

**Senate Bill No. 420**

(By Senators Boley, Carmichael,  
Karnes, Kessler, Mullins, Plymale,  
Sypolt, Unger and Kirkendoll)

---

[Introduced February 5, 2015;  
referred to the Committee on Pensions;  
and then to the Committee on Finance.]

---

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 retirement benefits for persons employed as an aide or early classroom assistant teacher and braille or sign support specialist in kindergarten programs; creating a class of Early Childhood Classroom Assistant Teacher I, Early Childhood Classroom Assistant Teacher II and Early Childhood Classroom Assistant Teacher III; providing that a person who has held or holds an aide title and becomes employed as an Early Childhood Classroom Assistant Teacher holds a multiclassification status that includes aide and/or paraprofessional titles and are included in the same classification category as aides; and providing that an aide in a kindergarten program that is eligible for full retirement benefits before July 1, 2020, may remain employed as an aide in that position and be granted an Early Childhood Classroom Assistant Teacher permanent authorization by the state superintendent.

*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:

[S. B. NO. 420]

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18. Kindergarten programs.

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

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

[S. B. NO. 420]

1 ~~required to acquire licensure pursuant to this section.~~

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

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

[S. B. NO. 420]

1 of parents and other factors as each county board may find pertinent. The determinations by any  
2 county board are final and conclusive.

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

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

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

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

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

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

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

[S. B. NO. 420]

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

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

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

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

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

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

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

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

22 (I) The column heads of the state minimum pay scale and class titles, set forth in section

**[S. B. NO. 420]**

1 eight-a of this article, are defined as follows:

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

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

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

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

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

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

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

22 (8) "Aide I" means a person selected and trained for a teacher-aide classification such as

[S. B. NO. 420]

1 monitor aide, clerical aide, classroom aide or general aide;

2 (9) "Aide II" means a service person referred to in the "Aide I" classification who has  
3 completed a training program approved by the state board, or who holds a high school diploma or  
4 has received a general educational development certificate. Only a person classified in an Aide II  
5 class title may be employed as an aide in any special education program

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

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

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

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

14 (A) Has completed eighteen hours of state board-approved college credit at a regionally  
15 accredited institution of higher education, or

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

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

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

[S. B. NO. 420]

1 their accounts;

2 (14) "Autism mentor" means a person who works with autistic students and who meets  
3 standards and experience to be determined by the state board. A person who has held or holds an  
4 aide title and becomes employed as an autism mentor shall hold a multiclassification status that  
5 includes both aide and autism mentor titles, in accordance with section eight-b of this article;

6 (15) "Braille specialist" means a person employed to provide braille assistance to students.  
7 A service person who has held or holds an aide title and becomes employed as a braille specialist  
8 shall hold a multiclassification status that includes both aide and braille specialist title, in accordance  
9 with section eight-b of this article;

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

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

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

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

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

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

[S. B. NO. 420]

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

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

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

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

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

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

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

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

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

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

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

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

22 (34) "Director or coordinator of services" means an employee of a county board who is

[S. B. NO. 420]

1 assigned to direct a department or division.

2 (A) Nothing in this subdivision prohibits a professional person or a professional educator  
3 from holding this class title;

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

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

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

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

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

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

21 (37) "Early Childhood Classroom Assistant Teacher ~~-Permanent Authorization II~~" means  
22 a person who has completed the minimum requirements for a state-awarded certificate for early

[S. B. NO. 420]

1 childhood classroom assistant teachers ~~that meet or exceed the requirements for a child development~~  
2 ~~associate. Equivalency for~~ as determined by the West Virginia Department of Education will be  
3 ~~determined as the child development associate or the West Virginia Apprenticeship for Child~~  
4 ~~Development Specialists;~~

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

8 (A) Any person employed as an aide in a kindergarten program who is eligible for full  
9 retirement benefits before July 1, 2020, may not be subject to a reduction in force or transferred to  
10 create a vacancy for the employment of a less senior Early Childhood Classroom Assistant Teacher;

11 (B) A person who has held or holds an aide title and becomes employed as an Early  
12 Childhood Classroom Assistant Teacher shall hold a multiclassification status that includes aide  
13 and/or paraprofessional titles in accordance with section eight-b of this article;

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

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

22 (41) "Electrician I" means a person employed as an apprentice electrician helper or one who

**[S. B. NO. 420]**

1 holds an electrician helper license issued by the State Fire Marshal;

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

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

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

8 (45) "Executive secretary" means a person employed as secretary to the county school  
9 superintendent or as a secretary who is assigned to a position characterized by significant  
10 administrative duties;

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

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

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

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

[S. B. NO. 420]

- 1 (50) "Graphic artist" means a person employed to prepare graphic illustrations;
- 2 (51) "Groundsman" means a person employed to perform duties that relate to the appearance,  
3 repair and general care of school grounds in a county school system. Additional assignments may  
4 include the operation of a small heating plant and routine cleaning duties in buildings;
- 5 (52) "Handyman" means a person employed to perform routine manual tasks in any operation  
6 of the county school system;
- 7 (53) "Heating and air conditioning mechanic I" means a person employed at the apprentice  
8 level to install, repair and maintain heating and air conditioning plants and related electrical  
9 equipment;
- 10 (54) "Heating and air conditioning mechanic II" means a person employed at the journeyman  
11 level to install, repair and maintain heating and air conditioning plants and related electrical  
12 equipment;
- 13 (55) "Heavy equipment operator" means a person employed to operate heavy equipment;
- 14 (56) "Inventory supervisor" means a person employed to supervise or maintain operations  
15 in the receipt, storage, inventory and issuance of materials and supplies;
- 16 (57) "Key punch operator" means a qualified person employed to operate key punch  
17 machines or verifying machines;
- 18 (58) "Licensed practical nurse" means a nurse, licensed by the West Virginia Board of  
19 Examiners for Licensed Practical Nurses, employed to work in a public school under the  
20 supervision of a school nurse;
- 21 (59) "Locksmith" means a person employed to repair and maintain locks and safes;
- 22 (60) "Lubrication man" means a person employed to lubricate and service gasoline or

[S. B. NO. 420]

1 diesel-powered equipment of a county school system;

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

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

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

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

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

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

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

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

21 (69) "Office equipment repairman II" means a person responsible for servicing and repairing  
22 all office machines and equipment. A person holding this class title is responsible for the purchase

[S. B. NO. 420]

1 of parts necessary for the proper operation of a program of continuous maintenance and repair;

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

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

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

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

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

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

**[S. B. NO. 420]**

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

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

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

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

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

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

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

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

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

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

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

22 (82) "Secretary II" means a person employed in any elementary, secondary, kindergarten,

[S. B. NO. 420]

1 nursery, special education, vocational, or any other school as a secretary. The duties may include  
2 performing general clerical tasks; transcribing from notes; stenotype, mechanical equipment or a  
3 sound-producing machine; preparing reports; receiving callers and referring them to proper persons;  
4 operating office machines; keeping records and handling routine correspondence. Nothing in this  
5 subdivision prevents a service person from holding or being elevated to a higher classification;

6 (83) "Secretary III" means a person assigned to the county board office administrators in  
7 charge of various instructional, maintenance, transportation, food services, operations and health  
8 departments, federal programs or departments with particular responsibilities in purchasing and  
9 financial control or any person who has served for eight years in a position which meets the  
10 definition of "secretary II" or "secretary III";

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

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

21 (86) "Supervisor of transportation" means a qualified person employed to direct school  
22 transportation activities properly and safely, and to supervise the maintenance and repair of

[S. B. NO. 420]

1 vehicles, buses and other mechanical and mobile equipment used by the county school system.  
2 After July 1, 2010, all persons employed for the first time in a position with this classification title  
3 or in a multiclassification position that includes this title shall have five years of experience working  
4 in the transportation department of a county board. Experience working in the transportation  
5 department consists of serving as a bus operator, bus aide, assistant mechanic, mechanic, chief  
6 mechanic or in a clerical position within the transportation department;

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

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

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

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

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

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

[S. B. NO. 420]

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

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

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

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

18 (1) Reclassified by class title; or

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

[S. B. NO. 420]

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

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

9 (p) Any person employed in an aide position on the effective date of this section may not  
10 be transferred or subject to a reduction in force for the purpose of creating a vacancy for the  
11 employment of a licensed practical nurse.

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

19 (r) Itinerant status means a service person who does not have a fixed work site and may be  
20 involuntarily reassigned to another work site. A service person is considered to hold itinerant status  
21 if he or she has bid upon a position posted as itinerant or has agreed to accept this status. A county  
22 board may establish positions with itinerant status only within the aide and autism mentor

**[S. B. NO. 420]**

1 classification categories and only when the job duties involve exceptional students. A service  
2 person with itinerant status may be assigned to a different work site upon written notice ten days  
3 prior to the reassignment without the consent of the employee and without posting the vacancy. A  
4 service person with itinerant status may be involuntarily reassigned no more than twice during the  
5 school year. At the conclusion of each school year, the county board shall post and fill, pursuant  
6 to section eight-b of this article, all positions that have been filled without posting by a service  
7 person with itinerant status. A service person who is assigned to a beginning and ending work site  
8 and travels at the expense of the county board to other work sites during the daily schedule, is not  
9 considered to hold itinerant status.

10 (s) Any service person holding a classification title on June 30, 2013, that is removed from  
11 the classification schedule pursuant to amendment and reenactment of this section in the year 2013  
12 has his or her employment contract revised as follows:

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

19 (2) Any service person holding the Paraprofessional classification title and holding the  
20 Initial Paraprofessional Certificate– Educational Interpreter has the title Educational Sign Language  
21 Interpreter I added to his or her employment contract. This action does not result in a loss or  
22 reduction of salary or supplement by any employee. Any seniority earned in the Paraprofessional

[S. B. NO. 420]

1 classification prior to July 1, 2013, continues to be credited as seniority earned in the Educational  
2 Sign Language Interpreter I classification; and

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

9 **§18A-4-8b. Seniority rights for school service personnel.**

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

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

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

[S. B. NO. 420]

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

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

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

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

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

12 (7) New service personnel.

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

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

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

21 (2) Each class title listed in section eight of this article is considered a separate classification  
22 category of employment for service personnel, except for those class titles having Roman numeral

[S. B. NO. 420]

1 designations, which are considered a single classification of employment:

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

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

5 (C) Paraprofessional, autism mentor, early classroom assistant teacher and braille or sign  
6 ~~language~~ support specialist class titles are included in the same classification category as aides; and

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

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

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

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

15 (f) *Extra-duty assignments.* —

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

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

21 (A) A service person with the greatest length of service time in a particular category of  
22 employment is given priority in accepting extra duty assignments, followed by other fellow

**[S. B. NO. 420]**

1 employees on a rotating basis according to the length of their service time until all employees have  
2 had an opportunity to perform similar assignments. The cycle then is repeated.

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

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

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

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

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

**[S. B. NO. 420]**

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

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

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

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

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

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

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

**[S. B. NO. 420]**

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

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

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

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

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

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

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

**[S. B. NO. 420]**

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

4 (p) The county board shall notify all service personnel on the preferred recall list of all  
5 position openings that exist from time to time. The notice shall be sent by certified mail to the last  
6 known address of the service person. Each service person shall notify the county board of any  
7 change of address.

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

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

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

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

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

**[S. B. NO. 420]**

(NOTE: The purpose of this bill is to provide retirement benefits for persons employed as an aide or early classroom assistant teacher and braille or sign support specialist in kindergarten programs. The bill creates a class of Early Childhood Classroom Assistant Teacher I, Early Childhood Classroom Assistant Teacher II and Early Childhood Classroom Assistant Teacher III. It also provides that a person who has held or holds an aide title and becomes employed as an Early Childhood Classroom Assistant Teacher holds a multiclassification status that includes aide and/or paraprofessional titles and are included in the same classification category as aides. And, the bill provides that an aide in a kindergarten program that is eligible for full retirement benefits before July 1, 2020, may remain employed as an aide in that position and be granted an Early Childhood Classroom Assistant Teacher permanent authorization by the state superintendent.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)