

HB 3160

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STATE

**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.

**E N R O L L E D**

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**H. B. 3160**

SECRETARY OF STATE

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

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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.**

**§18-5-11. Joint establishment of schools.**

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

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

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

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

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

22 (d) For a county board that sends students to a jointly  
23 established school in another county and that provides transpor-  
24 tation for those students or that otherwise contributes to the  
25 support services or instructional program of the school, the net  
26 enrollment of the county for the purposes of calculating its basic  
27 foundation program as provided in article nine-a of this chapter,  
28 only, shall be increased by fifteen one hundredths multiplied by  
29 the number of full-time equivalent students from the county who  
30 are enrolled in the jointly established school.

**§18-5-11a. Joint governing partnership board pilot initiative.**

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

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

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

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

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

35 (1) The joint governing partnership board is comprised of the  
36 county superintendent of each county, the president of the county

37 board of each county or his or her designee, and a designee of  
38 the state superintendent;

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

42 (A) Meetings of the board are subject to the open govern-  
43 mental proceedings laws applicable to county boards.

44 (B) The boards of the respective counties are responsible for  
45 the expenses of its members and shall apportion other opera-  
46 tional expenses of the board upon mutual agreement.

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

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

57 (A) *Personnel.*

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

64 (ii) The employees are the employees of the employing  
65 county board and the partnership board may make recommenda-  
66 tions concerning these employment matters to the employing  
67 board it considers necessary and appropriate;

68 (B) *Curriculum.*

69 (i) The joint governing partnership board is responsible for  
70 the formulation and execution of the school's strategic improve-

71 ment plan and technology plan to meet the goals for student and  
72 school performance and progress.

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

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

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

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

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

104 (1) Once established, the joint governing partnership board  
105 established under this pilot initiative shall remain in effect for  
106 five consecutive school years unless authority for the pilot  
107 initiative is repealed.

108 (2) The Legislative Oversight Commission on Education  
109 Accountability may request the superintendents and the presi-  
110 dents of the county boards to provide periodic updates on this  
111 pilot initiative. Also, at the conclusion of the five-year pilot  
112 initiative, they shall report their recommendations on the  
113 viability of the joint governing partnership board approach and  
114 any recommended changes to the Legislative Oversight Com-  
115 mission on Education Accountability.

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

119 (B) The agreement between the boards for the governance  
120 and operation of the school shall revert to the terms in effect on  
121 the effective date of this section, subject to amendment by  
122 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.**

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

4 (b) *Jointly established schools* —

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

12 (A) Five parents of students enrolled at the school elected by  
13 the parent members of the school’s parent teacher organization.  
14 If there is no parent teacher organization, the parent members  
15 shall be elected by the parents of students enrolled at the school  
16 in such manner as may be determined by the principal. No more  
17 than three parents may be residents of the same county; and

18 (B) Four at-large members appointed by the principal:

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

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

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

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

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

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

45 (d) For local school improvement councils under this section  
46 who are proposing alternatives to the operation of the school  
47 which require the request of a waiver of policy, interpretation or  
48 statute under the authority and procedures as set forth in section  
49 three of this article, the terms "appropriate board" and "affected  
50 board" as used in section three, mean the board or the multiple  
51 boards from whom a waiver is necessary for the proposal to be  
52 implemented.

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

Rocky Ferguson  
Member ~~Chairman, House Committee~~  
Senate

Danny Wells  
Chairman, Senate Committee  
House

Originating in the House.

In effect ninety days from passage.

Suzanne M. Snow  
Clerk of the House of Delegates

Joseph M. Minard  
Clerk of the Senate

[Signature]  
Speaker of the House of Delegates

[Signature]  
President of the Senate

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

Carl R. Tompkins  
Governor

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OFFICE OF THE CLERK OF THE SENATE

FILED

PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 10:27 am