

H. B. 2702

(By Delegates Pasdon, Perry, Moye, Hamrick, Campbell, Statler,
Rowan and Espinosa)

[Introduced February 12, 2015; referred to the
Committee on Education.]

A BILL to amend and reenact §18-5-18 of the Code of West Virginia, 1931, as amended; and to
amend and reenact §18A-4-8 and §18A-4-8b of said code, all relating to redefining service
personnel class titles of early childhood classroom assistant teacher; protecting certain aides
from reduction in force or transfer to create vacancy for less senior early childhood classroom
assistant teacher; requiring aide who becomes employed as early childhood classroom
assistant teacher to hold certain multiclassification status; and including early childhood
assistant classroom assistant teacher in same classification category as aides.

Be it enacted by the Legislature of West Virginia:

That §18-5-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted;
and that §18A-4-8 and §18A-4-8b of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18. Kindergarten programs.

(a) County boards shall provide kindergarten programs for all children who have attained the

1 age of five prior to September 1, of the school year in which the pupil enters the kindergarten
2 program and may, pursuant to the provisions of section forty-four, article five, chapter eighteen of
3 this code, establish kindergarten programs designed for children below the age of five. The
4 programs for children who shall have attained the age of five shall be full-day everyday programs.

5 (b) Persons employed as kindergarten teachers, as distinguished from paraprofessional
6 personnel, shall be required to hold a certificate valid for teaching at the assigned level as prescribed
7 by rules established by the state board. The state board shall establish the minimum requirements
8 for all paraprofessional personnel employed in kindergarten programs established pursuant to the
9 provisions of this section and no such paraprofessional personnel may be employed in any
10 kindergarten program unless he or she meets the minimum requirements. Beginning July 1, 2014,
11 any person previously employed as an aide in a kindergarten program and who is employed in the
12 same capacity on and after that date and any new person employed in that capacity in a kindergarten
13 program on and after that date shall hold the position of aide and either Early Childhood Classroom
14 Assistant Teacher ~~Temporary Authorization I~~, Early Childhood Classroom Assistant Teacher =
15 ~~Permanent Authorization II~~ or Early Childhood Classroom Assistant Teacher ~~Paraprofessional~~
16 ~~Certificate III~~. Any person employed as an aide in a kindergarten program that is eligible for full
17 retirement benefits before July 1, 2020, may remain employed as an aide in that position and shall
18 be granted an Early Childhood Classroom Assistant Teacher permanent authorization by the state
19 superintendent pursuant to section two-a, article three, chapter eighteen-a of this code. ~~may not be~~
20 ~~required to acquire licensure pursuant to this section.~~

21 (c) The state board with the advice of the state superintendent shall establish and prescribe
22 guidelines and criteria relating to the establishment, operation and successful completion of

1 kindergarten programs in accordance with the other provisions of this section. Guidelines and
2 criteria so established and prescribed also are intended to serve for the establishment and operation
3 of nonpublic kindergarten programs and shall be used for the evaluation and approval of those
4 programs by the state superintendent, provided application for the evaluation and approval is made
5 in writing by proper authorities in control of the programs. The state superintendent, annually, shall
6 publish a list of nonpublic kindergarten programs, including Montessori kindergartens that have been
7 approved in accordance with the provisions of this section. Montessori kindergartens established
8 and operated in accordance with usual and customary practices for the use of the Montessori method
9 which have teachers who have training or experience, regardless of additional certification, in the
10 use of the Montessori method of instruction for kindergartens shall be considered to be approved.

11 (d) Pursuant to the guidelines and criteria, and only pursuant to the guidelines and criteria,
12 the county boards may establish programs taking kindergarten to the homes of the children involved,
13 using educational television, paraprofessional personnel in addition to and to supplement regularly
14 certified teachers, mobile or permanent classrooms and other means developed to best carry
15 kindergarten to the child in its home and enlist the aid and involvement of its parent or parents in
16 presenting the program to the child; or may develop programs of a more formal kindergarten type,
17 in existing school buildings, or both, as the county board may determine, taking into consideration
18 the cost, the terrain, the existing available facilities, the distances each child may be required to
19 travel, the time each child may be required to be away from home, the child's health, the involvement
20 of parents and other factors as each county board may find pertinent. The determinations by any
21 county board are final and conclusive.

22

CHAPTER 18A. SCHOOL PERSONNEL.

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

2 **§18A-4-8. Employment term and class titles of service personnel; definitions.**

3 (a) The purpose of this section is to establish an employment term and class titles for service
4 personnel. The employment term for service personnel may not be less than ten months. A month
5 is defined as twenty employment days. The county board may contract with all or part of these
6 service personnel for a longer term.

7 (b) Service personnel employed on a yearly or twelve-month basis may be employed by
8 calendar months. Whenever there is a change in job assignment during the school year, the
9 minimum pay scale and any county supplement are applicable.

10 (c) Service personnel employed in the same classification for more than the two hundred-day
11 minimum employment term are paid for additional employment at a daily rate of not less than the
12 daily rate paid for the two hundred-day minimum employment term.

13 (d) A service person may not be required to report for work more than five days per week
14 without his or her agreement, and no part of any working day may be accumulated by the employer
15 for future work assignments, unless the employee agrees thereto.

16 (e) If a service person whose regular work week is scheduled from Monday through Friday
17 agrees to perform any work assignments on a Saturday or Sunday, the service person is paid for at
18 least one-half day of work for each day he or she reports for work. If the service person works more
19 than three and one-half hours on any Saturday or Sunday, he or she is paid for at least a full day of
20 work for each day.

21 (f) A custodian, aide, maintenance, office and school lunch service person required to work
22 a daily work schedule that is interrupted is paid additional compensation in accordance with this

1 subsection.

2 (1) A maintenance person means a person who holds a classification title other than in a
3 custodial, aide, school lunch, office or transportation category as provided in section one, article one
4 of this chapter.

5 (2) A service person's schedule is considered to be interrupted if he or she does not work a
6 continuous period in one day. Aides are not regarded as working an interrupted schedule when
7 engaged exclusively in the duties of transporting students;

8 (3) The additional compensation provided in this subsection:

9 (A) Is equal to at least one eighth of a service person's total salary as provided by the state
10 minimum pay scale and any county pay supplement; and

11 (B) Is payable entirely from county board funds.

12 (g) When there is a change in classification or when a service person meets the requirements
13 of an advanced classification, his or her salary shall be made to comply with the requirements of this
14 article and any county salary schedule in excess of the minimum requirements of this article, based
15 upon the service person's advanced classification and allowable years of employment.

16 (h) A service person's contract, as provided in section five, article two of this chapter, shall
17 state the appropriate monthly salary the employee is to be paid, based on the class title as provided
18 in this article and on any county salary schedule in excess of the minimum requirements of this
19 article.

20 (i) The column heads of the state minimum pay scale and class titles, set forth in section
21 eight-a of this article, are defined as follows:

22 (1) "Pay grade" means the monthly salary applicable to class titles of service personnel;

1 (2) "Years of employment" means the number of years which an employee classified as a
2 service person has been employed by a county board in any position prior to or subsequent to the
3 effective date of this section and includes service in the Armed Forces of the United States, if the
4 employee was employed at the time of his or her induction. For the purpose of section eight-a of this
5 article, years of employment is limited to the number of years shown and allowed under the state
6 minimum pay scale as set forth in section eight-a of this article;

7 (3) "Class title" means the name of the position or job held by a service person;

8 (4) "Accountant I" means a person employed to maintain payroll records and reports and
9 perform one or more operations relating to a phase of the total payroll;

10 (5) "Accountant II" means a person employed to maintain accounting records and to be
11 responsible for the accounting process associated with billing, budgets, purchasing and related
12 operations;

13 (6) "Accountant III" means a person employed in the county board office to manage and
14 supervise accounts payable, payroll procedures, or both;

15 (7) "Accounts payable supervisor" means a person employed in the county board office who
16 has primary responsibility for the accounts payable function and who either has completed twelve
17 college hours of accounting courses from an accredited institution of higher education or has at least
18 eight years of experience performing progressively difficult accounting tasks. Responsibilities of
19 this class title may include supervision of other personnel;

20 (8) "Aide I" means a person selected and trained for a teacher-aide classification such as
21 monitor aide, clerical aide, classroom aide or general aide;

22 (9) "Aide II" means a service person referred to in the "Aide I" classification who has

1 completed a training program approved by the state board, or who holds a high school diploma or
2 has received a general educational development certificate. Only a person classified in an Aide II
3 class title may be employed as an aide in any special education program

4 (10) "Aide III" means a service person referred to in the "Aide I" classification who holds a
5 high school diploma or a general educational development certificate; and

6 (A) Has completed six semester hours of college credit at an institution of higher education;
7 or

8 (B) Is employed as an aide in a special education program and has one year's experience as
9 an aide in special education;

10 (11) "Aide IV" means a service person referred to in the "Aide I" classification who holds
11 a high school diploma or a general educational development certificate; and

12 (A) Has completed eighteen hours of State Board-approved college credit at a regionally
13 accredited institution of higher education, or

14 (B) Has completed fifteen hours of State Board-approved college credit at a regionally
15 accredited institution of higher education; and has successfully completed an in-service training
16 program determined by the state Board to be the equivalent of three hours of college credit;

17 (12) "Audiovisual technician" means a person employed to perform minor maintenance on
18 audiovisual equipment, films, and supplies and who fills requests for equipment;

19 (13) "Auditor" means a person employed to examine and verify accounts of individual
20 schools and to assist schools and school personnel in maintaining complete and accurate records of
21 their accounts;

22 (14) "Autism mentor" means a person who works with autistic students and who meets

1 standards and experience to be determined by the state Board. A person who has held or holds an
2 aide title and becomes employed as an autism mentor shall hold a multiclassification status that
3 includes both aide and autism mentor titles, in accordance with section eight-b of this article;

4 (15) "Braille specialist" means a person employed to provide braille assistance to students.

5 A service person who has held or holds an aide title and becomes employed as a braille specialist
6 shall hold a multiclassification status that includes both aide and braille specialist title, in accordance
7 with section eight-b of this article;

8 (16) "Bus operator" means a person employed to operate school buses and other school
9 transportation vehicles as provided by the state board;

10 (17) "Buyer" means a person employed to review and write specifications, negotiate purchase
11 bids and recommend purchase agreements for materials and services that meet predetermined
12 specifications at the lowest available costs;

13 (18) "Cabinetmaker" means a person employed to construct cabinets, tables, bookcases and
14 other furniture;

15 (19) "Cafeteria manager" means a person employed to direct the operation of a food services
16 program in a school, including assigning duties to employees, approving requisitions for supplies
17 and repairs, keeping inventories, inspecting areas to maintain high standards of sanitation, preparing
18 financial reports and keeping records pertinent to food services of a school;

19 (20) "Carpenter I" means a person classified as a carpenter's helper;

20 (21) "Carpenter II" means a person classified as a journeyman carpenter;

21 (22) "Chief mechanic" means a person employed to be responsible for directing activities
22 which ensure that student transportation or other county board-owned vehicles are properly and

1 safely maintained;

2 (23) "Clerk I" means a person employed to perform clerical tasks;

3 (24) "Clerk II" means a person employed to perform general clerical tasks, prepare reports
4 and tabulations, and operate office machines;

5 (25) "Computer operator" means a qualified person employed to operate computers;

6 (26) "Cook I" means a person employed as a cook's helper;

7 (27) "Cook II" means a person employed to interpret menus and to prepare and serve meals
8 in a food service program of a school. This definition includes a service person who has been
9 employed as a "Cook I" for a period of four years;

10 (28) "Cook III" means a person employed to prepare and serve meals, make reports, prepare
11 requisitions for supplies, order equipment and repairs for a food service program of a school system;

12 (29) "Crew leader" means a person employed to organize the work for a crew of maintenance
13 employees to carry out assigned projects;

14 (30) "Custodian I" means a person employed to keep buildings clean and free of refuse;

15 (31) "Custodian II" means a person employed as a watchman or groundsman;

16 (32) "Custodian III" means a person employed to keep buildings clean and free of refuse, to
17 operate the heating or cooling systems and to make minor repairs;

18 (33) "Custodian IV" means a person employed as a head custodian. In addition to providing
19 services as defined in "Custodian III" duties may include supervising other custodian personnel;

20 (34) "Director or coordinator of services" means an employee of a county board who is
21 assigned to direct a department or division.

22 (A) Nothing in this subdivision prohibits a professional person or a professional educator

1 from holding this class title;

2 (B) Professional personnel holding this class title may not be defined or classified as service
3 personnel unless the professional person held a service personnel title under this section prior to
4 holding the class title of "director or coordinator of services;"

5 (C) The director or coordinator of services is classified either as a professional person or a
6 service person for state aid formula funding purposes;

7 (D) Funding for the position of director or coordinator of services is based upon the
8 employment status of the director or coordinator either as a professional person or a service person;
9 and

10 (E) A person employed under the class title "director or coordinator of services" may not be
11 exclusively assigned to perform the duties ascribed to any other class title as defined in this
12 subsection: *Provided*, That nothing in this paragraph prohibits a person in this position from being
13 multiclassified;

14 (35) "Draftsman" means a person employed to plan, design and produce detailed
15 architectural/engineering drawings;

16 (36) "Early Childhood Classroom Assistant Teacher ~~-Temporary Authorization I~~" means a
17 person who does not possess minimum requirements for the permanent authorization requirements,
18 but is enrolled in and pursuing requirements;

19 (37) "Early Childhood Classroom Assistant Teacher ~~-Permanent Authorization II~~" means
20 a person who has completed the minimum requirements for a state-awarded certificate for early
21 childhood classroom assistant teachers ~~that meet or exceed the requirements for a child development~~
22 ~~associate. Equivalency for~~ as determined by the West Virginia Department of Education; will be

1 ~~determined as the child development associate or the West Virginia Apprenticeship for Child~~
2 ~~Development Specialists;~~

3 (38) "Early Childhood Classroom Assistant Teacher - ~~Paraprofessional Certificate III~~" means
4 a person who has completed permanent authorization requirements, as well as additional
5 requirements comparable to current paraprofessional certificate;

6 (39) "Educational Sign Language Interpreter I" means a person employed to provide
7 communication access across all educational environments to students who are deaf or hard of
8 hearing, and who holds the Initial Paraprofessional Certificate – Educational Interpreter pursuant to
9 state board policy;

10 (40) "Educational Sign Language Interpreter II" means a person employed to provide
11 communication access across all educational environments to students who are deaf or hard of
12 hearing, and who holds the Permanent Paraprofessional Certificate – Educational Interpreter
13 pursuant to state board policy;

14 (41) "Electrician I" means a person employed as an apprentice electrician helper or one who
15 holds an electrician helper license issued by the State Fire Marshal;

16 (42) "Electrician II" means a person employed as an electrician journeyman or one who holds
17 a journeyman electrician license issued by the State Fire Marshal;

18 (43) "Electronic technician I" means a person employed at the apprentice level to repair and
19 maintain electronic equipment;

20 (44) "Electronic technician II" means a person employed at the journeyman level to repair
21 and maintain electronic equipment;

22 (45) "Executive secretary" means a person employed as secretary to the county school

1 superintendent or as a secretary who is assigned to a position characterized by significant
2 administrative duties;

3 (46) "Food services supervisor" means a qualified person who is not a professional person
4 or professional educator as defined in section one, article one of this chapter. The food services
5 supervisor is employed to manage and supervise a county school system's food service program.
6 The duties include preparing in-service training programs for cooks and food service employees,
7 instructing personnel in the areas of quantity cooking with economy and efficiency and keeping
8 aggregate records and reports;

9 (47) "Foreman" means a skilled person employed to supervise personnel who work in the
10 areas of repair and maintenance of school property and equipment;

11 (48) "General maintenance" means a person employed as a helper to skilled maintenance
12 employees, and to perform minor repairs to equipment and buildings of a county school system;

13 (49) "Glazier" means a person employed to replace glass or other materials in windows and
14 doors and to do minor carpentry tasks;

15 (50) "Graphic artist" means a person employed to prepare graphic illustrations;

16 (51) "Groundsman" means a person employed to perform duties that relate to the appearance,
17 repair and general care of school grounds in a county school system. Additional assignments may
18 include the operation of a small heating plant and routine cleaning duties in buildings;

19 (52) "Handyman" means a person employed to perform routine manual tasks in any operation
20 of the county school system;

21 (53) "Heating and air conditioning mechanic I" means a person employed at the apprentice
22 level to install, repair and maintain heating and air conditioning plants and related electrical

1 equipment;

2 (54) "Heating and air conditioning mechanic II" means a person employed at the journeyman
3 level to install, repair and maintain heating and air conditioning plants and related electrical
4 equipment;

5 (55) "Heavy equipment operator" means a person employed to operate heavy equipment;

6 (56) "Inventory supervisor" means a person employed to supervise or maintain operations
7 in the receipt, storage, inventory and issuance of materials and supplies;

8 (57) "Key punch operator" means a qualified person employed to operate key punch
9 machines or verifying machines;

10 (58) "Licensed practical nurse" means a nurse, licensed by the West Virginia Board of
11 Examiners for Licensed Practical Nurses, employed to work in a public school under the supervision
12 of a school nurse;

13 (59) "Locksmith" means a person employed to repair and maintain locks and safes;

14 (60) "Lubrication man" means a person employed to lubricate and service gasoline or diesel-
15 powered equipment of a county school system;

16 (61) "Machinist" means a person employed to perform machinist tasks which include the
17 ability to operate a lathe, planer, shaper, threading machine and wheel press. A person holding this
18 class title also should have the ability to work from blueprints and drawings;

19 (62) "Mail clerk" means a person employed to receive, sort, dispatch, deliver or otherwise
20 handle letters, parcels and other mail;

21 (63) "Maintenance clerk" means a person employed to maintain and control a stocking
22 facility to keep adequate tools and supplies on hand for daily withdrawal for all school maintenance

1 crafts;

2 (64) "Mason" means a person employed to perform tasks connected with brick and block
3 laying and carpentry tasks related to these activities;

4 (65) "Mechanic" means a person employed to perform skilled duties independently in the
5 maintenance and repair of automobiles, school buses and other mechanical and mobile equipment
6 to use in a county school system;

7 (66) "Mechanic assistant" means a person employed as a mechanic apprentice and helper;

8 (67) "Multiclassification" means a person employed to perform tasks that involve the
9 combination of two or more class titles in this section. In these instances the minimum salary scale
10 is the higher pay grade of the class titles involved;

11 (68) "Office equipment repairman I" means a person employed as an office equipment
12 repairman apprentice or helper;

13 (69) "Office equipment repairman II" means a person responsible for servicing and repairing
14 all office machines and equipment. A person holding this class title is responsible for the purchase
15 of parts necessary for the proper operation of a program of continuous maintenance and repair;

16 (70) "Painter" means a person employed to perform duties painting, finishing and decorating
17 wood, metal and concrete surfaces of buildings, other structures, equipment, machinery and
18 furnishings of a county school system;

19 (71) "Paraprofessional" means a person certified pursuant to section two-a, article three of
20 this chapter to perform duties in a support capacity including, but not limited to, facilitating in the
21 instruction and direct or indirect supervision of students under the direction of a principal, a teacher
22 or another designated professional educator.

1 (A) A person employed on the effective date of this section in the position of an aide may not
2 be subject to a reduction in force or transferred to create a vacancy for the employment of a
3 paraprofessional;

4 (B) A person who has held or holds an aide title and becomes employed as a paraprofessional
5 shall hold a multiclassification status that includes both aide and paraprofessional titles in
6 accordance with section eight-b of this article; and

7 (C) When a service person who holds an aide title becomes certified as a paraprofessional
8 and is required to perform duties that may not be performed by an aide without paraprofessional
9 certification, he or she shall receive the paraprofessional title pay grade;

10 (72) "Payroll supervisor" means a person employed in the county board office who has
11 primary responsibility for the payroll function and who either has completed twelve college hours
12 of accounting from an accredited institution of higher education or has at least eight years of
13 experience performing progressively difficult accounting tasks. Responsibilities of this class title
14 may include supervision of other personnel;

15 (73) "Plumber I" means a person employed as an apprentice plumber and helper;

16 (74) "Plumber II" means a person employed as a journeyman plumber;

17 (75) "Printing operator" means a person employed to operate duplication equipment, and to
18 cut, collate, staple, bind and shelve materials as required;

19 (76) "Printing supervisor" means a person employed to supervise the operation of a print
20 shop;

21 (77) "Programmer" means a person employed to design and prepare programs for computer
22 operation;

1 (78) "Roofing/sheet metal mechanic" means a person employed to install, repair, fabricate
2 and maintain roofs, gutters, flashing and duct work for heating and ventilation;

3 (79) "Sanitation plant operator" means a person employed to operate and maintain a water
4 or sewage treatment plant to ensure the safety of the plant's effluent for human consumption or
5 environmental protection;

6 (80) "School bus supervisor" means a qualified person:

7 (A) Employed to assist in selecting school bus operators and routing and scheduling school
8 buses, operate a bus when needed, relay instructions to bus operators, plan emergency routing of
9 buses and promote good relationships with parents, students, bus operators and other employees; and

10 (B) Certified to operate a bus or previously certified to operate a bus;

11 (81) "Secretary I" means a person employed to transcribe from notes or mechanical
12 equipment, receive callers, perform clerical tasks, prepare reports and operate office machines;

13 (82) "Secretary II" means a person employed in any elementary, secondary, kindergarten,
14 nursery, special education, vocational, or any other school as a secretary. The duties may include
15 performing general clerical tasks; transcribing from notes; stenotype, mechanical equipment or a
16 sound-producing machine; preparing reports; receiving callers and referring them to proper persons;
17 operating office machines; keeping records and handling routine correspondence. Nothing in this
18 subdivision prevents a service person from holding or being elevated to a higher classification;

19 (83) "Secretary III" means a person assigned to the county board office administrators in
20 charge of various instructional, maintenance, transportation, food services, operations and health
21 departments, federal programs or departments with particular responsibilities in purchasing and
22 financial control or any person who has served for eight years in a position which meets the

1 definition of "Secretary II" or "Secretary III";

2 (84) "Sign Support Specialist" means a person employed to provide sign supported speech
3 assistance to students who are able to access environments through audition. A person who has held
4 or holds an aide title and becomes employed as a sign support specialist shall hold a
5 multiclassification status that includes both aide and sign support specialist titles, in accordance with
6 section eight-b of this article.

7 (85) "Supervisor of maintenance" means a skilled person who is not a professional person
8 or professional educator as defined in section one, article one of this chapter. The responsibilities
9 include directing the upkeep of buildings and shops, and issuing instructions to subordinates relating
10 to cleaning, repairs and maintenance of all structures and mechanical and electrical equipment of a
11 county board;

12 (86) "Supervisor of transportation" means a qualified person employed to direct school
13 transportation activities properly and safely, and to supervise the maintenance and repair of vehicles,
14 buses and other mechanical and mobile equipment used by the county school system. After July 1,
15 2010, all persons employed for the first time in a position with this classification title or in a
16 multiclassification position that includes this title shall have five years of experience working in the
17 transportation department of a county board. Experience working in the transportation department
18 consists of serving as a bus operator, bus aide, assistant mechanic, mechanic, chief mechanic or in
19 a clerical position within the transportation department;

20 (87) "Switchboard operator-receptionist" means a person employed to refer incoming calls,
21 to assume contact with the public, to direct and to give instructions as necessary, to operate
22 switchboard equipment and to provide clerical assistance;

1 (88) "Truck driver" means a person employed to operate light or heavy duty gasoline and
2 diesel-powered vehicles;

3 (89) "Warehouse clerk" means a person employed to be responsible for receiving, storing,
4 packing and shipping goods;

5 (90) "Watchman" means a person employed to protect school property against damage or
6 theft. Additional assignments may include operation of a small heating plant and routine cleaning
7 duties;

8 (91) "Welder" means a person employed to provide acetylene or electric welding services for
9 a school system; and

10 (92) "WVEIS data entry and administrative clerk" means a person employed to work under
11 the direction of a school principal to assist the school counselor or counselors in the performance of
12 administrative duties, to perform data entry tasks on the West Virginia Education Information
13 System, and to perform other administrative duties assigned by the principal.

14 (j) Notwithstanding any provision in this code to the contrary, and in addition to the
15 compensation provided for service personnel in section eight-a of this article, each service person
16 is entitled to all service personnel employee rights, privileges and benefits provided under this or any
17 other chapter of this code without regard to the employee's hours of employment or the methods or
18 sources of compensation.

19 (k) A service person whose years of employment exceeds the number of years shown and
20 provided for under the state minimum pay scale set forth in section eight-a of this article may not be
21 paid less than the amount shown for the maximum years of employment shown and provided for in
22 the classification in which he or she is employed.

1 (l) Each county board shall review each service person's job classification annually and shall
2 reclassify all service persons as required by the job classifications. The state superintendent may
3 withhold state funds appropriated pursuant to this article for salaries for service personnel who are
4 improperly classified by the county boards. Further, the state superintendent shall order a county
5 board to correct immediately any improper classification matter and, with the assistance of the
6 Attorney General, shall take any legal action necessary against any county board to enforce the order.

7 (m) Without his or her written consent, a service person may not be:

8 (1) Reclassified by class title; or

9 (2) Relegated to any condition of employment which would result in a reduction of his or her
10 salary, rate of pay, compensation or benefits earned during the current fiscal year; or for which he
11 or she would qualify by continuing in the same job position and classification held during that fiscal
12 year and subsequent years.

13 (n) Any county board failing to comply with the provisions of this article may be compelled
14 to do so by mandamus and is liable to any party prevailing against the board for court costs and the
15 prevailing party's reasonable attorney fee, as determined and established by the court.

16 (o) Notwithstanding any provision of this code to the contrary, a service person who holds
17 a continuing contract in a specific job classification and who is physically unable to perform the job's
18 duties as confirmed by a physician chosen by the employee, shall be given priority status over any
19 employee not holding a continuing contract in filling other service personnel job vacancies if the
20 service person is qualified as provided in section eight-e of this article.

21 (p) Any person employed in an aide position on the effective date of this section may not be
22 transferred or subject to a reduction in force for the purpose of creating a vacancy for the

1 employment of a licensed practical nurse.

2 (q) Without the written consent of the service person, a county board may not establish the
3 beginning work station for a bus operator or transportation aide at any site other than a county board-
4 owned facility with available parking. The workday of the bus operator or transportation aide
5 commences at the bus at the designated beginning work station and ends when the employee is able
6 to leave the bus at the designated beginning work station, unless he or she agrees otherwise in
7 writing. The application or acceptance of a posted position may not be construed as the written
8 consent referred to in this subsection.

9 (r) Itinerant status means a service person who does not have a fixed work site and may be
10 involuntarily reassigned to another work site. A service person is considered to hold itinerant status
11 if he or she has bid upon a position posted as itinerant or has agreed to accept this status. A county
12 board may establish positions with itinerant status only within the aide and autism mentor
13 classification categories and only when the job duties involve exceptional students. A service person
14 with itinerant status may be assigned to a different work site upon written notice ten days prior to
15 the reassignment without the consent of the employee and without posting the vacancy. A service
16 person with itinerant status may be involuntarily reassigned no more than twice during the school
17 year. At the conclusion of each school year, the county board shall post and fill, pursuant to section
18 eight-b of this article, all positions that have been filled without posting by a service person with
19 itinerant status. A service person who is assigned to a beginning and ending work site and travels
20 at the expense of the county board to other work sites during the daily schedule, is not considered
21 to hold itinerant status.

22 (s) Any service person holding a classification title on June 30, 2013, that is removed from

1 the classification schedule pursuant to amendment and reenactment of this section in the year 2013,
2 has his or her employment contract revised as follows:

3 (1) Any service person holding the Braille or Sign Language Specialist classification title has
4 that classification title renamed on his or her employment contract as either Braille Specialist or Sign
5 Support Specialist. This action does not result in a loss or reduction of salary or supplement by any
6 employee. Any seniority earned in the Braille or Sign Language Specialist classification prior to July
7 1, 2013, continues to be credited as seniority earned in the Braille Specialist or Sign Support
8 Specialist classification;

9 (2) Any service person holding the Paraprofessional classification title and holding the Initial
10 Paraprofessional Certificate – Educational Interpreter has the title Educational Sign Language
11 Interpreter I added to his or her employment contract. This action does not result in a loss or
12 reduction of salary or supplement by any employee. Any seniority earned in the Paraprofessional
13 classification prior to July 1, 2013, continues to be credited as seniority earned in the Educational
14 Sign Language Interpreter I classification; and

15 (3) Any service person holding the Paraprofessional classification title and holding the
16 Permanent Paraprofessional Certificate – Educational Interpreter has the title Educational Sign
17 Language Interpreter II added to his or her employment contract. This action does not result in a loss
18 or reduction of salary or supplement by any employee. Any seniority earned in the Paraprofessional
19 classification prior to July 1, 2013, continues to be credited as seniority earned in the Educational
20 Sign Language Interpreter II classification;

21 (t) Any person employed as an aide in a kindergarten program who is eligible for full
22 retirement benefits before July 1, 2020, may not be subject to a reduction in force or transferred to

1 create a vacancy for the employment of a less senior Early Childhood Classroom Assistant Teacher;
2 (u) A person who has held or holds an aide title and becomes employed as an Early
3 Childhood Classroom Assistant Teacher shall hold a multiclassification status that includes aide
4 and/or paraprofessional titles in accordance with section eight-b of this article.

5 **§18A-4-8b. Seniority rights for school service personnel.**

6 (a) A county board shall make decisions affecting promotions and the filling of any service
7 personnel positions of employment or jobs occurring throughout the school year that are to be
8 performed by service personnel as provided in section eight of this article, on the basis of seniority,
9 qualifications and evaluation of past service.

10 (b) Qualifications means the applicant holds a classification title in his or her category of
11 employment as provided in this section and is given first opportunity for promotion and filling
12 vacancies. Other employees then shall be considered and shall qualify by meeting the definition of
13 the job title that relates to the promotion or vacancy, as defined in section eight of this article. If
14 requested by the employee, the county board shall show valid cause why a service person with the
15 most seniority is not promoted or employed in the position for which he or she applies. Qualified
16 applicants shall be considered in the following order:

17 (1) Regularly employed service personnel who hold a classification title within the
18 classification category of the vacancy;

19 (2) Service personnel who have held a classification title within the classification category
20 of the vacancy whose employment has been discontinued in accordance with this section;

21 (3) Regularly employed service personnel who do not hold a classification title within the
22 classification category of vacancy;

1 (4) Service personnel who have not held a classification title within the classification
2 category of the vacancy and whose employment has been discontinued in accordance with this
3 section;

4 (5) Substitute service personnel who hold a classification title within the classification
5 category of the vacancy;

6 (6) Substitute service personnel who do not hold a classification title within the classification
7 category of the vacancy; and

8 (7) New service personnel.

9 (c) The county board may not prohibit a service person from retaining or continuing his or
10 her employment in any positions or jobs held prior to the effective date of this section and thereafter.

11 (d) A promotion means any change in employment that the service person considers to
12 improve his or her working circumstance within the classification category of employment.

13 (1) A promotion includes a transfer to another classification category or place of employment
14 if the position is not filled by an employee who holds a title within that classification category of
15 employment.

16 (2) Each class title listed in section eight of this article is considered a separate classification
17 category of employment for service personnel, except for those class titles having Roman numeral
18 designations, which are considered a single classification of employment:

19 (A) The cafeteria manager class title is included in the same classification category as cooks;

20 (B) The executive secretary class title is included in the same classification category as
21 secretaries;

22 (C) Paraprofessional, autism mentor, early classroom assistant teacher and braille or sign

1 ~~language support~~ specialist class titles are included in the same classification category as aides; and

2 (D) The mechanic assistant and chief mechanic class titles are included in the same
3 classification category as mechanics.

4 (3) The assignment of an aide to a particular position within a school is based on seniority
5 within the aide classification category if the aide is qualified for the position.

6 (4) Assignment of a custodian to work shifts in a school or work site is based on seniority
7 within the custodian classification category.

8 (e) For purposes of determining seniority under this section a service person's seniority
9 begins on the date that he or she enters into the assigned duties.

10 (f) *Extra-duty assignments.* --

11 (1) For the purpose of this section, "extra-duty assignment" means an irregular job that occurs
12 periodically or occasionally such as, but not limited to, field trips, athletic events, proms, banquets
13 and band festival trips.

14 (2) Notwithstanding any other provisions of this chapter to the contrary, decisions affecting
15 service personnel with respect to extra-duty assignments are made in the following manner:

16 (A) A service person with the greatest length of service time in a particular category of
17 employment is given priority in accepting extra duty assignments, followed by other fellow
18 employees on a rotating basis according to the length of their service time until all employees have
19 had an opportunity to perform similar assignments. The cycle then is repeated.

20 (B) An alternative procedure for making extra-duty assignments within a particular
21 classification category of employment may be used if the alternative procedure is approved both by
22 the county board and by an affirmative vote of two-thirds of the employees within that classification

1 category of employment.

2 (g) County boards shall post and date notices of all job vacancies of existing or newly created
3 positions in conspicuous places for all school service personnel to observe for at least five working
4 days.

5 (1) Posting locations include any website maintained by or available for the use of the county
6 board.

7 (2) Notice of a job vacancy shall include the job description, the period of employment, the
8 work site, the starting and ending time of the daily shift, the amount of pay and any benefits and
9 other information that is helpful to prospective applicants to understand the particulars of the job.
10 The notice of a job vacancy in the aide classification categories shall include the program or primary
11 assignment of the position. Job postings for vacancies made pursuant to this section shall be written
12 to ensure that the largest possible pool of qualified applicants may apply. Job postings may not
13 require criteria which are not necessary for the successful performance of the job and may not be
14 written with the intent to favor a specific applicant.

15 (3) After the five-day minimum posting period, all vacancies shall be filled within twenty
16 working days from the posting date notice of any job vacancies of existing or newly created
17 positions.

18 (4) The county board shall notify any person who has applied for a job posted pursuant to this
19 section of the status of his or her application as soon as possible after the county board makes a
20 hiring decision regarding the posted position.

21 (h) All decisions by county boards concerning reduction in work force of service personnel
22 shall be made on the basis of seniority, as provided in this section.

1 (i) The seniority of a service person is determined on the basis of the length of time the
2 employee has been employed by the county board within a particular job classification. For the
3 purpose of establishing seniority for a preferred recall list as provided in this section, a service person
4 who has been employed in one or more classifications retains the seniority accrued in each previous
5 classification.

6 (j) If a county board is required to reduce the number of service personnel within a particular
7 job classification, the following conditions apply:

8 (1) The employee with the least amount of seniority within that classification or grades of
9 classification is properly released and employed in a different grade of that classification if there is
10 a job vacancy;

11 (2) If there is no job vacancy for employment within that classification or grades of
12 classification, the service person is employed in any other job classification which he or she
13 previously held with the county board if there is a vacancy and retains any seniority accrued in the
14 job classification or grade of classification.

15 (k) After a reduction in force or transfer is approved, but prior to August 1, a county board
16 in its sole and exclusive judgment may determine that the reason for any particular reduction in force
17 or transfer no longer exists.

18 (1) If the board makes this determination, it shall rescind the reduction in force or transfer
19 and notify the affected employee in writing of the right to be restored to his or her former position
20 of employment.

21 (2) The affected employee shall notify the county board of his or her intent to return to the
22 former position of employment within five days of being notified or lose the right to be restored to

1 the former position.

2 (3) The county board may not rescind the reduction in force of an employee until all service
3 personnel with more seniority in the classification category on the preferred recall list have been
4 offered the opportunity for recall to regular employment as provided in this section.

5 (4) If there are insufficient vacant positions to permit reemployment of all more senior
6 employees on the preferred recall list within the classification category of the service person who
7 was subject to reduction in force, the position of the released service person shall be posted and filled
8 in accordance with this section.

9 (l) If two or more service persons accumulate identical seniority, the priority is determined
10 by a random selection system established by the employees and approved by the county board.

11 (m) All service personnel whose seniority with the county board is insufficient to allow their
12 retention by the county board during a reduction in work force are placed upon a preferred recall list
13 and shall be recalled to employment by the county board on the basis of seniority.

14 (n) A service person placed upon the preferred recall list shall be recalled to any position
15 openings by the county board within the classification(s) where he or she had previously been
16 employed, to any lateral position for which the service person is qualified or to a lateral area for
17 which a service person has certification and/or licensure.

18 (o) A service person on the preferred recall list does not forfeit the right to recall by the
19 county board if compelling reasons require him or her to refuse an offer of reemployment by the
20 county board.

21 (p) The county board shall notify all service personnel on the preferred recall list of all
22 position openings that exist from time to time. The notice shall be sent by certified mail to the last

1 known address of the service person. Each service person shall notify the county board of any
2 change of address.

3 (q) No position openings may be filled by the county board, whether temporary or permanent,
4 until all service personnel on the preferred recall list have been properly notified of existing
5 vacancies and have been given an opportunity to accept reemployment.

6 (r) A service person released from employment for lack of need as provided in sections six
7 and eight-a, article two of this chapter is accorded preferred recall status on July 1 of the succeeding
8 school year if he or she has not been reemployed as a regular employee.

9 (s) A county board failing to comply with the provisions of this article may be compelled to
10 do so by mandamus and is liable to any party prevailing against the board for court costs and the
11 prevailing party's reasonable attorney fee, as determined and established by the court.

12 (1) A service person denied promotion or employment in violation of this section shall be
13 awarded the job, pay and any applicable benefits retroactively to the date of the violation and shall
14 be paid entirely from local funds.

15 (2) The county board is liable to any party prevailing against the board for any court reporter
16 costs including copies of transcripts.

NOTE: The purpose of this bill is to redefine the service personnel class titles of early childhood classroom assistant teachers to smooth the transition of former early childhood aides to this new classification of school service personnel. The changes include protections from reduction in force or transfer for these aides eligible for full retirement benefits before July 1, 2020 to create vacancy for less senior early childhood classroom assistant teacher; requiring aide who becomes employed as early childhood classroom assistant teacher to hold certain multiclassification status; and including early childhood assistant classroom assistant teacher in same classification category as aides.

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

new language that would be added.