

HB 2637

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WEST VIRGINIA LEGISLATURE

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REGULAR SESSION, 1997



# ENROLLED

HOUSE BILL No. 2637

(By Delegates Hutchins, L. White, Givens,  
Ennis, Anderson and Manuel )



Passed April 12, 1997

In Effect July 1, 1997 Passage

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

**H. B. 2637**

(BY DELEGATES HUTCHINS, L. WHITE, GIVENS,  
ENNIS, ANDERSON AND MANUEL)

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[Passed April 12, 1997; in effect July 1, 1997.]

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AN ACT to amend and reenact section two, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section thirteen, article five, chapter eighteen of said code; and to amend and reenact section one, article one, chapter eighteen-a of said code, all relating to insurance benefits for county board of education employees who job-share.

*Be it enacted by the Legislature of West Virginia:*

That section two, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section thirteen, article five, chapter eighteen be amended and reenacted; and that section one, article one, chapter eighteen-a be amended and reenacted to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE AND  
ATTORNEY GENERAL; BOARD OF PUBLIC  
WORKS; MISCELLANEOUS AGENCIES,  
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSUR-  
ANCE ACT.**

**§5-16-2. Definitions.**

1           The following words and phrases as used in this  
2 article, unless a different meaning is clearly indicated by  
3 the context, have the following meanings:

4           (1) "Advisory board" means the public employees  
5 insurance agency advisory board created by this article.

6           (2) "Agency" means the public employees  
7 insurance agency created by this article.

8           (3) "Director" means the director of the public  
9 employees insurance agency, created by this article.

10          (4) "Employee" means any person, including  
11 elected officers, who works regularly full time in the  
12 service of the state of West Virginia and, for the purpose  
13 of this article only, the term "employee" also means any  
14 person, including elected officers, who works regularly  
15 full time in the service of a county board of education; a  
16 county, city or town in the state; any separate corporation  
17 or instrumentality established by one or more counties,  
18 cities or towns, as permitted by law; any corporation or  
19 instrumentality supported in most part by counties, cities  
20 or towns; any public corporation charged by law with the  
21 performance of a governmental function and whose  
22 jurisdiction is coextensive with one or more counties, cities  
23 or towns; any comprehensive community mental health  
24 center or comprehensive mental retardation facility  
25 established, operated or licensed by the secretary of health  
26 and human resources pursuant to section one, article  
27 two-a, chapter twenty-seven of this code, and which is  
28 supported in part by state, county or municipal funds; any  
29 person who works regularly full time in the service of the  
30 university of West Virginia board of trustees or the board  
31 of directors of the state college system; and any person  
32 who works regularly full time in the service of a combined  
33 city-county health department created pursuant to article  
34 two, chapter sixteen of this code. On and after the first  
35 day of January, one thousand nine hundred ninety-four,  
36 and upon election by a county board of education to  
37 allow elected board members to participate in the public  
38 employees insurance program pursuant to this article, any  
39 person elected to a county board of education shall be  
40 deemed to be an "employee" during the term of office

41 of the elected member: *Provided*, That the elected  
42 member shall pay the entire cost of the premium if he or  
43 she elects to be covered under this act. Any matters of  
44 doubt as to who is an employee within the meaning of this  
45 article shall be decided by the director.

46 On or after the first day of July, one thousand nine  
47 hundred ninety-seven, a person shall be considered an  
48 "employee" if that person meets the following criteria:

49 (i) Participates in a job-sharing arrangement as  
50 defined in section one, article one, chapter eighteen-a of  
51 this code;

52 (ii) Has been designated, in writing, by all other  
53 participants in that job-sharing arrangement as the  
54 "employee" for purposes of this section; and

55 (iii) Works at least one third of the time required for  
56 a full-time employee.

57 (5) "Employer" means the state of West Virginia, its  
58 boards, agencies, commissions, departments, institutions or  
59 spending units; a county board of education; a county,  
60 city or town in the state; any separate corporation or  
61 instrumentality established by one or more counties, cities  
62 or towns, as permitted by law; any corporation or  
63 instrumentality supported in most part by counties, cities  
64 or towns; any public corporation charged by law with the  
65 performance of a governmental function and whose  
66 jurisdiction is coextensive with one or more counties, cities  
67 or towns; any comprehensive community mental health  
68 center or comprehensive mental retardation facility  
69 established, operated or licensed by the secretary of health  
70 and human resources pursuant to section one, article  
71 two-a, chapter twenty-seven of this code, and which is  
72 supported in part by state, county or municipal funds; and  
73 a combined city-county health department created  
74 pursuant to article two, chapter sixteen of this code. Any  
75 matters of doubt as to who is an "employer" within the  
76 meaning of this article shall be decided by the director.  
77 The term "employer" does not include within its  
78 meaning the national guard.

79 (6) "Finance board" means the public employees  
80 insurance agency finance board created by this article.

81 (7) "Plan" means the medical indemnity plan or a  
82 managed care plan option offered by the agency.

83 (8) "Retired employee" means an employee of the  
84 state who retired after the twenty-ninth day of April, one  
85 thousand nine hundred seventy-one, and an employee of  
86 the university of West Virginia board of trustees or the  
87 board of directors of the state college system or a county  
88 board of education who retires on or after the twenty-first  
89 day of April, one thousand nine hundred seventy-two, and  
90 all additional eligible employees who retire on or after the  
91 effective date of this article and meet the minimum  
92 eligibility requirements for their respective state retirement  
93 system: *Provided*, That for the purposes of this article, the  
94 employees who are not covered by a state retirement  
95 system shall, in the case of education employees, meet the  
96 minimum eligibility requirements of the state teachers  
97 retirement system, and in all other cases, meet the  
98 minimum eligibility requirements of the public employees  
99 retirement system.

## CHAPTER 18. EDUCATION.

### ARTICLE 5. COUNTY BOARD OF EDUCATION.

#### §18-5-13. Authority of boards generally.

1 The boards, subject to the provisions of this chapter  
2 and the rules of the state board, have authority:

3 (1) To control and manage all of the schools and  
4 school interests for all school activities and upon all school  
5 property, whether owned or leased by the county,  
6 including the authority to require that records be kept of  
7 all receipts and disbursements of all funds collected or  
8 received by any principal, teacher, student or other person  
9 in connection with the schools and school interests, any  
10 programs, activities or other endeavors of any nature  
11 operated or carried on by or in the name of the school, or  
12 any organization or body directly connected with the  
13 school, to audit the records and to conserve the funds,

14 which shall be considered quasi-public moneys, including  
15 securing surety bonds by expenditure of board moneys;

16 (2) To establish schools, from preschool through  
17 high school, inclusive of vocational schools; and to  
18 establish schools and programs, or both, for post high  
19 school instruction, subject to approval of the state board of  
20 education;

21 (3) To close any school which is unnecessary and to  
22 assign the pupils of the school to other schools: *Provided*,  
23 That the closing shall be officially acted upon and  
24 teachers and service personnel involved notified on or  
25 before the first Monday in April, in the same manner as  
26 provided in section four of this article, except in an  
27 emergency, subject to the approval of the state  
28 superintendent, or under subdivision (5) of this section;

29 (4) To consolidate schools;

30 (5) To close any elementary school whose average  
31 daily attendance falls below twenty pupils for two months  
32 in succession and send the pupils to other schools in the  
33 district or to schools in adjoining districts. If the teachers  
34 in the closed school are not transferred or reassigned to  
35 other schools, they shall receive one month's salary;

36 (6) (a) To provide at public expense adequate means  
37 of transportation, including transportation across county  
38 lines, for all children of school age who live more than two  
39 miles distance from school by the nearest available road;  
40 to provide at public expense and according to such rules  
41 as the board may establish, adequate means of  
42 transportation for school children participating in board-  
43 approved curricular and extracurricular activities; and to  
44 provide in addition thereto at public expense, by rules and  
45 within the available revenues, transportation for those  
46 within two miles distance; to provide in addition thereto, at  
47 no cost to the board and according to rules established by  
48 the board, transportation for participants in projects  
49 operated, financed, sponsored or approved by the  
50 commission on aging: *Provided*, That all costs and  
51 expenses incident in any way to transportation for projects  
52 connected with the commission on aging shall be borne

53 by the commission, or the local or county chapter of the  
54 commission: *Provided, however,* That in all cases the  
55 school buses owned by the board of education shall be  
56 driven or operated only by drivers regularly employed by  
57 the board of education: *Provided further,* That the  
58 county board may provide, under rules established by the  
59 state board, for the certification of professional employees  
60 as drivers of board-owned vehicles with a seating capacity  
61 of less than ten passengers used for the transportation of  
62 pupils for school-sponsored activities other than  
63 transporting students between school and home: *And*  
64 *provided further,* That the use of the vehicles shall be  
65 limited to one for each school-sponsored activity: *And*  
66 *provided further,* That buses shall be used for  
67 extracurricular activities as provided in this section only  
68 when the insurance provided for by this section is in  
69 effect;

70 (b) To enter into agreements with one another to  
71 provide, on a cooperative basis, adequate means of  
72 transportation across county lines for children of school  
73 age subject to the conditions and restrictions of  
74 subdivisions (6) and (8) of this section;

75 (7) (a) To lease school buses operated only by drivers  
76 regularly employed by the board to public and private  
77 nonprofit organizations or private corporations to  
78 transport school-age children to and from camps or  
79 educational activities in accordance with rules established  
80 by the board. All costs and expenses incurred by or  
81 incidental to the transportation of the children shall be  
82 borne by the lessee;

83 (b) To contract with any college or university or  
84 officially recognized campus organizations to provide  
85 transportation for college or university students, faculty or  
86 staff to and from the college or university: *Provided,*  
87 That only college and university students, faculty and staff  
88 are being transported. The contract shall include  
89 consideration and compensation for bus operators, repairs  
90 and other costs of service, insurance and any rules  
91 concerning student behavior;

92 (8) To provide at public expense for insurance  
93 against the negligence of the drivers of school buses,  
94 trucks or other vehicles operated by the board; and if the  
95 transportation of pupils is contracted, then the contract  
96 for the transportation shall provide that the contractor  
97 shall carry insurance against negligence in an amount  
98 specified by the board;

99 (9) To provide solely from county funds for all  
100 regular full-time employees of the board all or any part of  
101 the cost of a group plan or plans of insurance coverage  
102 not provided or available under the West Virginia public  
103 employees insurance act.

104 (10) To employ teacher aides, to provide in-service  
105 training for teacher aides, the training to be in accordance  
106 with rules of the state board and, in the case of service  
107 personnel assuming duties as teacher aides in exceptional  
108 children programs, to provide a four-clock-hour program  
109 of training prior to the assignment which shall, in  
110 accordance with rules of the state board, consist of training  
111 in areas specifically related to the education of exceptional  
112 children;

113 (11) To establish and conduct a self-supporting  
114 dormitory for the accommodation of the pupils attending  
115 a high school or participating in a post high school  
116 program and of persons employed to teach in the high  
117 school or post high school program;

118 (12) To employ legal counsel;

119 (13) To provide appropriate uniforms for school  
120 service personnel;

121 (14) To provide at public expense and under rules as  
122 established by any county board of education for the  
123 payment of traveling expenses incurred by any person  
124 invited to appear to be interviewed concerning possible  
125 employment by the county board of education;

126 (15) To allow or disallow their designated employees  
127 to use publicly provided carriage to travel from their  
128 residences to their workplace and return: *Provided*, That  
129 the usage is subject to the supervision of the board and is



130 directly connected with and required by the nature and in  
131 the performance of the employee's duties and  
132 responsibilities;

133 (16) To provide, at public expense, adequate public  
134 liability insurance, including professional liability  
135 insurance for board employees;

136 (17) To enter into agreements with one another to  
137 provide, on a cooperative basis, improvements to the  
138 instructional needs of each county. The cooperative  
139 agreements may be used to employ specialists in a field of  
140 academic study or support functions or services, for the  
141 academic study. The agreements are subject to approval  
142 by the state board of education;

143 (18) To provide information about vocational or  
144 higher education opportunities to students with  
145 handicapping conditions. The board shall provide in  
146 writing to the students and their parents or guardians  
147 information relating to programs of vocational education  
148 and to programs available at state funded institutions of  
149 higher education. The information may include sources  
150 of available funding, including grants, mentorships and  
151 loans for students who wish to attend classes at institutions  
152 of higher education; and

153 (19) To enter into agreements with one another, with  
154 the approval of the state board, for the transfer and receipt  
155 of any and all funds determined to be fair when students  
156 are permitted or required to attend school in a county  
157 other than the county of their residence.

158 (20) To enter into job sharing arrangements, as  
159 defined in section one, article one, chapter eighteen-a of  
160 this code, with its professional employees: *Provided*, That  
161 a job sharing arrangement shall meet all the requirements  
162 relating to posting, qualifications and seniority, as  
163 provided for in article four, chapter eighteen-a of this  
164 code: *Provided, however*, That, notwithstanding any  
165 provisions of this code to the contrary, a county board  
166 which enters into a job-sharing arrangement wherein two  
167 or more professional employees voluntarily share an  
168 authorized full-time position shall provide the mutually

169 agreed upon employee coverage but shall not offer  
170 insurance coverage to more than one of the job sharing  
171 employees, including any group plan or group plans  
172 available under the state public employees insurance act:  
173 *Provided, further,* That all employees involved in the job  
174 sharing agreement meet the requirements of subdivision  
175 four, section two, article sixteen, chapter five of this code.

176 “Quasi-public funds” as used in this section means  
177 any money received by any principal, teacher, student or  
178 other person for the benefit of the school system as a  
179 result of curricular or noncurricular activities.

180 The board of each county shall expend under rules it  
181 establishes for each child an amount not to exceed the  
182 proportion of all school funds of the district that each  
183 child would be entitled to receive if all the funds were  
184 distributed equally among all the children of school age in  
185 the district upon a per capita basis.

## CHAPTER 18A. SCHOOL PERSONNEL.

### §18A-1-1. Definitions.

1 The definitions contained in section one, article one,  
2 chapter eighteen shall be applicable to this chapter. In  
3 addition, the following words used in this chapter and in  
4 any proceedings pursuant thereto shall, unless the context  
5 clearly indicates a different meaning, be construed as  
6 follows:

7 (a) “School personnel” means all personnel  
8 employed by a county board of education whether  
9 employed on a regular full-time basis, an hourly basis or  
10 otherwise. School personnel shall be comprised of two  
11 categories: Professional personnel and service personnel.

12 (b) “Professional personnel” means persons who  
13 meet the certification and/or licensing requirements of the  
14 state, and shall include the professional educator and other  
15 professional employees.

16 (c) “Professional educator” shall be synonymous  
17 with and shall have the same meaning as “teacher” as

18 defined in section one, article one, chapter eighteen of this  
19 code. Professional educators shall be classified as:

20 (1) "Classroom teacher" — The professional  
21 educator who has direct instructional or counseling  
22 relationship with pupils, spending the majority of his time  
23 in this capacity.

24 (2) "Principal" — The professional educator who as  
25 agent of the board has responsibility for the supervision,  
26 management and control of a school or schools within the  
27 guidelines established by said board. The major area of  
28 such responsibility shall be the general supervision of all  
29 the schools and all school activities involving pupils,  
30 teachers and other school personnel.

31 (3) "Supervisor" — The professional educator who,  
32 whether by this or other appropriate title, is responsible for  
33 working primarily in the field with professional and/or  
34 other personnel in instructional and other school  
35 improvement.

36 (4) "Central office administrator" — The  
37 superintendent, associate superintendent, assistant  
38 superintendent and other professional educators, whether  
39 by these or other appropriate titles, who are charged with  
40 the administering and supervising of the whole or some  
41 assigned part of the total program of the county-wide  
42 school system.

43 (d) "Other professional employee" means that  
44 person from another profession who is properly licensed  
45 and is employed to serve the public schools and shall  
46 include a registered professional nurse, licensed by the  
47 West Virginia board of examiners for registered  
48 professional nurses and employed by a county board of  
49 education, who has completed either a two-year (sixty-  
50 four semester hours) or a three-year (ninety-six semester  
51 hours) nursing program.

52 (e) "Service personnel" means those who serve the  
53 school or schools as a whole, in a nonprofessional  
54 capacity, including such areas as secretarial, custodial,  
55 maintenance, transportation, school lunch and as aides.

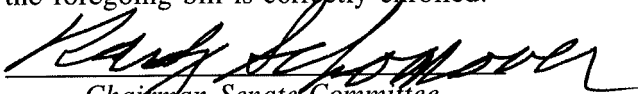
56 (f) "Principals academy" or "academy" means the  
57 academy created pursuant to section two-b, article three-a  
58 of this chapter.

59 (g) "Center for professional development" means  
60 the center created pursuant to section one, article three-a  
61 of this chapter.

62 (h) "Job-sharing arrangement" means a formal,  
63 written agreement voluntarily entered into by a county  
64 board with two or more of its professional employees who  
65 wish to divide between them the duties and responsibilities  
66 of one authorized full-time position.

Enr. Com. Sub. for H. B. 2637] 12

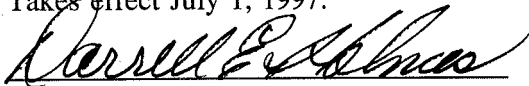
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


  
Chairman Senate Committee

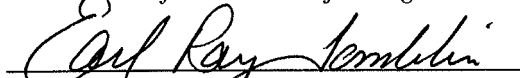
  
Chairman House Committee

Originating in the House.

Takes effect July 1, 1997.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 7<sup>th</sup>  
day of May, 1997.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/28/97

Time 2:15 pm