

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2561

BY DELEGATE ANGELUCCI, CAPUTO AND LONGSTRETH

[Introduced January 21, 2019; Referred
to the Committee on Education then the Judiciary.]

1 A BILL to amend and reenact §18-5-1a of the Code of West Virginia, 1931, as amended, relating
 2 to expanding the eligibility for service on county school boards to those running for or
 3 serving as a nonpartisan elected official of a class III or class IV municipality.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-1a. Eligibility of members; training requirements.

- 1 (a) A person who is a member of a county board:
 - 2 (1) Shall be a citizen and resident in the county in which he or she serves on the county
 3 board. Also, a person who is a candidate for membership on a county board or who is a member-
 4 elect of a county board shall be a citizen and resident in the county in which he or she seeks to
 5 serve on the county board;
 - 6 (2) May not be employed by the county board on which he or she serves, including
 7 employment as a teacher or service person;
 - 8 (3) May not engage in the following political activities:
 - 9 (A) Become a candidate for or hold any other public office, other than to succeed him or
 10 herself as a member of a county board subject to the following:
 - 11 (i) A candidate for a county board, who is not currently serving on a county board, may
 12 hold another public office while a candidate if he or she resigns from the other public office prior
 13 to taking the oath of office as a county board member.
 - 14 (ii) The term “public office” as used in this section does not include service on any other
 15 board, elected or appointed, profit or nonprofit, under the following conditions:
 - 16 (I) The person does not receive compensation; and
 - 17 (II) The primary scope of the board is not related to public schools.
 - 18 (B) Become a candidate for, or serve as, an elected member of any political party
 19 executive committee;
 - 20 (C) Become a candidate for, or serve as, a delegate, alternate or proxy to a national

21 political party convention;

22 (D) Solicit or receive political contributions to support the election of, or to retire the
23 campaign debt of, any candidate for partisan office;

24 (4) May engage in any or all of the following political activities:

25 (A) Make campaign contributions to partisan or bipartisan candidates;

26 (B) Attend political fund raisers for partisan or bipartisan candidates;

27 (C) Serve as an unpaid volunteer on a partisan campaign;

28 (D) Politically endorse any candidate in a partisan or bipartisan election; or

29 (E) Attend a county, state or national political party convention.

30 (b) A member or member-elect of a county board, or a person desiring to become a
31 member of a county board, may make a written request to the West Virginia Ethics Commission
32 for an advisory opinion to determine if another elected or appointed position held or sought by the
33 person is an office or public office which would bar service on a county board pursuant to
34 subsection (a) of this section.

35 (1) Within 30 days of receipt of the request, the Ethics Commission shall issue a written
36 advisory opinion in response to the request and also shall publish the opinion in a manner which,
37 to the fullest extent possible, does not reveal the identity of the person making the request.

38 (2) A county board member who relies in good faith upon an advisory opinion issued by
39 the West Virginia Ethics Commission to the effect that holding a particular office or public office
40 is not a bar from membership on a county board and against whom proceedings are subsequently
41 brought for removal from the county board on the basis of holding that office or offices is entitled
42 to reimbursement by the county board for reasonable attorney's fees and court costs incurred by
43 the member in defending against these proceedings, regardless of the outcome of the
44 proceedings.

45 (3) A vote cast by the member at a meeting of the county board may not be invalidated
46 due to a subsequent finding that holding the particular office or public office is a bar to membership

47 on the county board.

48 (4) Good faith reliance on a written advisory opinion of the West Virginia Ethics
49 Commission that a particular office or public office is not a bar to membership on a county board
50 is an absolute defense to any civil suit or criminal prosecution arising from any proper action taken
51 within the scope of membership on the county board, becoming a member-elect of the county
52 board or seeking election to the county board.

53 (c) To be eligible for election or appointment as a member of a county board, a person
54 shall possess at least a high school diploma or a general educational development (GED)
55 diploma. This provision does not apply to members or members-elect who have taken office prior
56 to May 5, 1992, and who serve continuously from that date forward.

57 (d) A person elected to a county board after July 1, 1990, may not assume the duties of
58 county board member unless he or she has first attended and completed a course of orientation
59 relating to boardsmanship and governance effectiveness which shall be given between the date
60 of election and the beginning of the member's term of office under the following conditions:

61 (1) A portion or portions of subsequent training such as that offered in orientation may be
62 provided to members after they have commenced their term of office;

63 (2) Attendance at the session of orientation given between the date of election and the
64 beginning of the member's term of office permits the member-elect to assume the duties of county
65 board member, as specified in this section;

66 (3) Members appointed to the county board shall attend and complete the next orientation
67 course offered following their appointment; and

68 (4) The provisions of this subsection relating to orientation do not apply to members who
69 have taken office prior to July 1, 1988, and who serve continuously from that date forward.

70 (e) Annually, each member of a county board shall receive seven clock hours of training
71 in areas relating to boardsmanship, governance effectiveness, and school performance issues
72 including, but not limited to, pertinent state and federal statutes such as the "Process for Improving

73 Education” set forth in §18-2E-5 of this code and the “No Child Left Behind Act” and their
74 respective administrative rules.

75 (1) The orientation and training shall be approved by the state board and conducted by
76 the West Virginia School Board Association or other organization or organizations approved by
77 the state board:

78 (A) The state board may exclude time spent in training on school performance issues from
79 the requisite seven hours herein required; and

80 (B) If the state board elects to exclude time spent in training on school performance issues
81 from the requisite seven hours, the state board shall limit the training to a feasible and practicable
82 amount of time.

83 (2) Failure to attend and complete the approved course of orientation and training relating
84 to boardsmanship and governance effectiveness without good cause as determined by the state
85 board by duly promulgated legislative rules constitutes neglect of duty under §6-6-7 of this code.

86 (f) In the final year of any four-year term of office, a member shall satisfy the annual training
87 requirement before January 1. Failure to comply with the training requirements of this section
88 without good cause as defined by the state board by duly promulgated legislative rules constitutes
89 neglect of duty under §6-6-7 of this code.

90 (g) The state board shall appoint a committee named the “county board member training
91 standards review committee” whose members shall meet at least annually. Subject to state board
92 approval, the committee shall determine which particular trainings and training organizations shall
93 be approved and whether county board members have satisfied the annual training requirement.
94 Members of the committee serve without compensation, but may be reimbursed by their agencies
95 or employers for all reasonable and necessary expenses actually incurred in the performance of
96 their duties under this subsection.

97 (h) Notwithstanding provisions of this section to the contrary, a candidate for, or member
98 of, a county school board may run for and serve as a nonpartisan elected official of a class III or

99 class IV municipality.

NOTE: The purpose of this bill is to expand the eligibility for service on county school boards to those running for or serving as a nonpartisan elected official of a class III or class IV municipality.

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