

1 **H. B. 3160**

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3 (By Delegates Walker, Stowers, Barill, Cooper, Campbell,
4 Lawrence, Young, Tomblin, Hamrick, Espinosa and Westfall)

5 [Originating in the Committee on Education.]

6 (March 28, 2013)

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12 A BILL to amend and reenact §18-5-11 of the code of West
13 Virginia, 1931, as amended; to further amend said code by
14 adding thereto a new section, designated §18-5-11a; and to
15 further amend said code by adding thereto a new section,
16 designated §18-5A-2a; all relating to joint establishment,
17 maintenance and operation of school by two or more adjoining
18 counties; requiring formal agreement for apportionment of
19 acquisition costs; providing for operating costs; providing
20 net enrollment adjustment for certain costs; providing for
21 joint governing partnership board pilot initiative; making
22 findings with respect to pilot initiative and purpose;
23 establishing limitation and condition; providing features of
24 partnership board; authorizing adoption of separate and
25 requests of waivers; providing for modifications to local
26 school improvement council membership for jointly

1 established school; providing for modifications to local
2 school improvement council membership for jointly attended
3 school under certain conditions; and aligning authority of
4 improvement council for proposing alternatives and
5 requesting waivers.

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

7 That §18-5-11 of the code of West Virginia, 1931, as
8 amended, be amended and reenacted; that said code be further
9 amended by adding thereto a new section, designated §18-5-11a;
10 and that said code be further amended by adding thereto a new
11 section, designated §18-5A-2a; all to read as follows:

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

13 **§18-5-11. Joint establishment of schools.**

14 (a) The boards of two or more adjoining counties may jointly
15 establish and maintain schools. The title to the school shall be
16 vested in the board of the county in which the school is located.
17 The agreement by which the school is established shall be reduced
18 to writing and entered of record in the minutes of each board.

19 (b) The boards of the several districts shall determine the
20 site of the proposed school and the amount to be expended for its
21 establishment and equipment. The participating counties shall
22 enter a formal agreement regarding the manner in which the cost
23 for the acquisition of the property and equipment shall be
24 apportioned. ~~The cost shall be apportioned upon the basis of the~~
25 ~~respective valuations of the taxable property in each district.~~

26 The board in the district in which the building is located

1 shall be vested with the control and management of the school,
2 except as may otherwise be provided in the agreement between the
3 counties.

4 (c) The annual operating costs shall be the responsibility
5 of the county in which the joint school is located and subject to
6 the allowance transfer set forth in section fourteen, article
7 nine-a of this chapter unless otherwise provided in the agreement
8 between the counties. ~~apportioned among the districts on the~~
9 ~~basis of the average daily attendance of pupils from each~~
10 ~~district.~~

11 (d) For a county board that sends students to a jointly
12 established school in another county and that provides
13 transportation for those students or that otherwise contributes
14 to the support services or instructional program of the school,
15 the net enrollment of the county for the purposes of calculating
16 its basic foundation program as provided in article nine-a of
17 this chapter, only, shall be increased by fifteen one hundredths
18 multiplied by the number of full-time equivalent students from
19 the county who are enrolled in the jointly established school.

20 **§18-5-11a. Joint governing partnership board pilot initiative.**

21 (a) The Legislature finds that many examples exist across
22 the state of students who reside in one county attending the
23 public schools in an adjoining county and that these arrangements
24 have been accommodated by the boards of the adjoining counties
25 and applicable statutes to best serve the interests of the
26 students by enabling them to attend a school in closer proximity

1 to their homes. Typically, these arrangements have been the
2 result of school closures or newly constructed schools in the
3 student's county of residence that made a cross-county transfer
4 to an existing school in an adjoining county a more convenient,
5 practical and educationally sound option. The Legislature finds
6 further that as population changes continue to occur the boards
7 of adjoining counties may find, and have found, that they may
8 best serve the interests of their students and their families by
9 establishing a new school in partnership with each other to be
10 attended by students residing in each of the counties.
11 Particularly in the case of elementary grade level schools
12 established in partnership between adjoining counties, the
13 Legislature finds that each of the county boards, as well as the
14 parents of students from each of the counties attending the
15 school, will and should have an interest in the operation of the
16 school and the preparation of the students for success as they
17 transition to the higher grade levels in the other schools of
18 their respective home counties. Therefore, in the absence of a
19 well defined governance structure that accommodates these
20 interests, the purpose of this section is to provide for a joint
21 governing partnership board pilot initiative. This pilot
22 initiative is limited to the joint establishment by two adjoining
23 counties of a school including elementary grade levels for which
24 a memorandum of understanding on the governance and operation of
25 the school has been signed and the pilot initiative is subject to
26 amendment of the agreement as may be necessary to incorporate at

1 least the following features of a joint governing partnership
2 board:

3 (1) The joint governing partnership board shall be comprised
4 of the county superintendent of each county, the president of the
5 county board of each county or his or her designee, and a
6 designee of the state superintendent;

7 (2) The board shall elect a chair from among its membership
8 for a two-year term and shall meet monthly. Meetings of the
9 board are subject to the open governmental proceedings laws
10 applicable to county boards. The boards of the respective
11 counties shall be responsible for the expenses of its members and
12 shall apportion other operational expenses of the board upon
13 mutual agreement. Upon opening of the jointly established school,
14 the meetings of the board shall be held at the school;

15 (3) All provisions of law applicable to the establishment,
16 operation and management of an inter-county school, including but
17 not limited to section eleven, article five and section fourteen,
18 article nine-a of this chapter and article eight-i, article four,
19 chapter eighteen-a of this code apply, except that the joint
20 governing partnership board may exercise governing authority for
21 operation and management of the school in the following areas:

22 (A) *Personnel.* Within the applicable laws for the
23 employment, evaluation, mentoring, professional development,
24 suspension and dismissal, the powers and duties of the county
25 superintendent shall be vested in the joint governing partnership
26 board with respect to the employees employed by the county in

1 which the school is located or assigned to school from the
2 partner county. The employees are the employees of the employing
3 county board and the partnership board may make recommendations
4 concerning these employment matters to the employing board the it
5 considers necessary and appropriate;

6 (B) Curriculum. The joint governing partnership board is
7 responsible for the formulation and execution of the school's
8 strategic improvement plan and technology plan to meet the goals
9 for student and school performance and progress. In its
10 formulation of these plans, the partnership board shall consider
11 the curriculum and plans of the respective county boards to
12 ensure preparation of the students at the school for their
13 successful transition into the higher grade level schools of the
14 respective counties;

15 (C) Finances. The joint governing partnership board shall
16 control and may approve the expenditure of all funds allocated to
17 the school for the school budget from either county and may
18 solicit and receive donations, apply for and receive grants and
19 conduct fund raisers to supplement it; and

20 (D) Facilities. Consistent with the policies in effect
21 concerning liability insurance coverage, maintenance and
22 appropriate uses of school facilities for the schools of the
23 county in which the school is located, the joint governing
24 partnership board govern the use of the school facility and
25 ensure equitable opportunities for access and use by
26 organizations and groups from both counties.

1 (b) The joint governing partnership board may adopt policies
2 for the school that are separate from the policies of the
3 respective counties and may, working in concert with its local
4 school improvement council, propose alternatives to the operation
5 of the school which require the request of a waiver of policy,
6 interpretation or statute from either of both county boards, the
7 state board or the Legislature as appropriate.

8 (c) The superintendents and presidents of county boards of
9 adjoining counties that have in effect on the effective date of
10 this section a memorandum of understanding on the governance and
11 operation of a jointly established school shall report to the
12 Legislative Oversight Commission on Education Accountability on
13 or before November 1, 2013, on the status of implementation of
14 this section. Once established, the joint governing partnership
15 board established under this pilot initiative shall remain in
16 effect for five consecutive school years unless authority for the
17 pilot initiative is repealed. The superintendents and presidents
18 of the county boards may be requested by the Legislative
19 Oversight Commission to provide periodic updates on this pilot
20 initiative and shall report to the Legislative Oversight
21 Commission at the conclusion of the five-year period their
22 recommendations on the viability of the joint governing
23 partnership board approach for the governance and operation of
24 jointly established schools and any recommended changes. Upon
25 conclusion of the five-year period, by affirmative vote of both
26 boards the joint governing partnership board shall remain in

1 effect, or the agreement between the boards for the governance
2 and operation of the school shall revert to the terms in effect
3 on the effective date of this section, subject to amendment by
4 agreement of the boards.

5 **ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.**

6 **§18-5A-2a. Local school improvement council modification for**
7 **certain jointly established and across county**
8 **schools.**

9 (a) In the case of a school that is jointly established by
10 two or more adjoining counties as provided in section eleven,
11 article five of this chapter, the school's local school
12 improvement council shall be modified to include a composition of
13 parent and at-large members in its membership as follows,
14 notwithstanding subdivisions (4) and (5), subsection (a), section
15 two of this article:

16 (1) Five parent(s), guardian(s) or custodian(s) of students
17 enrolled at the school elected by the parent(s), guardian(s) or
18 custodian(s) members of the school's parent teacher organization.
19 If there is no parent teacher organization, the parent(s),
20 guardian(s) or custodian(s) members shall be elected by the
21 parent(s), guardian(s) or custodian(s) of students enrolled at
22 the school in such manner as may be determined by the principal.
23 No more than three parent(s), guardian(s) or custodian(s) may be
24 residents of the same county; and

25 (2) Four at-large members appointed by the principal, two
26 of whom reside in the school's attendance area and neither of

1 whom is from the same county, and two of whom represent business
2 or industry neither of whom is from the same county. None of the
3 at-large members may be eligible for membership under any of the
4 other elected classes of members.

5 The local school improvement council shall meet at least
6 once each year with the advisory council or joint governing
7 partnership board for the jointly established school as
8 applicable. Prior to commencing an authorized action under
9 section three of this article for the purpose of proposing
10 alternatives to the operation of the school and for the purpose
11 of requesting a waiver of policy, interpretation or statute if
12 needed to implement the alternative, the local school improvement
13 council shall seek advice from the jointly established school's
14 advisory council or joint governing partnership board.

15 (b) In the case of a school that is not a jointly
16 established school as provided in section eleven, article five of
17 this chapter, but whose net enrollment includes at least one
18 hundred fifty students whose parent(s), guardian(s) or
19 custodian(s) are residents of an adjoining county, upon a
20 petition signed by a majority of the parent(s), guardian(s) or
21 custodian(s) of the students who are enrolled at the school but
22 reside in an adjoining county, the local school improvement
23 council of the school shall be modified as provided in
24 subdivisions (1) and (2), subsection (a) of this section.

25 (c) For local school improvement councils under this section
26 who are proposing alternatives to the operation of the school

1 which require the request of a waiver of policy, interpretation
2 or statute under the authority and procedures as set forth in
3 section three of this article, the terms "appropriate board" and
4 "affected board" as used in said section three, mean the board or
5 the multiple boards from whom a waiver is necessary for the
6 proposal to be implemented.

Note: The purpose of this bill is to provide for a pilot initiative on governance of schools jointly established by adjoining counties. Although it maintains the current funding, administrative functions and employer roles of the county in which the school is physically located, it allows creation of a joint board for the school comprised of the superintendents and presidents or designees of the respective boards that has school level powers for personnel, curriculum, finance and facilities to help make the school more responsive to the needs of students and parents in both counties. It also provides for the expansion of the LSIC to allow input from the parents and at-large members from both counties.

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