

**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

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

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[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.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2012.

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*Governor*