

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2386

BY DELEGATE FLEISCHAUER

[Introduced January 14, 2019; Referred
to the Committee on Government Organization then
Education.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §18-2L-1, §18-2L-2 and §18-2L-3; and to amend and reenact §18-5-13a of
 3 said code, all relating to the creation of a School Consolidation Task Force; designating
 4 membership of Task Force; establishing Task Force purpose to study effects of school
 5 closures in the last 30 years; and to place a moratorium on school closure and
 6 consolidation for five years, unless special referendum in county passed by voters.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2L. SCHOOL CONSOLIDATION TASK FORCE.

§18-2L-1. Legislative findings.

1 The Legislature hereby determines that the provision of public education is of paramount
 2 importance to the State of West Virginia. In the past 30 years, West Virginia has closed many
 3 small, locally-based schools as a part of district level consolidation. Although all of these schools
 4 were consolidated through careful deliberation by the counties involved, it is apparent that the full
 5 effects of these closures are not able to be determined for many years after the consolidation has
 6 occurred. As such, the Legislature deems it appropriate to study the effects that the closure of
 7 these schools has had on student achievement, parental engagement, extracurricular
 8 engagement, community economies and cost.

§18-2L-2. School Consolidation Task Force created; membership; terms; commission membership; qualifications of members; terms of members; vacancies on commission; meetings; compensation and expenses; appointment and qualifications of members.

1 (a) The School Consolidation Task Force (“the Task Force”) shall be composed of five
 2 members. The Governor and Superintendent of Schools shall be members of the Task Force ex
 3 officio. The remaining three members of the Task Force shall be appointed by the Governor, by
 4 and with the advice of the Senate. Of the three members appointed by the Governor, one shall
 5 be a representative of the School Building Authority. The second appointee shall be a member of

6 the House of Delegates, and third appointee a member of the Senate. Of the five members, at
7 least three members shall have at least one child who is enrolled, or has attended, public schools
8 in West Virginia. The Governor shall serve as the chair of the Task Force.

9 (b) The members of the Task Force appointed by the Governor shall be appointed for
10 overlapping terms of six years each, except that the original appointments shall be for terms of
11 two, four and six years, respectively. Each member appointed by the Governor shall serve until
12 the member's successor has been appointed and qualified. Members may be appointed by the
13 Governor to serve any number of terms. The members of the Task Force appointed by the
14 Governor, before performing any duty hereunder, shall take and subscribe to the oath required
15 by West Virginia Constitution Art. IV, §5. Vacancies in the membership shall be filled by
16 appointment by the Governor for the unexpired term of the member whose office is vacant and
17 the appointment shall be made within 60 days of the occurrence of the vacancy. Any member
18 appointed by the Governor may be removed by the Governor in case of incompetency, neglect of
19 duty, gross immorality or malfeasance in office. A Task Force member's appointment shall be
20 terminated as a matter of law if that member fails to attend three consecutive meetings. The
21 Governor shall appoint a replacement within 30 days of the termination.

22 (c) The Task Force shall meet at such times and places as shall be designated by the
23 chair. The chair may call a meeting of the commission at any time. Notification of each meeting
24 shall be given in writing to each member by the chair at least 14 calendar days in advance of the
25 meeting. Three members of the Task Force, at least two of whom are appointed members, shall
26 constitute a quorum for the transaction of any business.

27 (d) The Task Force shall pay each member the same compensation as is paid to members
28 of the Legislature for their interim duties as recommended by the Citizens Legislative
29 Compensation Commission and authorized by law for each day or portion thereof engaged in the
30 discharge of official duties and shall reimburse each member for actual and necessary expenses
31 incurred in the discharge of official duties.

32 (e) It is the Task Force’s duty to execute, carry out, administer and enforce the provisions
 33 of this article. Subject to the provisions of §18-2L-3 of this code, the Task Force has jurisdiction
 34 and authority over all persons and property necessary to carry out its duties. The Task Force is
 35 authorized to make such investigation of records and facilities as it deems proper.

§18-2L-3. School Consolidation Task Force Study.

1 The Task Force has the following powers and duties:

2 (1) To investigate and study the effects of school consolidation in West Virginia;

3 (2) To ensure the study encompasses effect of school closures on student achievement,
 4 parental engagement, extracurricular engagement, community economic development, and
 5 financial costs;

6 (3) To designate any such districts or communities that are to be investigated and studied,
 7 and to determine the order and the periods of time within which the investigations and studies are
 8 to be conducted;

9 (4) To commission such studies as are necessary to fulfill the objectives of this section.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-13a. School closing or consolidation.

1 (a) In addition to the provisions of §18-5-13 of this code, prior to any final decision of a
 2 county board on any proposal to close or consolidate any school, except in cases in which a
 3 construction bond issue was passed by the voters and which bond issue included the schools to
 4 be closed or consolidated, the county board shall:

5 (1) Prepare and reduce to writing its reasons and supporting data regarding the school
 6 closing or consolidation. The written reasons shall:

7 (A) Be available for public inspection in the office of the county school superintendent
 8 during the 30 days preceding the date of the public hearing required by this section;

9 (B) Be delivered in duplicate to the:

10 (i) Principal of a school which is proposed to be closed or consolidated, and of any school

11 which will receive the students who are relocated as a result of the closure or consolidation; and

12 (ii) The chair, if any, of the local school improvement council representing a school which
13 is proposed to be closed or consolidated, and any school which will receive the students who are
14 relocated as a result of the closure or consolidation; and

15 (C) Comply with the rule promulgated pursuant to §18-5-13a(b) of this code;

16 (2) Provide notice for a public hearing. The notice shall be advertised through a Class III
17 legal advertisement, pursuant to the provisions of §59-3-1 *et seq.* of this code for the three weeks
18 prior to the date of the hearing. The notice shall contain the time and place of the hearing and
19 the proposed action of the county board. Additionally, the notice shall contain the statement that
20 the hearing location is subject to change if at the time the meeting is called to order, it is
21 determined that the meeting location is of insufficient size. A copy of the notice shall be posted
22 at any school which is proposed to be closed or consolidated, and at any school which will receive
23 the students who are relocated as a result of the closure or consolidation, in conspicuous working
24 places for all professional and service personnel to observe. The notice shall be posted at least
25 30 days prior to the date of the hearing;

26 (3) Conduct a public hearing which meets the following criteria:

27 (A) At least a quorum of the county board members and the county superintendent from
28 the county wherein an affected school is located shall attend and be present at the public hearing;

29 (B) Members of the public may be present, submit statements and testimony, and question
30 county school officials at the public hearing;

31 (C) A separate hearing shall be held for each school closed or consolidated;

32 (D) More than one hearing may be held during any one day;

33 (E) The hearing shall be held in a facility of sufficient size to accommodate all those who
34 desire to attend;

35 (F) If, at the time the hearing is called to order, it is determined by the board that insufficient
36 space is available to accommodate all those who desire to attend, the hearing shall be recessed

37 and moved to a new location of sufficient size to accommodate all those who desire to attend. If
38 the meeting location is changed due to insufficient capacity, the county board shall cause the new
39 meeting location to be posted at the original meeting location; and

40 (G) The hearing is subject to the requirements set forth in the rule promulgated in
41 accordance with §18-5-13(c) of this code; and

42 (4) Receive findings and recommendations from any local school improvement council
43 representing an affected school relating to the proposed closure or consolidation prior to or at the
44 public hearing.

45 (b) The state board shall promulgate a rule, in accordance with the provisions of §29A-
46 3B-1 *et seq.* of this code, detailing the type of supporting data a county board shall include as part
47 of its written statement of reason required by this section for school closing or consolidation. The
48 rule shall require at least the following data:

49 (1) The transportation time of the affected students; and

50 (2) Any data required by the state board to amend a county's comprehensive educational
51 facilities plan.

52 (c) The state board shall promulgate a rule, in accordance with the provisions of §29A-3B-
53 1 *et seq.* of this code, that establishes the procedure to be followed by county boards when
54 conducting a public hearing on the issues of school consolidation and closing.

55 (1) The rule shall provide standards for at least the following:

56 (A) The appropriate forum and venue for public hearings to be held;

57 (B) A process for affording interested parties the opportunity for their perspectives to be
58 expressed;

59 (C) Establishing, where necessary, reasonable restrictions on the amount of time allowed
60 each individual desiring to speak so that all parties wishing to speak at the hearing are given an
61 equal amount of time; and

62 (D) Scheduling and organizing public hearings when more than one school within a county

63 is proposed for consolidation or closure.

64 (2) It is the purpose of this subsection to provide for uniformity among the counties in the
65 procedures followed when scheduling, organizing and conducting public hearings on the issues
66 of school consolidation and closure.

67 (d) The state board shall promulgate the rules required by this section by June 1, 2002.

68 (e) Any document prepared, notice given, hearing conducted or action taken prior to the
69 effective date of the amendments made to this section during the 2002 regular session of the
70 Legislature, is considered sufficient if the county board complied with the terms of this section
71 effective at the time and the county board violates no other provision of law which would invalidate
72 the document, notice, hearing or actions.

73 (f) From July 1, 2019, to June 30, 2024, no school may be closed pursuant to the
74 procedures set forth in this section unless a special referendum is passed in the county in which
75 the consolidation is to take place.

NOTE: The purpose of this bill is to create a School Consolidation Task Force; designating membership of Task Force; establishing Task Force's purpose to study effects of school closures in the last 30 years; and to place a moratorium on school closure and consolidation for five years, unless a special referendum in county passed.

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