

**WEST VIRGINIA LEGISLATURE**  
Regular Session, 2003

---

**ENROLLED**

*Committee Substitute for*  
**SENATE BILL NO.** 522

(By Senator OLIVERIO, et al)

---

**PASSED** March 8, 2003

**In Effect** 90 days from **Passage**

FILED

2003 MAR 17 P 4:50

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 522**

(SENATORS OLIVERIO, PREZIOSO, PLYMALE, EDGELL,  
HUNTER, GUILLS, BOWMAN, ROWE AND LOVE, *original*  
*sponsors*)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact sections one-a and seven, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to removing service on certain boards in certain circumstances from limitation on service on county boards; providing for certain advisory opinions by ethics commission and specifying effect of reliance upon them by board members, members elect and persons seeking office; specifying additional training for board members and options for crediting time; and authorizing a county board of education to lease school property that is no longer needed.

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

That sections one-a and seven, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-1a. Eligibility of Members; training requirements.**

1 (a) No person shall be eligible for membership on any  
2 county board who is not a citizen, resident in such county, or  
3 who accepts a position as teacher or service personnel in the  
4 school district in which he or she is a resident or who is an  
5 elected or an appointed member of any political party executive  
6 committee, or who becomes a candidate for any other office  
7 than to succeed oneself.

8  
9 (b) No member or member-elect of any board shall be  
10 eligible for nomination, election or appointment to any public  
11 office, other than to succeed oneself, or for election or  
12 appointment as a member of any political party executive  
13 committee, unless and until after that membership on the board,  
14 or his status as member-elect to the board, has been terminated  
15 at or before the time of his filing for such nomination for, or  
16 appointment to, such public office or committee: *Provided*,  
17 That “office” or “committee”, as used in this subsection and  
18 subsection (a) of this section, does not include service on any  
19 board, elected or appointed, profit or non profit, for which the  
20 person does not receive compensation and whose primary scope  
21 is not related to the public schools.

22  
23 (c) A member or member elect of a county board, or a  
24 person desiring to become a member of a county board, may  
25 make a written request to the West Virginia ethics commission  
26 for an advisory opinion on whether another elected or appointed  
27 position held or sought by the person is an office or public  
28 office which would bar serving on the board pursuant to  
29 subsections (a) and (b) of this section. Within thirty days of  
30 receipt of the request, the ethics commission shall issue a  
31 written advisory opinion in response to the request and shall  
32 also publish such opinion in a manner which to the fullest extent  
33 possible does not reveal the identity of the person making the

34 request. Any county board member who relied in good faith  
35 upon an advisory opinion issued by the West Virginia ethics  
36 commission that holding a particular office or public office is  
37 not a bar from membership on a county board of education and  
38 against whom proceedings are subsequently brought for  
39 removal from the county board on the basis of holding such  
40 office or offices shall be entitled to reimbursement by the county  
41 board for reasonable attorney's fees and court costs incurred by  
42 the member in defending against such proceedings, regardless  
43 of the outcome the proceedings. Further, no vote cast by the  
44 member at a meeting of the board shall be invalidated due to a  
45 subsequent finding that holding the particular office or public is  
46 a bar to membership on the county board. Good faith reliance  
47 on a written advisory opinion of the West Virginia ethics  
48 commission that a particular office or public office is not a bar  
49 to membership on a county board of education is an absolute  
50 defense to any civil suit or criminal prosecution arising from any  
51 proper action taken within the scope of membership on the  
52 board, becoming a member elect of the board or seeking  
53 election to the board.

54  
55 (d) Any person who is elected or appointed to a county  
56 board on or after the fifth day of May, one thousand nine  
57 hundred ninety-two, shall possess at least a high school diploma  
58 or a general educational development (GED) diploma:  
59 *Provided*, That this provision shall not apply to members or  
60 members-elect who have taken office prior to the fifth day of  
61 May, one thousand nine hundred ninety-two, and who serve  
62 continuously therefrom.

63  
64 (e) No person elected to a county board after the first  
65 day of July, one thousand nine hundred ninety, shall assume the  
66 duties of board member unless he or she has first attended and  
67 completed a course of orientation relating to boardsmanship and  
68 governance effectiveness which shall be given between the date  
69 of election and the beginning of the member's term of office:  
70 *Provided*, That a portion or portions of subsequent training  
71 such as that offered in orientation may be provided to members

72 after they have commenced their term of office: *Provided,*  
73 *however,* That attendance at the session of orientation given  
74 between the date of election and the beginning of the member's  
75 term of office shall permit such member or members to assume  
76 the duties of board member, as specified in this section.  
77 Members appointed to the board shall attend and complete the  
78 next such course offered following their appointment: *Provided*  
79 *further,* That the provisions of this section relating to  
80 orientation shall not apply to members who have taken office  
81 prior to the first day of July, one thousand nine hundred eighty-  
82 eight, and who serve continuously therefrom.

83  
84 (f) Commencing on the effective date of this section,  
85 members shall annually receive seven clock hours of training in  
86 areas relating to boardsmanship, governance effectiveness, and  
87 school performance issues including, but not limited to,  
88 pertinent state and federal statutes such as the "Process for  
89 Improving Education" set forth in section five, article two-e of  
90 this chapter and the "No Child Left Behind Act" and their  
91 respective administrative rules. Such orientation and training  
92 shall be approved by the state board and conducted by the West  
93 Virginia school board association or other organization or  
94 organizations approved by the state board: *Provided,* That the  
95 state board may exclude time spent in training on school  
96 performance issues from the requisite seven hours herein  
97 required: *Provided, however,* That if the state board elects to  
98 exclude time spent in training on school performance issues  
99 from the requisite seven hours, such training shall be limited by  
100 the state board to a feasible and practicable amount of time.  
101 Failure to attend and complete such an approved course of  
102 orientation and training relating to boardsmanship and  
103 governance effectiveness without good cause as determined by  
104 legislative rules of the state board shall constitute neglect of  
105 duty.

106  
107 (g) In the final year of any four-year term of office, a  
108 member shall satisfy the annual training requirement before the  
109 first day of January. The state board shall petition the circuit

110 court of Kanawha County to remove any county board member  
 111 who has failed to or who refuses to attend and complete the  
 112 approved course of orientation and training. If the county  
 113 board member fails to show good cause for not attending the  
 114 approved course of orientation and training, the court shall  
 115 remove the member from office.

**§18-5-7. Sale of school property at public auction; rights of grantor of lands in rural communities; oil and gas leases; disposition of proceeds; lease of school property.**

1 (a) Except as set forth in subsection (b) of this section,  
 2 if at any time a county board determines that any building or any  
 3 land is no longer needed for school purposes, the county board  
 4 may sell, dismantle, remove or relocate the building and sell the  
 5 land on which it is located at public auction, after proper notice  
 6 and on such terms as it orders, to the highest responsible bidder.

7  
 8 (b) Notwithstanding the provisions of subsection (a) of  
 9 this section, in rural communities, the grantor of the lands or his  
 10 or her heirs or assigns has the right to purchase at the sale, the  
 11 land, exclusive of the buildings on the land and the mineral  
 12 rights, at the same price for which it was originally sold:  
 13 *Provided*, That the sale to the board was not a voluntary arms  
 14 length transaction for valuable consideration approximating the  
 15 fair market value of the property at the time of the sale to the  
 16 board *Provided, however*, That the provisions of this section  
 17 may not operate to invalidate any provision of the deed to the  
 18 contrary.

19  
 20 (c) The county board, by the same method set forth in  
 21 subsection (a) of this section for the sale of school buildings and  
 22 lands, may, in lieu of offering the property for sale, enter into  
 23 a lease for oil or gas or other minerals any lands or school sites  
 24 owned in fee by it. The proceeds of the sales and rentals shall  
 25 be placed to the credit of the fund or funds of the district as the  
 26 county board may direct.

27 (d) The county board may make any sale of property  
28 subject to the provision that all liability for hazards associated  
29 with the premises are to be assumed by the purchaser. In  
30 any sale by the county board of improved property in which the  
31 actual consideration is less than ten thousand dollars or in any  
32 sale of unimproved property in which the actual consideration  
33 is less than one thousand dollars, the county board shall make  
34 any sale of property subject to the provision that all liability for  
35 hazards associated with the premises are to be assumed by the  
36 purchaser. The county board shall inform any prospective  
37 purchaser of known or suspected hazards associated with the  
38 property.  
39

40 (e) Except as provided by the provisions of subsection  
41 (b) of this section, where a county board determines that any  
42 school property is no longer needed for school purposes, the  
43 county board may, upon determining that it will serve the best  
44 interests of the school system and the community, offer the  
45 property for lease. The procedure set forth in subsection (a) of  
46 this section relating to sale of school buildings and lands shall  
47 apply to leasing the school property. Any lease authorized by  
48 the provisions of this subsection shall be in writing. The writing  
49 shall include a recitation of all known or reasonably suspected  
50 hazards associated with the property, an assumption by the  
51 lessee of all liability related to all hazards, whether disclosed or  
52 not, and provisions wherein the lessee assumes all liability for  
53 any actions arising from the property during the term of the  
54 lease.  
55

56 (f) Notwithstanding any provision of this section to the  
57 contrary, the provisions of this section concerning sale or lease  
58 at public auction may not apply to a county board selling,  
59 leasing or otherwise disposing of its property for a public use to  
60 the state of West Virginia, or its political subdivisions, including  
61 county commissions, for an adequate consideration without  
62 considering alone the present commercial or market value of the  
63 property.

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

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is disapproved* ..... this the *15th* .....  
Day of *March* ..... 2003.

*[Signature]*  
.....  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3-15-03

Time 10:35 AM