduction of instructional days.

(o) Notwithstanding any provision of this code to the contrary, the state board may grant a waiver to a county board for its noncompliance with provisions of chapter eighteen, eighteen-a, eighteen-b and eighteen-c of this code to maintain
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109 compliance in reaching the mandatory one hundred eighty
110 separate instructional days established in this section.

111 (p) The state board shall promulgate a rule in accordance
112 with the provisions of article three-b, chapter twenty-nine-a of
113 this code for the purpose of implementing the provisions of this
114 section.

115 (q) The amendments to this section during the 2013 regular
116 session of the Legislature shall be effective for school years
117 beginning on or after July 1, 2014, and the provisions of this
118 section existing immediately prior to the 2013 regular session of
119 the Legislature remain in effect for school years beginning prior
120 to July 1, 2014.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-6a. Incentive for county board participation in circuit court
juveniles probation truancy programs.

1 A county board that enters into a truancy program agreement
2 with the circuit court of the county that (1) provides for the
3 referral of truant juveniles for supervision by the court’s
4 probation office pursuant to section eleven, article five, chapter
5 forty-nine of this code and (2) requires the county board to pay
6 for the costs of the probation officer or officers assigned to
7 supervise truant juveniles, shall be reimbursed for one-half of the
8 costs of the probation officer or officers, subject to appropriation
9 of the Legislature for this purpose to the West Virginia Depart-
10 ment of Education. For any year in which the funds appropriated
11 are insufficient to cover the reimbursement costs, the county’s
12 costs shall be reimbursed pro rata.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-10. Foundation allowance to improve instructional
programs.

1 (a) The total allowance to improve instructional programs
2 shall be the sum of the following:
(1) For instructional improvement, in accordance with county and school electronic strategic improvement plans required by section five, article two-e of this chapter, an amount equal to fifteen percent of the increase in the local share amount for the next school year above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year: Provided, That effective July 1, 2014, an amount equal to ten percent of the increase in the local share amount for the next school year above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be distributed to the counties as follows:

(A) One hundred fifty thousand dollars shall be allocated to each county; and

(B) Distribution to the counties of the remainder of these funds shall be made proportional to the average of each county’s average daily attendance for the preceding year and the county’s second month net enrollment.

Moneys allocated by provision of this subdivision shall be used to improve instructional programs according to the county and school strategic improvement plans required by section five, article two-e of this chapter and approved by the state board: Provided, That notwithstanding any other provision of this code to the contrary, moneys allocated by provision of this section also may be used in the implementation and maintenance of the uniform integrated regional computer information system.

Up to twenty-five percent of this allocation may be used to employ professional educators and service personnel in counties after all applicable provisions of sections four and five of this article have been fully utilized.

Prior to the use of any funds from this subdivision for personnel costs, the county board must receive authorization
from the state superintendent. The state superintendent shall require the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of services with adjoining counties and the regional educational service agency for that county in the use of the total local district board budget; and (4) employment of technology integration specialists to meet the needs for implementation of the West Virginia 21st Century Strategic Technology Learning Plan. County boards shall make application for the use of funds for personnel for the next fiscal year by May 1 of each year. On or before June 1, the state superintendent shall review all applications and notify applying county boards of the approval or disapproval of the use of funds for personnel during the fiscal year appropriate. The state superintendent shall require the county board to demonstrate the need for an allocation for personnel based upon the county’s inability to meet the requirements of state law or state board policy.

The provisions relating to the use of any funds from this subdivision for personnel costs are subject to the following: (1) The funds available for personnel under this subsection may not be used to increase the total number of professional noninstructional personnel in the central office beyond four; and (2) For the school year beginning July 1, 2013, and thereafter, any funds available to a county for use for personnel above the amount available for the 2012-2013 school year, only may be used for technology systems specialists until the state superintendent determines that the county has sufficient technology systems specialists to serve the needs of the county.

The plan shall be made available for distribution to the public at the office of each affected county board; plus (2) For the purposes of improving instructional technology, an amount equal to fifteen percent of the increase in the local share amount for the next school year above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the
immediately preceding school year. Provided, that effective July 1, 2014, an amount equal to twenty percent of the increase in the local share amount for the next school year above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties as provided in section seven, article two-e of this chapter to meet the objectives of the West Virginia 21st Century Strategic Technology Learning Plan. Provided, that effective July 1, 2014, the sum of these amounts shall be distributed to the counties as follows:

(A) Thirty thousand dollars shall be allocated to each county;

and

(B) Distribution to the counties of the remainder of these funds shall be made proportional to the average of each county’s average daily attendance for the preceding year and the county’s second month net enrollment.

Effective July 1, 2014, moneys allocated by provision of this subdivision shall be used to improve instructional technology programs according to the county and school strategic improvement plans; plus.

(3) One percent of the state average per pupil state aid multiplied by the number of students enrolled in dual credit, advanced placement and international baccalaureate courses, as defined by the state board, distributed to the counties proportionate to enrollment in these courses in each county; plus

(4) An amount not less than the amount required to meet debt service requirements on any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1, 1994, shall be paid into the School Building Capital Improvements Fund created by section six, article nine-d of this chapter and shall be used solely for the
purposes of that article. The School Building Capital Improvements Fund shall not be utilized to meet the debt services requirement on any revenue bonds or revenue refunding bonds for which moneys contained within the School Building Debt Service Fund have been pledged for repayment pursuant to that section.

(b) When the school improvement bonds secured by funds from the School Building Capital Improvements Fund mature, the state Board of Education shall annually deposit an amount equal to $24,000,000 from the funds allocated in this section into the School Construction Fund created pursuant to the provisions of section six, article nine-d of this chapter to continue funding school facility construction and improvements.

(c) Any project funded by the School Building Authority shall be in accordance with a comprehensive educational facility plan which must be approved by the state board and the School Building Authority.

ARTICLE 17. WEST VIRGINIA SCHOOLS FOR THE DEAF AND THE BLIND.

§18-17-8. Continuing contract status established; dismissal and suspension procedures.

Before entering upon their duties, all teachers shall execute a contract with the state board, which contract shall state the salary to be paid and shall be in the form prescribed by the state superintendent. Every such contract shall be signed by the teacher and by the president and secretary of the state board.

A teacher's contract, under this section, shall be for a term of not less than one nor more than three years; and if, after three years of such employment, the teacher who holds a professional certificate, based on at least a bachelor's degree, has met the qualifications for the same, and the state board enter into a new contract of employment, it shall be a continuing contract.
Notwithstanding any other provisions of law, the state board may suspend or dismiss any teacher, auxiliary personnel or service personnel, subject to the provisions of this article, for immorality, incompetency, cruelty, insubordination, intemperance or willful neglect of duty. The charges shall be stated in writing and the teacher, auxiliary personnel or service personnel affected shall be given an opportunity to be heard by the state board, sitting as a hearing board, or by an assigned hearing examiner employed by the state board to preside at the taking of evidence upon not less than ten days' written notice. A hearing examiner shall prepare his or her own proposed finding and recommendation, make copies of the findings available to the parties and then submit the entire record to the state board for final decision. The state board shall set a time and place for hearing of arguments by the parties on the record at a regular meeting of the state board or at a special meeting called for that purpose and shall deliberate and issue a decision at the conclusion of arguments. Written notice of the final decision shall be served within five days of the state board's consideration of the matter.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Member Committee

Originating in the House.

In effect July 1, 2013.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within approved this the 3rd day of May, 2013.
PRESENTED TO THE GOVERNOR

APR 29 2013

Time 10:15 am