

H. B. 3160

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[Originating in the Committee on Education.]
(March 28, 2013)

A BILL to amend and reenact §18-5-11 of the code of West Virginia, 1931, as amended; to further amend said code by adding thereto a new section, designated §18-5-11a; and to further amend said code by adding thereto a new section, designated §18-5A-2a; all relating to joint establishment, maintenance and operation of school by two or more adjoining counties; requiring formal agreement for apportionment of acquisition costs; providing for operating costs; providing net enrollment adjustment for certain costs; providing for joint governing partnership board pilot initiative; making findings with respect to pilot initiative and purpose; establishing limitation and condition; providing features of partnership board;

authorizing adoption of separate and requests of waivers; providing for modifications to local school improvement council membership for jointly established school; providing for modifications to local school improvement council membership for jointly attended school under certain conditions; and aligning authority of improvement council for proposing alternatives and requesting waivers.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. COUNTY BOARD OF EDUCATION.

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

1 (a) The boards of two or more adjoining counties may jointly
2 establish and maintain schools. The title to the school shall be
3 vested in the board of the county in which the school is located.
4 The agreement by which the school is established shall be
5 reduced to writing and entered of record in the minutes of each
6 board.

7 (b) The boards of the several districts shall determine the site
8 of the proposed school and the amount to be expended for its
9 establishment and equipment. The participating counties shall

10 enter a formal agreement regarding the manner in which the cost
11 for the acquisition of the property and equipment shall be
12 apportioned. The cost shall be apportioned upon the basis of the
13 respective valuations of the taxable property in each district.

14 The board in the district in which the building is located
15 shall be vested with the control and management of the school,
16 except as may otherwise be provided in the agreement between
17 the counties.

18 (c) The annual operating costs shall be the responsibility of
19 the county in which the joint school is located and subject to the
20 allowance transfer set forth in section fourteen, article nine-a of
21 this chapter unless otherwise provided in the agreement between
22 the counties, apportioned among the districts on the basis of the
23 average daily attendance of pupils from each district.

24 (d) For a county board that sends students to a jointly
25 established school in another county and that provides transpor-
26 tation for those students or that otherwise contributes to the
27 support services or instructional program of the school, the net
28 enrollment of the county for the purposes of calculating its basic
29 foundation program as provided in article nine-a of this chapter,
30 only, shall be increased by fifteen one hundredths multiplied by
31 the number of full-time equivalent students from the county who
32 are enrolled in the jointly established school.

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

1 (a) The Legislature finds that many examples exist across
2 the state of students who reside in one county attending the
3 public schools in an adjoining county and that these arrange-
4 ments have been accommodated by the boards of the adjoining
5 counties and applicable statutes to best serve the interests of the
6 students by enabling them to attend a school in closer proximity
7 to their homes. Typically, these arrangements have been the
8 result of school closures or newly constructed schools in the
9 student's county of residence that made a cross-county transfer
10 to an existing school in an adjoining county a more convenient,
11 practical and educationally sound option. The Legislature finds
12 further that as population changes continue to occur the boards
13 of adjoining counties may find, and have found, that they may
14 best serve the interests of their students and their families by
15 establishing a new school in partnership with each other to be
16 attended by students residing in each of the counties. Particularly
17 in the case of elementary grade level schools established in
18 partnership between adjoining counties, the Legislature finds
19 that each of the county boards, as well as the parents of students
20 from each of the counties attending the school, will and should
21 have an interest in the operation of the school and the prepara-
22 tion of the students for success as they transition to the higher

23 grade levels in the other schools of their respective home
24 counties. Therefore, in the absence of a well defined governance
25 structure that accommodates these interests, the purpose of this
26 section is to provide for a joint governing partnership board pilot
27 initiative. This pilot initiative is limited to the joint establishment
28 by two adjoining counties of a school including elementary
29 grade levels for which a memorandum of understanding on the
30 governance and operation of the school has been signed and the
31 pilot initiative is subject to amendment of the agreement as may
32 be necessary to incorporate at least the following features of a
33 joint governing partnership board:

34 (1) The joint governing partnership board shall be comprised
35 of the county superintendent of each county, the president of the
36 county board of each county or his or her designee, and a
37 designee of the state superintendent;

38 (2) The board shall elect a chair from among its membership
39 for a two-year term and shall meet monthly. Meetings of the
40 board are subject to the open governmental proceedings laws
41 applicable to county boards. The boards of the respective
42 counties shall be responsible for the expenses of its members and
43 shall apportion other operational expenses of the board upon
44 mutual agreement. Upon opening of the jointly established
45 school, the meetings of the board shall be held at the school;

46 (3) All provisions of law applicable to the establishment,
47 operation and management of an inter-county school, including
48 but not limited to section eleven, article five and section
49 fourteen, article nine-a of this chapter and article eight-i, article
50 four, chapter eighteen-a of this code apply, except that the joint
51 governing partnership board may exercise governing authority
52 for operation and management of the school in the following
53 areas:

54 (A) *Personnel.* Within the applicable laws for the employ-
55 ment, evaluation, mentoring, professional development, suspen-
56 sion and dismissal, the powers and duties of the county superin-
57 tendent shall be vested in the joint governing partnership board
58 with respect to the employees employed by the county in which
59 the school is located or assigned to school from the partner
60 county. The employees are the employees of the employing
61 county board and the partnership board may make recommenda-
62 tions concerning these employment matters to the employing
63 board the it considers necessary and appropriate;

64 (B) *Curriculum.* The joint governing partnership board is
65 responsible for the formulation and execution of the school's
66 strategic improvement plan and technology plan to meet the
67 goals for student and school performance and progress. In its
68 formulation of these plans, the partnership board shall consider

69 the curriculum and plans of the respective county boards to
70 ensure preparation of the students at the school for their success-
71 ful transition into the higher grade level schools of the respective
72 counties;

73 (C) *Finances.* The joint governing partnership board shall
74 control and may approve the expenditure of all funds allocated
75 to the school for the school budget from either county and may
76 solicit and receive donations, apply for and receive grants and
77 conduct fund raisers to supplement it; and

78 (D) *Facilities.* Consistent with the policies in effect concern-
79 ing liability insurance coverage, maintenance and appropriate
80 uses of school facilities for the schools of the county in which
81 the school is located, the joint governing partnership board
82 govern the use of the school facility and ensure equitable
83 opportunities for access and use by organizations and groups
84 from both counties.

85 (b) The joint governing partnership board may adopt policies
86 for the school that are separate from the policies of the respec-
87 tive counties and may, working in concert with its local school
88 improvement council, propose alternatives to the operation of the
89 school which require the request of a waiver of policy, interpre-
90 tation or statute from either of both county boards, the state
91 board or the Legislature as appropriate.

92 (c) The superintendents and presidents of county boards of
93 adjoining counties that have in effect on the effective date of this
94 section a memorandum of understanding on the governance and
95 operation of a jointly established school shall report to the
96 Legislative Oversight Commission on Education Accountability
97 on or before November 1, 2013, on the status of implementation
98 of this section. Once established, the joint governing partnership
99 board established under this pilot initiative shall remain in effect
100 for five consecutive school years unless authority for the pilot
101 initiative is repealed. The superintendents and presidents of the
102 county boards may be requested by the Legislative Oversight
103 Commission to provide periodic updates on this pilot initiative
104 and shall report to the Legislative Oversight Commission at the
105 conclusion of the five-year period their recommendations on the
106 viability of the joint governing partnership board approach for
107 the governance and operation of jointly established schools and
108 any recommended changes. Upon conclusion of the five-year
109 period, by affirmative vote of both boards the joint governing
110 partnership board shall remain in effect, or the agreement
111 between the boards for the governance and operation of the
112 school shall revert to the terms in effect on the effective date of
113 this section, subject to amendment by agreement of the boards.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

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

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

8 (1) Five parent(s), guardian(s) or custodian(s) of students
9 enrolled at the school elected by the parent(s), guardian(s) or
10 custodian(s) members of the school's parent teacher organiza-
11 tion. If there is no parent teacher organization, the parent(s),
12 guardian(s) or custodian(s) members shall be elected by the
13 parent(s), guardian(s) or custodian(s) of students enrolled at the
14 school in such manner as may be determined by the principal.
15 No more than three parent(s), guardian(s) or custodian(s) may be
16 residents of the same county; and

17 (2) Four at-large members appointed by the principal, two of
18 whom reside in the school's attendance area and neither of
19 whom is from the same county, and two of whom represent
20 business or industry neither of whom is from the same county.

21 None of the at-large members may be eligible for membership
22 under any of the other elected classes of members.

23 The local school improvement council shall meet at least
24 once each year with the advisory council or joint governing
25 partnership board for the jointly established school as applicable.
26 Prior to commencing an authorized action under section three of
27 this article for the purpose of proposing alternatives to the
28 operation of the school and for the purpose of requesting a
29 waiver of policy, interpretation or statute if needed to implement
30 the alternative, the local school improvement council shall seek
31 advice from the jointly established school's advisory council or
32 joint governing partnership board.

33 (b) In the case of a school that is not a jointly established
34 school as provided in section eleven, article five of this chapter,
35 but whose net enrollment includes at least one hundred fifty
36 students whose parent(s), guardian(s) or custodian(s) are
37 residents of an adjoining county, upon a petition signed by a
38 majority of the parent(s), guardian(s) or custodian(s) of the
39 students who are enrolled at the school but reside in an adjoining
40 county, the local school improvement council of the school shall
41 be modified as provided in subdivisions (1) and (2), subsection
42 (a) of this section.

43 (c) For local school improvement councils under this section
44 who are proposing alternatives to the operation of the school
45 which require the request of a waiver of policy, interpretation or
46 statute under the authority and procedures as set forth in section
47 three of this article, the terms “appropriate board” and “affected
48 board” as used in said section three, mean the board or the
49 multiple boards from whom a waiver is necessary for the
50 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.

