WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013

SECOND ENROLLMENT

House Bill No. 3160
(By Delegate(s) Walker, Stowers, Barill, Cooper, Campbell, Lawrence, Young, Tomblin, Hamrick, Espinosa and Westfall)

Amended and again passed, as a result of the objections of the Governor,
April 17, 2013
In effect ninety days from passage.
ENROLLED

H. B. 3160

(BY DELEGATE(S) WALKER, STOWERS, BARILL,
COOPER, CAMPBELL, LAWRENCE, YOUNG, TOMBLIN, HAMRICK,
ESPINOSA AND WESTFALL)

[Amended and again passed, as a result of the objections of the Governor.
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AN ACT to amend and reenact §18-5-11 of the code of West Virginia, 1931, as amended; to further amend said code by adding thereto a
new section, designated §18-5-11a; and to further amend said code
by adding thereto a new section, designated §18-5A-2a; all relating
to joint establishment, maintenance and operation of school by two
or more adjoining counties; requiring formal agreement for
apportionment of acquisition costs; providing for operating costs;
providing net enrollment adjustment for certain costs; providing
for joint governing partnership board pilot initiative; making
findings with respect to pilot initiative and purpose; establishing
limitation and condition; providing features of partnership board;
authorizing adoption of separate policies and requests of waivers;
providing for modifications to local school improvement council
membership for jointly established school; providing for modifications
to local school improvement council membership for jointly
attended school under certain conditions; and aligning authority of
improvement council for proposing alternatives and requesting
waivers.

Be it enacted by the Legislature of West Virginia:

That §18-5-11 of the code of West Virginia, 1931, as amended, be
amended and reenacted; that said code be further amended by adding
thereto a new section, designated §18-5-11a; and that said code be
further amended by adding thereto a new section, designated §18-5A-2a; all to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.


(a) The boards of two or more adjoining counties may jointly establish and maintain schools. The title to the school shall be vested in the board of the county in which the school is located. The agreement by which the school is established shall be reduced to writing and entered of record in the minutes of each board.

(b) The boards of the several districts shall determine the site of the proposed school and the amount to be expended for its establishment and equipment.

(1) The participating counties shall enter a formal agreement regarding the manner in which the cost for the acquisition of the property and equipment shall be apportioned.

(2) The board in the district in which the building is located shall be vested with the control and management of the school, except as may otherwise be provided in the agreement between the counties.

(c) The annual operating costs shall be the responsibility of the county in which the joint school is located and subject to the allowance transfer set forth in section fourteen, article nine-a of this chapter unless otherwise provided in the agreement between the counties.

(d) For a county board that sends students to a jointly established school in another county and that provides transportation for those students or that otherwise contributes to the support services or instructional program of the school, the net enrollment of the county for the purposes of calculating its basic foundation program as provided in article nine-a of this chapter, only, shall be increased by fifteen one hundredths multiplied by the number of full-time equivalent students from the county who are enrolled in the jointly established school.
§18-5-11a. Joint governing partnership board pilot initiative.

(a) The Legislature finds that many examples exist across the state of students who reside in one county, but who attend the public schools in an adjoining county.

(1) These arrangements have been accommodated by the boards of the adjoining counties and applicable statutes to serve best the interests of the students by enabling them to attend a school closer to their homes.

(2) Typically, these arrangements have evolved because school closures or construction of new schools in the student’s county of residence have made a cross-county transfer to an existing school in an adjoining county a more convenient, practical and educationally sound option.

(b) The Legislature further finds that as population changes continue to occur, the boards of adjoining counties may best serve the interests of their students and families by establishing a new school in partnership to be attended by students residing in each of the counties. Particularly in the case of elementary grade level schools established in partnership between adjoining counties, the Legislature finds that each of the county boards, as well as the parents of students from each of the counties attending the school, have an interest in the operation of the school and the preparation of the students for success as they transition to the higher grade levels in the other schools of their respective home counties. Therefore, in the absence of a well defined governance structure that accommodates these interests, the purpose of this section is to provide for a joint governing partnership board pilot initiative.

(c) The pilot initiative is limited to the joint establishment by two adjoining counties of a school including elementary grade levels for which a memorandum of understanding on the governance and operation of the school has been signed. The pilot initiative is subject to amendment of the agreement as may be necessary to incorporate at least the following features of a joint governing partnership board:

(1) The joint governing partnership board is comprised of the county superintendent of each county, the president of the county
board of each county or his or her designee, and a designee of the state superintendent;

(2) The board shall elect a chair from among its membership for a two-year term and may meet monthly or at the call of the chair.

(A) Meetings of the board are subject to the open governmental proceedings laws applicable to county boards.

(B) The boards of the respective counties are responsible for the expenses of its members and shall apportion other operational expenses of the board upon mutual agreement.

(C) Once the jointly established school is opened, the meetings of the board shall be held at the school;

(3) All provisions of law applicable to the establishment, operation and management of an inter-county school including, but not limited to, section eleven, article five and section fourteen, article nine-a of this chapter and article eight-i, article four, chapter eighteen-a of this code apply, except that the joint governing partnership board may exercise governing authority for operation and management of the school in the following areas:

(A) Personnel.

(i) Within the applicable laws for employment, evaluation, mentoring, professional development, suspension and dismissal, the powers and duties of the county superintendent are vested in the joint governing partnership board with respect to the employees employed by the county in which the school is located or assigned to the school from the partner county.

(ii) The employees are the employees of the employing county board and the partnership board may make recommendations concerning these employment matters to the employing board it considers necessary and appropriate;

(B) Curriculum.

(i) The joint governing partnership board is responsible for the formulation and execution of the school's strategic improve-
ment plan and technology plan to meet the goals for student and school performance and progress.

(ii) In its formulation of these plans, the partnership board shall consider the curriculum and plans of the respective county boards to ensure preparation of the students at the school for their successful transition into the higher grade level schools of the respective counties;

(C) **Finances.** The joint governing partnership board shall control and may approve the expenditure of all funds allocated to the school for the school budget from either county and may solicit and receive donations, apply for and receive grants and conduct fund raisers to supplement the budget:

(D) **Facilities.** Consistent with the policies in effect concerning liability insurance coverage, maintenance and appropriate uses of school facilities for the schools of the county in which the school is located, the joint governing partnership board governs the use of the school facility and ensures equitable opportunities for access and use by organizations and groups from both counties.

(d) The joint governing partnership board may adopt policies for the school that are separate from the policies of the respective counties and, working in concert with its local school improvement council, may propose alternatives to the operation of the school which require the request of a waiver of policy, interpretation or statute from either or both county boards, the state board or the Legislature as appropriate.

(e) The superintendents and presidents of county boards of adjoining counties that have in effect on the effective date of this section a memorandum of understanding on the governance and operation of a jointly established school shall report to the Legislative Oversight Commission on Education Accountability on or before November 1, 2013, on the status of implementation of this section.

(I) Once established, the joint governing partnership board established under this pilot initiative shall remain in effect for five consecutive school years unless authority for the pilot initiative is repealed.
(2) The Legislative Oversight Commission on Education Accountability may request the superintendents and the presidents of the county boards to provide periodic updates on this pilot initiative. Also, at the conclusion of the five-year pilot initiative, they shall report their recommendations on the viability of the joint governing partnership board approach and any recommended changes to the Legislative Oversight Commission on Education Accountability.

(A) When the five-year period is concluded, by affirmative vote of both boards, the joint governing partnership board shall remain in effect; or

(B) The agreement between the boards for the governance and operation of the school shall revert to the terms in effect on the effective date of this section, subject to amendment by agreement of the boards.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-2a. Local school improvement council modification for certain jointly established and across county schools.

(a) For the purposes of this section, “parent” or “parents” means the person or persons who have legal responsibility for a student, including parents, guardians or custodians.

(b) Jointly established schools —

(1) In the case of a school that is jointly established by two or more adjoining counties as provided in section eleven, article five of this chapter, the school’s local school improvement council shall be modified to include a composition of parents and at-large members in its membership as follows, notwithstanding subdivisions (4) and (5), subsection (a), section two of this article:

(A) Five parents of students enrolled at the school elected by the parent members of the school’s parent teacher organization. If there is no parent teacher organization, the parent members shall be elected by the parents of students enrolled at the school in such manner as may be determined by the principal. No more than three parents may be residents of the same county; and
(B) Four at-large members appointed by the principal:

(i) Two shall reside in the school's attendance area, but may not be from the same county; and

(ii) Two shall represent business or industry and may not be from the same county.

(C) None of the at-large members is eligible for membership under any of the other elected classes of members.

(2) The local school improvement council shall meet at least once each year with the advisory council as established in the memorandum of understanding or with the joint governing partnership board for the jointly established school as applicable.

(3) Prior to commencing an authorized action under section three of this article for the purpose of proposing alternatives to the operation of the school and for the purpose of requesting a waiver of policy, interpretation or statute if needed to implement the alternative, the local school improvement council shall seek advice from the jointly established school's advisory council or joint governing partnership board.

(c) In the case of a school that is not a jointly established school as provided in section eleven, article five of this chapter, but whose net enrollment includes at least one hundred fifty students whose parents are residents of an adjoining county, upon a petition signed by a majority of the parents of the students who are enrolled at the school, but who reside in an adjoining county, the local school improvement council of the school shall be modified as provided in subdivisions (1) and (2), subsection (b) of this section.

(d) For local school improvement councils under this section who are proposing alternatives to the operation of the school which require the request of a waiver of policy, interpretation or statute under the authority and procedures as set forth in section three of this article, the terms "appropriate board" and "affected board" as used in section three, mean the board or the multiple boards from whom a waiver is necessary for the proposal to be implemented.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 3rd day of May, 2013.

Governor
PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 10:27 am