

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

**Introduced**

### **House Bill 2126**

**FISCAL  
NOTE**

BY DELEGATE CAPUTO

[Introduced January 9, 2019; 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:*

## **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. When necessary to facilitate the employment of employable  
 6 professional personnel and prospective and recent graduates of teacher education programs who  
 7 have not yet attained certification, the contract may be signed upon the condition that the  
 8 certificate is issued to the employee prior to the beginning of the employment term in which the  
 9 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 teachers contract shall be for a term of not less than one nor  
 12 more than three years, one of which shall be for completion of a beginning teacher internship  
 13 pursuant to the provisions of §18A-3-2b of this code, if applicable. If, after three years of such  
 14 employment, the teacher who holds a professional certificate, based on at least a bachelor's  
 15 degree, has met the qualifications for a bachelor's degree and the county board enter into a new  
 16 contract of employment, it shall be a continuing contract, subject to the following:

17 (1) Any teacher with less than a bachelor's degree who holds a valid certificate and is

18 employed in a county beyond the three-year probationary period shall be granted continuing  
19 contract status upon qualifying for the professional certificate based upon a bachelor's degree, if  
20 the teacher becomes reemployed; 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 May 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 May 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 §18A-2-8 of this code;

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. A teacher may not be employed by the board until each qualified teacher  
52 on the preferred list, in order, has been offered the opportunity for reemployment in a position for  
53 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 rights,  
64 privileges, benefits or accrual of experience for placement on the state minimum salary schedule  
65 in the following school year under the provisions of this chapter, board policy and law.

66 (e) A teacher is disqualified to teach in any public school in the state for the duration of  
67 the next ensuing school year, if that teacher:

68 (1) Fails to fulfill his or her contract with the board, unless prevented from doing so by  
69 personal illness or other just cause or unless released from his or her contract by the board, or

70 (2) Violates any lawful provision of his or her contract: *Provided*, That the marriage of a  
71 teacher is not considered a failure to fulfill, or violation of, the contract.

72           The State Department of Education or board may hold all papers and credentials of the  
73 teacher on file for a period of one year for the violation and shall report such disqualification status  
74 in the National Association of State Directors of Teacher Education and Certification (NASDTEC)  
75 database system.

76           (f) Any classroom teacher, as defined in §18A-1-1 of this code, who desires to resign  
77 employment with a county board or request a leave of absence, the resignation or leave of  
78 absence to become effective on or before July 15 of the same year and after completion of the  
79 employment term, may do so at any time during the school year by written notification of the  
80 resignation or leave of absence and any notification received by a county board shall  
81 automatically extend the teacher's public employee insurance coverage until August 31 of the  
82 same year.

83           (g) (1) A classroom teacher who gives written notice to the county board on or before  
84 March 1 of the school year of his or her retirement from employment with the board at the  
85 conclusion of the school year shall be paid \$500 from the early notification of retirement line item  
86 established for the department of education for this purpose, subject to appropriation by the  
87 Legislature. If the appropriations to the department of education for this purpose are insufficient  
88 to compensate all applicable teachers, the department of education shall request a supplemental  
89 appropriation in an amount sufficient to compensate all such teachers. Additionally, if funds are  
90 still insufficient to compensate all applicable teachers, the priority of payment is for teachers who  
91 give written notice the earliest. This payment may not be counted as part of the final average  
92 salary for the purpose of calculating retirement.

93           (2) The position of a classroom teacher providing written notice of retirement pursuant to  
94 this subsection may be considered vacant and the county board may immediately post the  
95 position as an opening to be filled at the conclusion of the school year. If a teacher has been hired  
96 to fill the position of a retiring classroom teacher prior to the start of the next school year, the  
97 retiring classroom teacher is disqualified from continuing his or her employment in that position.  
98 However, the retiring classroom teacher may be permitted to continue his or her employment in

99 that position and forfeit the early retirement notification payment if, after giving notice of retirement  
100 in accordance with this subsection, he or she becomes subject to a significant unforeseen  
101 financial hardship, including a hardship caused by the death or illness of an immediate family  
102 member or loss of employment of a spouse. Other significant unforeseen financial hardships shall  
103 be determined by the county superintendent on a case-by-case basis. This subsection does not  
104 prohibit a county school board from eliminating the position of a retiring 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 §18A-1-1 of this code.

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 a heading or the present law, and underscoring indicates new language that would be added.