

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2012



ENROLLED

House Bill No. 4299

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)
[By Request of the Executive]



Passed March 6, 2012

To Take Effect From Passage

ENROLLED

H. B. 4299

(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)
[BY REQUEST OF THE EXECUTIVE]

[Passed March 6, 2012; to take effect from passage.]

AN ACT to amend and reenact §18-5-13 of the Code of West Virginia, 1931, as amended, relating to authorizing a county board of education to use the services of a bus operator from another county in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That §18-5-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

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

1 Subject to the provisions of this chapter and the rules of
2 the state board, each county board may:

3 (a) Control and manage all of the schools and school
4 interests for all school activities and upon all school property
5 owned or leased by the county, including:

6 (1) Requiring schools to keep records regarding funds
7 connected with the school or school interests, including all

8 receipts and disbursements of all funds collected or received
9 by:

10 (A) Any principal, teacher, student or other person in
11 connection with the schools and school interests;

12 (B) Any program, activity or other endeavor of any
13 nature operated or conducted by or in the name of the school;
14 and

15 (C) Any organization or body directly connected with the
16 school;

17 (2) Allowing schools to expend funds for student, parent,
18 teacher and community recognition programs. A school may
19 use only funds it generates through a fund-raising or
20 donation-soliciting activity. Prior to commencing the
21 activity, the school shall:

22 (A) Publicize the activity as intended for this purpose;
23 and

24 (B) Designate for this purpose the funds generated;

25 (3) Auditing the records and conserving the funds,
26 including securing surety bonds by expending board moneys.
27 The funds described in this subsection are quasipublic funds,
28 which means the moneys were received for the benefit of the
29 school system as a result of curricular or noncurricular
30 activities;

31 (b) Establish:

32 (1) Schools, from preschool through high school;

33 (2) Vocational schools; and

34 (3) Schools and programs for post-high school
35 instruction, subject to approval of the state board;

36 (c) Close any school:

37 (1) Which is unnecessary and assign the students to other
38 schools. The closing shall occur pursuant to official action of
39 the county board. Except in emergency situations when the
40 timing and manner of notification are subject to approval by
41 the state superintendent, the county board shall notify the
42 affected teachers and service personnel of the county board
43 action not later than the first Monday in April. The board
44 shall provide notice in the same manner as set forth in section
45 four of this article; or

46 (2) Pursuant to the provisions of subsection (e) of this
47 section;

48 (d) Consolidate schools;

49 (e) Close any elementary school whose average daily
50 attendance falls below twenty students for two consecutive
51 months. The county board may assign the students to other
52 schools in the district or to schools in adjoining districts. If
53 the teachers in the closed school are not transferred or
54 reassigned to other schools, they shall receive one month's
55 salary;

56 (f) Provide transportation according to rules established
57 by the county board, as follows:

58 (1) To provide at public expense adequate means of
59 transportation:

60 (A) For all children of school age who live more than two
61 miles distance from school by the nearest available road;

62 (B) For school children participating in county
63 board-approved curricular and extracurricular activities;

64 (C) Across county lines for students transferred from one
65 district to another by mutual agreement of both county
66 boards. The agreement shall be recorded in the meeting
67 minutes of each participating county board and is subject to
68 the provisions of subsection (h) of this section; and

69 (D) Within available revenues, for students within two
70 miles distance of the school; and

71 (2) To provide transportation for participants in projects
72 operated, financed, sponsored or approved by the Bureau of
73 Senior Services. This transportation shall be provided at no
74 cost to the county board. All costs and expenses incident in
75 any way to this transportation shall be borne by the bureau or
76 the local or county affiliate of the bureau;

77 (3) Any school bus owned by the county board may be
78 operated only by a bus operator regularly employed by the
79 county board, except as provided in subsection (g) of this
80 section;

81 (4) Pursuant to rules established by the state board, the
82 county board may provide for professional employees to be
83 certified to drive county board-owned vehicles that have a
84 seating capacity of fewer than ten passengers. These
85 employees may use the vehicles to transport students for
86 school-sponsored activities, but may not use the vehicles to
87 transport students between school and home. Not more than
88 one of these vehicles may be used for any school-sponsored
89 activity;

90 (5) Students may not be transported to a school-
91 sponsored activity in any county-owned or leased vehicle that

92 does not meet school bus or public transit ratings. This
93 section does not prohibit a parent from transporting ten or
94 fewer students in a privately-owned vehicle;

95 (6) Students may be transported to a school-sponsored
96 activity in a vehicle that has a seating capacity of sixteen or
97 more passengers which is not owned and operated by the
98 county board only as follows:

99 (A) The state board shall promulgate a rule to establish
100 requirements for:

101 (i) Automobile insurance coverage;

102 (ii) Vehicle safety specifications;

103 (iii) School bus or public transit ratings; and

104 (iv) Driver training, certification and criminal history
105 record check; and

106 (B) The vehicle owner shall provide to the county board
107 proof that the vehicle and driver satisfy the requirements of
108 the state board rule; and

109 (7) Buses shall be used for extracurricular activities as
110 provided in this section only when the insurance coverage
111 required by this section is in effect;

112 (g) Lease school buses pursuant to rules established by
113 the county board.

114 (1) Leased buses may be operated only by bus operators
115 regularly employed by the county board, except that these
116 buses may be operated by bus operators regularly employed
117 by another county board in this state if bus operators from the
118 owning county are unavailable.

119 (2) The lessee shall bear all costs and expenses incurred
120 by, or incidental to the use of, the bus.

121 (3) The county board may lease buses to:

122 (A) Public and private nonprofit organizations and
123 private corporations to transport school-age children for
124 camps or educational activities;

125 (B) Any college, university or officially recognized
126 campus organization for transporting students, faculty and
127 staff to and from the college or university. Only college and
128 university students, faculty and staff may be transported
129 pursuant to this paragraph. The lease shall include provisions
130 for:

131 (i) Compensation for bus operators;

132 (ii) Consideration for insurance coverage, repairs and
133 other costs of service; and

134 (iii) Any rules concerning student behavior;

135 (C) Public and private nonprofit organizations, including
136 education employee organizations, for transportation
137 associated with fairs, festivals and other educational and
138 cultural events. The county board may charge fees in
139 addition to those charges otherwise required by this
140 subsection;

141 (h) To provide at public expense for insurance coverage
142 against negligence of the drivers of school buses, trucks or
143 other vehicles operated by the county board. Any contractual
144 agreement for transportation of students shall require the
145 vehicle owner to maintain insurance coverage against
146 negligence in an amount specified by the county board;

147 (i) Provide for the full cost or any portion thereof for
148 group plan insurance benefits not provided or available under
149 the West Virginia Public Employees Insurance Act. Any of
150 these benefits shall be provided:

151 (1) Solely from county board funds; and

152 (2) For all regular full-time employees of the county
153 board;

154 (j) Employ teacher aides; to provide in-service training
155 for the aides pursuant to rules established by the state board;
156 and, prior to assignment, to provide a four-clock-hour
157 program of training for a service person assigned duties as a
158 teacher aide in an exceptional children program. The
159 four-clock-hour program shall consist of training in areas
160 specifically related to the education of exceptional children;

161 (k) Establish and operate a self-supporting dormitory for:

162 (1) Students attending a high school or participating in a
163 post high school program; and

164 (2) Persons employed to teach in the high school or post
165 high school program;

166 (l) At the county board's discretion, employ, contract
167 with or otherwise engage legal counsel in lieu of using the
168 services of the prosecuting attorney to advise, attend to,
169 bring, prosecute or defend, as the case may be, any matters,
170 actions, suits and proceedings in which the county board is
171 interested;

172 (m) Provide appropriate uniforms for school service
173 personnel;

174 (n) Provide at public expense for payment of traveling
175 expenses incurred by any person invited to appear to be
176 interviewed concerning possible employment by the county
177 board, subject to rules established by the county board;

178 (o) Allow designated employees to use publicly provided
179 carriage to travel from their residences to their workplace and
180 return. The use:

181 (1) Is subject to the supervision of the county board; and

182 (2) Shall be directly connected with, required by and
183 essential to the performance of the employee's duties and
184 responsibilities;

185 (p) Provide at public expense adequate public liability
186 insurance, including professional liability insurance, for
187 county board employees;

188 (q) Enter into cooperative agreements with other county
189 boards to provide improvements to the instructional needs of
190 each district. The cooperative agreements may be used to
191 employ specialists in a field of academic study or for support
192 functions or services for the field. The agreements are
193 subject to approval by the state board;

194 (r) Provide information about vocational and higher
195 education opportunities to exceptional students. The county
196 board shall provide in writing to the students and their
197 parents or guardians information relating to programs of
198 vocational education and to programs available at state
199 institutions of higher education. The information may
200 include sources of available funding, including grants,
201 mentorships and loans for students who wish to attend classes
202 at institutions of higher education;

203 (s) Enter into agreements with other county boards for the
204 transfer and receipt of any funds determined to be fair when
205 students are permitted or required to attend school in a
206 district other than the district of their residence. These
207 agreements are subject to the approval of the state board; and

208 (t) Enter into job-sharing arrangements, as defined in
209 section one, article one, chapter eighteen-a of this code, with
210 its employees, subject to the following provisions:

211 (1) A job-sharing arrangement shall meet all the
212 requirements relating to posting, qualifications and seniority,
213 as provided in article four, chapter eighteen-a of this code;

214 (2) Notwithstanding any contrary provision of this code
215 or legislative rule and specifically the provisions of article
216 sixteen, chapter five of this code, a county board that enters
217 into a job-sharing arrangement:

218 (A) Shall provide insurance coverage to the one
219 employee mutually agreed upon by the employees
220 participating in that arrangement; and

221 (B) May not provide insurance benefits of any type to
222 more than one of the job-sharing employees, including any
223 group plan available under the State Public Employees
224 Insurance Act;

225 (3) Each job-sharing agreement shall be in writing on a
226 form prescribed and furnished by the county board. The
227 agreement shall designate specifically one employee only
228 who is entitled to the insurance coverage. Any employee
229 who is not designated is not eligible for state public
230 employees insurance coverage regardless of the number of
231 hours he or she works;

232 (4) All employees involved in the job-sharing agreement
233 shall meet the requirements of subdivision (3), section two,
234 article sixteen, chapter five of this code; and

235 (5) When entering into a job-sharing agreement, the
236 county board and the participating employees shall consider
237 issues such as retirement benefits, termination of the
238 job-sharing agreement and any other issue the parties
239 consider appropriate. Any provision in the agreement
240 relating to retirement benefits may not cause any cost to be
241 incurred by the retirement system that is more than the cost
242 that would be incurred if a single employee were filling the
243 position ; and

244 (u) Under rules it establishes for each child, expend an
245 amount not to exceed the proportion of all school funds of the
246 district that each child would be entitled to receive if all the
247 funds were distributed equally among all the children of
248 school age in the district upon a per capita basis.

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

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2012.

Governor