

1 **H. B. 4583**

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3 (By Delegates M. Poling, Shaver, Caputo, Moye,  
4 Perry, Michael, Sumner and Duke)

5 [Introduced February 17, 2012; referred to the  
6 Committee on Education then Finance.]

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10 A BILL to amend and reenact §18A-2-2, §18A-2-6, §18A-2-7 and  
11 §18A-2-8a of the Code of West Virginia, 1931, as amended; and  
12 to amend and reenact §18A-4-7a of said code, all relating to  
13 changing certain deadlines associated with the termination,  
14 resignation and transfer of school personnel and rehiring of  
15 probationary employees; and changing the last date for  
16 voluntary transfers prior to beginning of instructional term.

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

18 That §18A-2-2, §18A-2-6, §18A-2-7 and §18A-2-8a of the code of  
19 West Virginia, 1931, as amended, be amended and reenacted; and that  
20 §18A-4-7a of said code be amended and reenacted, all to read as  
21 follows:

22 **ARTICLE 2. SCHOOL PERSONNEL.**

23 **§18A-2-2. Employment of teachers; contracts; continuing contract**  
24 **status; how terminated; dismissal for lack of need;**

1           **released time; failure of teacher to perform contract**  
2           **or violation thereof; written notice bonus for**  
3           **teachers and professional personnel.**

4           (a) Before entering upon their duties, all teachers shall  
5 execute a contract with their county boards, which shall state the  
6 salary to be paid and shall be in the form prescribed by the state  
7 superintendent. Each contract shall be signed by the teacher and  
8 by the president and secretary of the county board and shall be  
9 filed, together with the certificate of the teacher, by the  
10 secretary of the office of the county board: *Provided*, That when  
11 necessary to facilitate the employment of employable professional  
12 personnel and prospective and recent graduates of teacher education  
13 programs who have not yet attained certification, the contract may  
14 be signed upon the condition that the certificate is issued to the  
15 employee prior to the beginning of the employment term in which the  
16 employee enters upon his or her duties.

17           (b) Each teacher's contract, under this section, shall be  
18 designated as a probationary or continuing contract. A  
19 probationary teacher's contract shall be for a term of not less  
20 than one nor more than three years, one of which shall be for  
21 completion of a beginning teacher internship pursuant to the  
22 provisions of section two-b, article three of this chapter, if  
23 applicable. If, after three years of such employment, the teacher

1 who holds a professional certificate, based on at least a  
2 bachelor's degree, has met the qualifications for a bachelor's  
3 degree and the county board enter into a new contract of  
4 employment, it shall be a continuing contract, subject to the  
5 following:

6 (1) Any teacher holding a valid certificate with less than a  
7 bachelor's degree who is employed in a county beyond the three-year  
8 probationary period shall upon qualifying for the professional  
9 certificate based upon a bachelor's degree, if reemployed, be  
10 granted continuing contract status; and

11 (2) A teacher holding continuing contract status with one  
12 county shall be granted continuing contract status with any other  
13 county upon completion of one year of acceptable employment if the  
14 employment is during the next succeeding school year or immediately  
15 following an approved leave of absence extending no more than one  
16 year.

17 (c) The continuing contract of any teacher shall remain in  
18 full force and effect except as modified by mutual consent of the  
19 school board and the teacher, unless and until terminated, subject  
20 to the following:

21 (1) A continuing contract may not be terminated except:

22 (A) By a majority vote of the full membership of the county  
23 board on or before ~~February 1~~ March 1 of the then current year,  
24 after written notice, served upon the teacher, return receipt

1 requested, stating cause or causes and an opportunity to be heard  
2 at a meeting of the board prior to the board's action on the  
3 termination issue; or

4 (B) By written resignation of the teacher on or before  
5 ~~February 1~~ March 1 to initiate termination of a continuing  
6 contract;

7 (2) The termination shall take effect at the close of the  
8 school year in which the contract is terminated;

9 (3) The contract may be terminated at any time by mutual  
10 consent of the school board and the teacher;

11 (4) This section does not affect the powers of the school  
12 board to suspend or dismiss a principal or teacher pursuant to  
13 section eight of this article;

14 (5) A continuing contract for any teacher holding a  
15 certificate valid for more than one year and in full force and  
16 effect during the school year 1984-1985 shall remain in full force  
17 and effect;

18 (6) A continuing contract does not operate to prevent a  
19 teacher's dismissal based upon the lack of need for the teacher's  
20 services pursuant to the provisions of law relating to the  
21 allocation to teachers and pupil-teacher ratios. The written  
22 notification of teachers being considered for dismissal for lack of  
23 need shall be limited to only those teachers whose consideration  
24 for dismissal is based upon known or expected circumstances which

1 will require dismissal for lack of need. An employee who was not  
2 provided notice and an opportunity for a hearing pursuant to this  
3 subsection may not be included on the list. In case of dismissal  
4 for lack of need, a dismissed teacher shall be placed upon a  
5 preferred list in the order of their length of service with that  
6 board. No teacher may be employed by the board until each  
7 qualified teacher upon the preferred list, in order, has been  
8 offered the opportunity for reemployment in a position for which he  
9 or she is qualified, not including a teacher who has accepted a  
10 teaching position elsewhere. The reemployment shall be upon a  
11 teacher's preexisting continuing contract and has the same effect  
12 as though the contract had been suspended during the time the  
13 teacher was not employed.

14 (d) In the assignment of position or duties of a teacher under  
15 a continuing contract, the board may provide for released time of  
16 a teacher for any special professional or governmental assignment  
17 without jeopardizing the contractual rights of the teacher or any  
18 other rights, privileges or benefits under the provisions of this  
19 chapter. Released time shall be provided for any professional  
20 educator while serving as a member of the Legislature during any  
21 duly constituted session of that body and its interim and statutory  
22 committees and commissions without jeopardizing his or her  
23 contractual rights or any other rights, privileges, benefits or  
24 accrual of experience for placement on the state minimum salary

1 schedule in the following school year under the provisions of this  
2 chapter, board policy and law.

3       (e) Any teacher who fails to fulfill his or her contract with  
4 the board, unless prevented from doing so by personal illness or  
5 other just cause or unless released from his or her contract by the  
6 board, or who violates any lawful provision of the contract, is  
7 disqualified to teach in any other public school in the state for  
8 a period of the next ensuing school year and the State Department  
9 of Education or board may hold all papers and credentials of the  
10 teacher on file for a period of one year for the violation:  
11 *Provided*, That marriage of a teacher is not considered a failure to  
12 fulfill, or violation of, the contract.

13       (f) Any classroom teacher, as defined in section one, article  
14 one of this chapter, who desires to resign employment with a county  
15 board or request a leave of absence, the resignation or leave of  
16 absence to become effective on or before July 15 of the same year  
17 and after completion of the employment term, may do so at any time  
18 during the school year by written notification of the resignation  
19 or leave of absence and any notification received by a county board  
20 shall automatically extend the teacher's public employee insurance  
21 coverage until August 31 of the same year.

22       (g) (1) A classroom teacher who gives written notice to the  
23 county board on or before ~~December 1~~ January 15 of the school year  
24 of his or her retirement from employment with the board at the

1 conclusion of the school year shall be paid \$500 from the Early  
2 Notification of Retirement line item established for the Department  
3 of Education for this purpose, subject to appropriation by the  
4 Legislature. If the appropriations to the Department of Education  
5 for this purpose are insufficient to compensate all applicable  
6 teachers, the Department of Education shall request a supplemental  
7 appropriation in an amount sufficient to compensate all such  
8 teachers. Additionally, if funds are still insufficient to  
9 compensate all applicable teachers, the priority of payment is for  
10 teachers who give written notice the earliest. This payment shall  
11 not be counted as part of the final average salary for the purpose  
12 of calculating retirement.

13 (2) The position of a classroom teacher providing written  
14 notice of retirement pursuant to this subsection may be considered  
15 vacant and the county board may immediately post the position as an  
16 opening to be filled at the conclusion of the school year. If a  
17 teacher has been hired to fill the position of a retiring classroom  
18 teacher prior to the start of the next school year, the retiring  
19 classroom teacher is disqualified from continuing his or her  
20 employment in that position. However, the retiring classroom  
21 teacher may be permitted to continue his or her employment in that  
22 position and forfeit the early retirement notification payment if,  
23 after giving notice of retirement in accordance with this  
24 subsection, he or she becomes subject to a significant unforeseen

1 financial hardship, including a hardship caused by the death or  
2 illness of an immediate family member or loss of employment of a  
3 spouse. Other significant unforeseen financial hardships shall be  
4 determined by the county superintendent on a case-by-case basis.  
5 This subsection does not prohibit a county school board from  
6 eliminating the position of a retiring classroom teacher.

7 **§18A-2-6. Continuing contract status for service personnel;**  
8 **termination.**

9 After three years of acceptable employment, each service  
10 personnel employee who enters into a new contract of employment  
11 with the board shall be granted continuing contract status:  
12 *Provided*, That a service personnel employee holding continuing  
13 contract status with one county shall be granted continuing  
14 contract status with any other county upon completion of one year  
15 of acceptable employment if such employment is during the next  
16 succeeding school year or immediately following an approved leave  
17 of absence extending no more than one year. The continuing  
18 contract of any such employee shall remain in full force and effect  
19 except as modified by mutual consent of the school board and the  
20 employee, unless and until terminated with written notice, stating  
21 cause or causes, to the employee, by a majority vote of the full  
22 membership of the board before ~~February 1~~ March 1 of the then  
23 current year, or by written resignation of the employee on or  
24 before that date. The affected employee has the right of a hearing



1 before the board, if requested, before final action is taken by the  
2 board upon the termination of such employment.

3 Those employees who have completed three years of acceptable  
4 employment as of the effective date of this legislation shall be  
5 granted continuing contract status.

6 **§18A-2-7. Assignment, transfer, promotion, demotion, suspension  
7 and recommendation of dismissal of school personnel  
8 by superintendent; preliminary notice of transfer;  
9 hearing on the transfer; proof required.**

10 (a) The superintendent, subject only to approval of the board,  
11 may assign, transfer, promote, demote or suspend school personnel  
12 and recommend their dismissal pursuant to provisions of this  
13 chapter. However, an employee shall be notified in writing by the  
14 superintendent on or before ~~February 1~~ March 1 if he or she is  
15 being considered for transfer or to be transferred. Only those  
16 employees whose consideration for transfer or intended transfer is  
17 based upon known or expected circumstances which will require the  
18 transfer of employees shall be considered for transfer or intended  
19 for transfer and the notification shall be limited to only those  
20 employees. Any teacher or employee who desires to protest the  
21 proposed transfer may request in writing a statement of the reasons  
22 for the proposed transfer. The statement of reasons shall be  
23 delivered to the teacher or employee within ten days of the receipt

1 of the request. Within ten days of the receipt of the statement of  
2 the reasons, the teacher or employee may make written demand upon  
3 the superintendent for a hearing on the proposed transfer before  
4 the county board of education. The hearing on the proposed  
5 transfer shall be held on or before ~~March 15~~ April 15. At the  
6 hearing, the reasons for the proposed transfer must be shown.

7 (b) The superintendent at a meeting of the board on or before  
8 ~~March 15~~ April 15 shall furnish in writing to the board a list of  
9 teachers and other employees to be considered for transfer and  
10 subsequent assignment for the next ensuing school year. An  
11 employee who was not provided notice and an opportunity for a  
12 hearing pursuant to subsection (a) of this section may not be  
13 included on the list. All other teachers and employees not so  
14 listed shall be considered as reassigned to the positions or jobs  
15 held at the time of this meeting. The list of those recommended  
16 for transfer shall be included in the minute record of the meeting  
17 and all those so listed shall be notified in writing, which notice  
18 shall be delivered in writing, by certified mail, return receipt  
19 requested, to the persons' last known addresses within ten days  
20 following the board meeting, of their having been so recommended  
21 for transfer and subsequent assignment and the reasons therefor.

22 (c) The superintendent's authority to suspend school personnel  
23 shall be temporary only pending a hearing upon charges filed by the  
24 superintendent with the board of education and the period of

1 suspension may not exceed thirty days unless extended by order of  
2 the board.

3 (d) The provisions of this section respecting hearing upon  
4 notice of transfer is not applicable in emergency situations where  
5 the school building becomes damaged or destroyed through an  
6 unforeseeable act and which act necessitates a transfer of the  
7 school personnel because of the aforementioned condition of the  
8 building.

9 **§18A-2-8a. Notice to probationary personnel of rehiring or**  
10 **nonrehiring; hearing.**

11 The superintendent at a meeting of the board on or before  
12 ~~March 15~~ April 15 of each year shall provide in writing to the  
13 board a list of all probationary teachers that he or she recommends  
14 to be rehired for the next ensuing school year. The board shall  
15 act upon the superintendent's recommendations at that meeting in  
16 accordance with section one of this article. The board at this  
17 same meeting shall also act upon the retention of other  
18 probationary employees as provided in sections two and five of this  
19 article. Any such probationary teacher or other probationary  
20 employee who is not rehired by the board at that meeting shall be  
21 notified in writing, by certified mail, return receipt requested,  
22 to such persons' last known addresses within ten days following  
23 said board meeting, of their not having been rehired or not having  
24 been recommended for rehiring.

1 Any probationary teacher who receives notice that he or she  
2 has not been recommended for rehiring or other probationary  
3 employee who has not been reemployed may within ten days after  
4 receiving the written notice request a statement of the reasons for  
5 not having been rehired and may request a hearing before the board.  
6 The hearing shall be held at the next regularly scheduled Board of  
7 Education meeting or a special meeting of the board called within  
8 thirty days of the request for hearing. At the hearing, the  
9 reasons for the nonrehiring must be shown.

10 **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

11 **§18A-4-7a. Employment, promotion and transfer of professional**  
12 **personnel; seniority.**

13 (a) A county board of education shall make decisions affecting  
14 the hiring of professional personnel other than classroom teachers  
15 on the basis of the applicant with the highest qualifications.

16 (b) The county board shall make decisions affecting the hiring  
17 of new classroom teachers on the basis of the applicant with the  
18 highest qualifications.

19 (c) In judging qualifications for hiring employees pursuant to  
20 subsections (a) and (b) of this section, consideration shall be  
21 given to each of the following:

22 (1) Appropriate certification, licensure or both;

23 (2) Amount of experience relevant to the position; or, in the  
24 case of a classroom teaching position, the amount of teaching

1 experience in the subject area;

2       (3) The amount of course work, degree level or both in the  
3 relevant field and degree level generally;

4       (4) Academic achievement;

5       (5) Relevant specialized training;

6       (6) Past performance evaluations conducted pursuant to section  
7 twelve, article two of this chapter; and

8       (7) Other measures or indicators upon which the relative  
9 qualifications of the applicant may fairly be judged.

10       (d) If one or more permanently employed instructional  
11 personnel apply for a classroom teaching position and meet the  
12 standards set forth in the job posting, the county board of  
13 education shall make a decision affecting the filling of the  
14 position on the basis of the following criteria:

15       (1) Appropriate certification, licensure or both;

16       (2) Total amount of teaching experience;

17       (3) The existence of teaching experience in the required  
18 certification area;

19       (4) Degree level in the required certification area;

20       (5) Specialized training directly related to the performance  
21 of the job as stated in the job description;

22       (6) Receiving an overall rating of satisfactory in the  
23 previous two evaluations conducted pursuant to section twelve,  
24 article two of this chapter; and

1           (7) Seniority.

2           (e) In filling positions pursuant to subsection (d) of this  
3 section, consideration shall be given to each criterion with each  
4 criterion being given equal weight. If the applicant with the most  
5 seniority is not selected for the position, upon the request of the  
6 applicant a written statement of reasons shall be given to the  
7 applicant with suggestions for improving the applicant's  
8 qualifications.

9           (f) With the exception of guidance counselors, the seniority  
10 of classroom teachers, as defined in section one, article one of  
11 this chapter shall be determined on the basis of the length of time  
12 the employee has been employed as a regular full-time certified  
13 and/or licensed professional educator by the county board of  
14 education and shall be granted in all areas that the employee is  
15 certified, licensed or both.

16           (g) Upon completion of one hundred thirty-three days of  
17 employment in any one school year, substitute teachers, except  
18 retired teachers and other retired professional educators employed  
19 as substitutes, shall accrue seniority exclusively for the purpose  
20 of applying for employment as a permanent, full-time professional  
21 employee. One hundred thirty-three days or more of said employment  
22 shall be prorated and shall vest as a fraction of the school year  
23 worked by the permanent, full-time teacher.

24           (h) Guidance counselors and all other professional employees,

1 as defined in section one, article one of this chapter, except  
2 classroom teachers, shall gain seniority in their nonteaching area  
3 of professional employment on the basis of the length of time the  
4 employee has been employed by the county board of education in that  
5 area: *Provided*, That if an employee is certified as a classroom  
6 teacher, the employee accrues classroom teaching seniority for the  
7 time that that employee is employed in another professional area.  
8 For the purposes of accruing seniority under this paragraph,  
9 employment as principal, supervisor or central office  
10 administrator, as defined in section one, article one of this  
11 chapter, shall be considered one area of employment.

12 (i) Employment for a full employment term shall equal one year  
13 of seniority, but no employee may accrue more than one year of  
14 seniority during any given fiscal year. Employment for less than  
15 the full employment term shall be prorated. A random selection  
16 system established by the employees and approved by the board shall  
17 be used to determine the priority if two or more employees  
18 accumulate identical seniority: *Provided*, That when two or more  
19 principals have accumulated identical seniority, decisions on  
20 reductions in force shall be based on qualifications.

21 (j) Whenever a county board is required to reduce the number  
22 of professional personnel in its employment, the employee with the  
23 least amount of seniority shall be properly notified and released  
24 from employment pursuant to the provisions of section two, article

1 two of this chapter. The provisions of this subsection are subject  
2 to the following:

3 (1) All persons employed in a certification area to be reduced  
4 who are employed under a temporary permit shall be properly  
5 notified and released before a fully certified employee in such a  
6 position is subject to release;

7 (2) An employee subject to release shall be employed in any  
8 other professional position where the employee is certified and was  
9 previously employed or to any lateral area for which the employee  
10 is certified, licensed or both, if the employee's seniority is  
11 greater than the seniority of any other employee in that area of  
12 certification, licensure or both;

13 (3) If an employee subject to release holds certification,  
14 licensure or both in more than one lateral area and if the  
15 employee's seniority is greater than the seniority of any other  
16 employee in one or more of those areas of certification, licensure  
17 or both, the employee subject to release shall be employed in the  
18 professional position held by the employee with the least seniority  
19 in any of those areas of certification, licensure or both; and

20 (4) If, prior to August 1, of the year a reduction in force is  
21 approved, the reason for any particular reduction in force no  
22 longer exists as determined by the county board in its sole and  
23 exclusive judgment, the board shall rescind the reduction in force  
24 or transfer and shall notify the released employee in writing of



1 his or her right to be restored to his or her position of  
2 employment. Within five days of being so notified, the released  
3 employee shall notify the board, in writing, of his or her intent  
4 to resume his or her position of employment or the right to be  
5 restored shall terminate. Notwithstanding any other provision of  
6 this subdivision, if there is another employee on the preferred  
7 recall list with proper certification and higher seniority, that  
8 person shall be placed in the position restored as a result of the  
9 reduction in force being rescinded.

10 (k) For the purpose of this article, all positions which meet  
11 the definition of classroom teacher as defined in section one,  
12 article one of this chapter shall be lateral positions. For all  
13 other professional positions, the county board of education shall  
14 adopt a policy by October 31, 1993, and may modify the policy  
15 thereafter as necessary, which defines which positions shall be  
16 lateral positions. The board shall submit a copy of its policy to  
17 the state board within thirty days of adoption or any modification,  
18 and the state board shall compile a report and submit the report to  
19 the Legislative Oversight Commission on Education Accountability by  
20 December 31, 1993, and by that date in any succeeding year in which  
21 any county board submits a modification of its policy relating to  
22 lateral positions. In adopting the policy, the board shall give  
23 consideration to the rank of each position in terms of title;  
24 nature of responsibilities; salary level; certification, licensure

1 or both; and days in the period of employment.

2 (1) After the ~~fifth~~ twentieth day prior to the beginning of  
3 the instructional term, no person employed and assigned to a  
4 professional position may transfer to another professional position  
5 in the county during that instructional term unless the person  
6 holding that position does not have valid certification. The  
7 provisions of this subsection are subject to the following:

8 (1) The person may apply for any posted, vacant positions with  
9 the successful applicant assuming the position at the beginning of  
10 the next instructional term;

11 (2) Professional personnel who have been on an approved leave  
12 of absence may fill these vacancies upon their return from the  
13 approved leave of absence; ~~and~~

14 (3) The county board, upon recommendation of the  
15 superintendent may fill a position before the next instructional  
16 term when it is determined to be in the best interest of the  
17 students; and

18 (4) The provisions of this subsection do not apply to the  
19 filling of a position vacated by virtue of resignation or  
20 retirement that became effective on or before the twentieth day  
21 prior to the beginning of the instructional term, but not posted  
22 until after that date. ~~Provided, That~~ The county superintendent  
23 shall notify the state board of each transfer of a person employed  
24 in a professional position to another professional position after

1 the ~~fifth day~~ twentieth prior to the beginning of the instructional  
2 term. The Legislature finds that it is not in the best interest of  
3 the students particularly in the elementary grades to have multiple  
4 teachers for any one grade level or course during the instructional  
5 term. It is the intent of the Legislature that the filling of  
6 positions through transfers of personnel from one professional  
7 position to another after the fifth day prior to the beginning of  
8 the instructional term should be kept to a minimum.

9 (m) All professional personnel whose seniority with the county  
10 board is insufficient to allow their retention by the county board  
11 during a reduction in work force shall be placed upon a preferred  
12 recall list. As to any professional position opening within the  
13 area where they had previously been employed or to any lateral area  
14 for which they have certification, licensure or both, the employee  
15 shall be recalled on the basis of seniority if no regular,  
16 full-time professional personnel, or those returning from leaves of  
17 absence with greater seniority, are qualified, apply for and accept  
18 the position.

19 (n) Before position openings that are known or expected to  
20 extend for twenty consecutive employment days or longer for  
21 professional personnel may be filled by the board, the board shall  
22 be required to notify all qualified professional personnel on the  
23 preferred list and give them an opportunity to apply, but failure  
24 to apply shall not cause the employee to forfeit any right to

1 recall. The notice shall be sent by certified mail to the last  
2 known address of the employee, and it shall be the duty of each  
3 professional personnel to notify the board of continued  
4 availability annually, of any change in address or of any change in  
5 certification, licensure or both.

6 (o) Openings in established, existing or newly created  
7 positions shall be processed as follows:

8 (1) Boards shall be required to post and date notices which  
9 shall be subject to the following:

10 (A) The notices shall be posted in conspicuous working places  
11 for all professional personnel to observe for at least five working  
12 days;

13 (B) The notice shall be posted within twenty working days of  
14 the position openings and shall include the job description;

15 (C) Any special criteria or skills that are required by the  
16 position shall be specifically stated in the job description and  
17 directly related to the performance of the job;

18 (D) Postings for vacancies made pursuant to this section shall  
19 be written so as to ensure that the largest possible pool of  
20 qualified applicants may apply; and

21 (E) Job postings may not require criteria which are not  
22 necessary for the successful performance of the job and may not be  
23 written with the intent to favor a specific applicant;

24 (2) No vacancy shall be filled until after the five-day

1 minimum posting period;

2       (3) If one or more applicants meets the qualifications listed  
3 in the job posting, the successful applicant to fill the vacancy  
4 shall be selected by the board within thirty working days of the  
5 end of the posting period;

6       (4) A position held by a teacher who is certified, licensed or  
7 both, who has been issued a permit for full-time employment and is  
8 working toward certification in the permit area shall not be  
9 subject to posting if the certificate is awarded within five years;  
10 and

11       (5) Nothing provided herein shall prevent the county board of  
12 education from eliminating a position due to lack of need.

13       (p) Notwithstanding any other provision of the code to the  
14 contrary, where the total number of classroom teaching positions in  
15 an elementary school does not increase from one school year to the  
16 next, but there exists in that school a need to realign the number  
17 of teachers in one or more grade levels, kindergarten through six,  
18 teachers at the school may be reassigned to grade levels for which  
19 they are certified without that position being posted: *Provided,*  
20 That the employee and the county board of education mutually agree  
21 to the reassignment.

22       (q) Reductions in classroom teaching positions in elementary  
23 schools shall be processed as follows:

24       (1) When the total number of classroom teaching positions in

1 an elementary school needs to be reduced, the reduction shall be  
2 made on the basis of seniority with the least senior classroom  
3 teacher being recommended for transfer; and

4       (2) When a specified grade level needs to be reduced and the  
5 least senior employee in the school is not in that grade level, the  
6 least senior classroom teacher in the grade level that needs to be  
7 reduced shall be reassigned to the position made vacant by the  
8 transfer of the least senior classroom teacher in the school  
9 without that position being posted: *Provided*, That the employee is  
10 certified, licensed or both and agrees to the reassignment.

11       (r) Any board failing to comply with the provisions of this  
12 article may be compelled to do so by mandamus and shall be liable  
13 to any party prevailing against the board for court costs and  
14 reasonable attorney fees as determined and established by the  
15 court. Further, employees denied promotion or employment in  
16 violation of this section shall be awarded the job, pay and any  
17 applicable benefits retroactive to the date of the violation and  
18 payable entirely from local funds. Further, the board shall be  
19 liable to any party prevailing against the board for any court  
20 reporter costs including copies of transcripts.

21       (s) The county board shall compile, update annually on July 1,  
22 and make available by electronic or other means to all employees a  
23 list of all professional personnel employed by the county, their  
24 areas of certification and their seniority.

NOTE: The purpose of this bill is to make the dates related to certain deadlines associated with the termination, resignation and transfer of school personnel and rehiring of probationary employees on month later in the year (eg. March 1 instead of February 1). The bill also makes the last date for employed teachers to leave one position to accept another within the system twenty days prior to beginning of instructional term, rather than five.

Strike-throughs indicate existing language that would be removed, and underscoring indicates new language that would be added.