

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2077

FISCAL
NOTE

2015 Carryover

(BY DELEGATES CAPUTO AND MANCHIN)

[Introduced January 13, 2016; referred to the
Committee on Education then Finance.]

1 A BILL to amend and reenact §18A-2-2 and §18A-2-6a of the Code of West Virginia, 1931, as
 2 amended, all relating to requiring county boards of education to provide released time for
 3 professional educators and service personnel when serving in a part-time elected or
 4 appointed municipal or county offices.

Be it enacted by the Legislature of West Virginia:

1 That §18A-2-2 and §18A-2-6a of the Code of West Virginia, 1931, as amended, be
 2 amended and reenacted, all to read as follows:

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-2. Employment of teachers; contracts; continuing contract status; how terminated; dismissal for lack of need; released time; failure of teacher to perform contract or violation thereof; written notice bonus for teachers and professional personnel.

1 (a) Before entering upon their duties, all teachers shall execute a contract with their county
 2 boards, which shall state the salary to be paid and shall be in the form prescribed by the State
 3 Superintendent. Each contract shall be signed by the teacher and by the president and secretary
 4 of the county board and shall be filed, together with the certificate of the teacher, by the secretary
 5 of the office of the county board: *Provided*, That when necessary to facilitate the employment of
 6 employable professional personnel and prospective and recent graduates of teacher education
 7 programs who have not yet attained certification, the contract may be signed upon the condition
 8 that the certificate is issued to the employee prior to the beginning of the employment term in
 9 which the employee enters upon his or her duties.

10 (b) Each teacher's contract, under this section, shall be designated as a probationary or
 11 continuing contract. A probationary teacher's contract shall be for a term of not less than one
 12 nor more than three years, one of which shall be for completion of a beginning teacher internship

13 pursuant to the provisions of section two-b, article three of this chapter, if applicable. If, after
14 three years of such employment, the teacher who holds a professional certificate, based on at
15 least a bachelor's degree, has met the qualifications for a bachelor's degree and the county board
16 enter into a new contract of employment, it shall be a continuing contract, subject to the following:

17 (1) Any teacher holding a valid certificate with less than a bachelor's degree who is
18 employed in a county beyond the three-year probationary period shall upon qualifying for the
19 professional certificate based upon a bachelor's degree, if reemployed, be granted continuing
20 contract status; and

21 (2) A teacher holding continuing contract status with one county shall be granted
22 continuing contract status with any other county upon completion of one year of acceptable
23 employment if the employment is during the next succeeding school year or immediately following
24 an approved leave of absence extending no more than one year.

25 (c) The continuing contract of any teacher shall remain in full force and effect except as
26 modified by mutual consent of the school board and the teacher, unless and until terminated,
27 subject to the following:

28 (1) A continuing contract may not be terminated except:

29 (A) By a majority vote of the full membership of the county board on or before March 1 of
30 the then current year, after written notice, served upon the teacher, return receipt requested,
31 stating cause or causes and an opportunity to be heard at a meeting of the board prior to the
32 board's action on the termination issue; or

33 (B) By written resignation of the teacher on or before March 1 to initiate termination of a
34 continuing contract;

35 (2) The termination shall take effect at the close of the school year in which the contract
36 is terminated;

37 (3) The contract may be terminated at any time by mutual consent of the school board and
38 the teacher;

39 (4) This section does not affect the powers of the school board to suspend or dismiss a
40 principal or teacher pursuant to section eight of this article;

41 (5) A continuing contract for any teacher holding a certificate valid for more than one year
42 and in full force and effect during the school year 1984-1985 shall remain in full force and effect;

43 (6) A continuing contract does not operate to prevent a teacher's dismissal based upon
44 the lack of need for the teacher's services pursuant to the provisions of law relating to the
45 allocation to teachers and pupil-teacher ratios. The written notification of teachers being
46 considered for dismissal for lack of need shall be limited to only those teachers whose
47 consideration for dismissal is based upon known or expected circumstances which will require
48 dismissal for lack of need. An employee who was not provided notice and an opportunity for a
49 hearing pursuant to this subsection may not be included on the list. In case of dismissal for lack
50 of need, a dismissed teacher shall be placed upon a preferred list in the order of their length of
51 service with that board. No teacher may be employed by the board until each qualified teacher
52 upon the preferred list, in order, has been offered the opportunity for reemployment in a position
53 for which he or she is qualified, not including a teacher who has accepted a teaching position
54 elsewhere. The reemployment shall be upon a teacher's preexisting continuing contract and has
55 the same effect as though the contract had been suspended during the time the teacher was not
56 employed.

57 (d) In the assignment of position or duties of a teacher under a continuing contract, the
58 board may provide for released time of a teacher for any special professional or governmental
59 assignment without jeopardizing the contractual rights of the teacher or any other rights, privileges
60 or benefits under the provisions of this chapter. Released time shall be provided for any

61 professional educator while serving as a member of the Legislature or any elected or appointed
62 part-time public office during any duly constituted session of that body and its interim and statutory
63 committees and commissions, without jeopardizing his or her contractual rights or any other
64 rights, privileges, benefits or accrual of experience for placement on the state minimum salary
65 schedule in the following school year under the provisions of this chapter, board policy and law.

66 (e) Any teacher who fails to fulfill his or her contract with the board, unless prevented from
67 doing so by personal illness or other just cause or unless released from his or her contract by the
68 board, or who violates any lawful provision of the contract, is disqualified to teach in any other
69 public school in the state for a period of the next ensuing school year and the State Department
70 of Education or board may hold all papers and credentials of the teacher on file for a period of
71 one year for the violation: *Provided*, That marriage of a teacher is not considered a failure to
72 fulfill, or violation of, the contract.

73 (f) Any classroom teacher, as defined in section one, article one of this chapter, who
74 desires to resign employment with a county board or request a leave of absence, the resignation
75 or leave of absence to become effective on or before July 15 of the same year and after
76 completion of the employment term, may do so at any time during the school year by written
77 notification of the resignation or leave of absence and any notification received by a county board
78 shall automatically extend the teacher's public employee insurance coverage until August 31 of
79 the same year.

80 (g) (1) A classroom teacher who gives written notice to the county board on or before
81 January 15 of the school year of his or her retirement from employment with the board at the
82 conclusion of the school year shall be paid \$500 from the Early Notification of Retirement line
83 item established for the Department of Education for this purpose, subject to appropriation by the
84 Legislature. If the appropriations to the Department of Education for this purpose are insufficient

85 to compensate all applicable teachers, the Department of Education shall request a supplemental
 86 appropriation in an amount sufficient to compensate all such teachers. Additionally, if funds are
 87 still insufficient to compensate all applicable teachers, the priority of payment is for teachers who
 88 give written notice the earliest. This payment shall not be counted as part of the final average
 89 salary for the purpose of calculating retirement.

90 (2) The position of a classroom teacher providing written notice of retirement pursuant to
 91 this subsection may be considered vacant and the county board may immediately post the
 92 position as an opening to be filled at the conclusion of the school year. If a teacher has been
 93 hired to fill the position of a retiring classroom teacher prior to the start of the next school year,
 94 the retiring classroom teacher is disqualified from continuing his or her employment in that
 95 position. However, the retiring classroom teacher may be permitted to continue his or her
 96 employment in that position and forfeit the early retirement notification payment if, after giving
 97 notice of retirement in accordance with this subsection, he or she becomes subject to a significant
 98 unforeseen financial hardship, including a hardship caused by the death or illness of an immediate
 99 family member or loss of employment of a spouse. Other significant unforeseen financial
 100 hardships shall be determined by the county superintendent on a case-by-case basis. This
 101 subsection does not prohibit a county school board from eliminating the position of a retiring
 102 classroom teacher.

§18A-2-6a. Released time for service personnel.

1 In the assignment of position or duties of a service person under a continuing contract,
 2 the board may provide for released time of a service person for any special professional or
 3 governmental assignment without jeopardizing the contractual rights of such service or any other
 4 rights, privileges or benefits under the provisions of this chapter. Released time shall be provided
 5 for any service person while serving as a member of the Legislature or any elected or appointed

6 part-time public office during any duly constituted session of that body and its interim and statutory
7 committees and commissions, without jeopardizing his or her contractual rights or any other
8 rights, privileges, benefits or accrual of experience for placement on the state minimum salary
9 schedule in the following school year under the provisions of this chapter, board policy and law.
10 For the purposes of this section, service person is the singular of service personnel as defined in
11 section one, article one of this chapter.

NOTE: The purpose of this bill is to require county boards of education to provide released time for professional educators and service personnel when serving in a part-time elected or appointed municipal or county office.

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