

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4380

BY DELEGATES BARRETT, ELLINGTON, STATLER,
KESSINGER, REYNOLDS, DEAN, MAYNOR, CLARK, AND
ESPINOSA

[Passed March 9, 2022; in effect from passage.]

1 AN ACT to amend and reenact §18-5-13 of the Code of West Virginia, 1931, as amended, relating
2 to the transportation of students and passengers; allowing service employees to be
3 certified to drive certain county board-owned vehicles that professional employees
4 currently can be certified to drive to transport students for school-sponsored activities;
5 requiring the vehicles to be insured; providing that 10 passenger limit of the vehicles
6 includes the driver; increasing the number of these vehicles which may be used for any
7 school-sponsored activity; allowing students to be transported to a school-sponsored
8 activity in a county-owned or leased vehicle that does not meet school bus or public transit
9 ratings if the seating capacity of the vehicle is less than 10 passengers including the driver;
10 allowing a guardian or other adult approved in writing by the parent or guardian to transport
11 students in a privately owned vehicle; removing limit on the number of students that can
12 be transported in a privately owned vehicle by a parent, guardian, or other adult approved
13 in writing by the parent or guardian; and clarifying that busses shall be used to transport
14 nineteen or more passengers.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-13. Authority of boards generally.

1 Subject to the provisions of this chapter and the rules of the state board, each county
2 board may:

3 (a) Control and manage all of the schools and school interests for all school activities and
4 upon all school property owned or leased by the county, including:

5 (1) Requiring schools to keep records regarding funds connected with the school or school
6 interests, including all receipts and disbursements of all funds collected or received by:

7 (A) Any principal, teacher, student or other person in connection with the schools and
8 school interests;

9 (B) Any program, activity or other endeavor of any nature operated or conducted by or in
10 the name of the school; and

11 (C) Any organization or body directly connected with the school;

12 (2) Allowing schools to expend funds for student, parent, teacher and community
13 recognition programs. A school may use only funds it generates through a fund-raising or
14 donation-soliciting activity. Prior to commencing the activity, the school shall:

15 (A) Publicize the activity as intended for this purpose; and

16 (B) Designate for this purpose the funds generated;

17 (3) Auditing the records and conserving the funds, including securing surety bonds by
18 expending board moneys. The funds described in this subsection are quasipublic funds, which
19 means the moneys were received for the benefit of the school system as a result of curricular or
20 noncurricular activities;

21 (b) Establish:

22 (1) Schools, from preschool through high school;

23 (2) Vocational schools; and

24 (3) Schools and programs for post-high school instruction, subject to approval of the state
25 board;

26 (c) Close any school:

27 (1) Which is unnecessary and assign the students to other schools. The closing shall occur
28 pursuant to official action of the county board. Except in emergency situations when the timing
29 and manner of notification are subject to approval by the state superintendent, the county board
30 shall notify the affected teachers and service personnel of the county board action not later than
31 the first Monday in April. The board shall provide notice in the same manner as set forth in section
32 four of this article; or

33 (2) Pursuant to subsection (e) of this section;

34 (d) Consolidate schools;

35 (e) Close any elementary school whose average daily attendance falls below twenty
36 students for two consecutive months. The county board may assign the students to other schools
37 in the district or to schools in adjoining districts. If the teachers in the closed school are not
38 transferred or reassigned to other schools, they shall receive one month's salary;

39 (f) Provide transportation according to rules established by the county board, as follows:

40 (1) To provide at public expense adequate means of transportation:

41 (A) For all children of school age who live more than two-miles distance from school by
42 the nearest available road;

43 (B) For school children participating in county board-approved curricular and
44 extracurricular activities;

45 (C) Across county lines for students transferred from one district to another by mutual
46 agreement of both county boards. The agreement shall be recorded in the meeting minutes of
47 each participating county board and is subject to subsection (h) of this section; and

48 (D) Within available revenues, for students within two-miles distance of the school; and

49 (2) To provide transportation for participants in projects operated, financed, sponsored or
50 approved by the Bureau of Senior Services. This transportation shall be provided at no cost to
51 the county board. All costs and expenses incident in any way to this transportation shall be borne
52 by the bureau or the local or county affiliate of the bureau;

53 (3) Any school bus owned by the county board may be operated only by a bus operator
54 regularly employed by the county board, except as provided in subsection (g) of this section;

55 (4) Notwithstanding any other provision of this code to the contrary and pursuant to rules
56 established by the state board, the county board may provide for professional or service
57 employees to be certified to drive county board-owned and insured vehicles that have a seating
58 capacity of fewer than ten passengers including the driver. These employees may use the
59 vehicles to transport students for school-sponsored activities, but may not use the vehicles to

60 transport students between school and home. Not more than two of these vehicles may be used
61 for any school-sponsored activity;

62 (5) Notwithstanding any other provision of this code to the contrary, students may be
63 transported to a school-sponsored activity in a county-owned or leased vehicle that does not meet
64 school bus or public transit ratings if the seating capacity of the vehicle is less than 10 passengers
65 including the driver. This section does not prohibit a parent, guardian, or other adult approved in
66 writing by the parent or guardian from transporting students in a privately-owned vehicle;

67 (6) Students may be transported to a school-sponsored activity in a vehicle that has a
68 seating capacity of sixteen or more passengers which is not owned and operated by the county
69 board only as follows:

70 (A) The state board shall promulgate a rule to establish requirements for:

71 (i) Automobile insurance coverage;

72 (ii) Vehicle safety specifications;

73 (iii) School bus or public transit ratings; and

74 (iv) Driver training, certification and criminal history record check; and

75 (B) The vehicle owner shall provide to the county board proof that the vehicle and driver
76 satisfy the requirements of the state board rule; and

77 (7) Buses shall be used to transport nineteen or more passengers for extracurricular
78 activities as provided in this section only when the insurance coverage required by this section is
79 in effect;

80 (g) Lease school buses pursuant to rules established by the county board.

81 (1) Leased buses may be operated only by bus operators regularly employed by the
82 county board, except that these buses may be operated by bus operators regularly employed by
83 another county board in this state if bus operators from the owning county are unavailable.

84 (2) The lessee shall bear all costs and expenses incurred by, or incidental to the use of,
85 the bus.

86 (3) The county board may lease buses to:

87 (A) Public and private nonprofit organizations and private corporations to transport school-
88 age children for camps or educational activities;

89 (B) Any college, university or officially recognized campus organization for transporting
90 students, faculty and staff to and from the college or university. Only college and university
91 students, faculty and staff may be transported pursuant to this paragraph. The lease shall include
92 provisions for:

93 (i) Compensation for bus operators;

94 (ii) Consideration for insurance coverage, repairs and other costs of service; and

95 (iii) Any rules concerning student behavior;

96 (C) Public and private nonprofit organizations, including education employee
97 organizations, for transportation associated with fairs, festivals and other educational and cultural
98 events. The county board may charge fees in addition to those charges otherwise required by this
99 subsection;

100 (h) To provide at public expense for insurance coverage against negligence of the drivers
101 of school buses, trucks or other vehicles operated by the county board. Any contractual
102 agreement for transportation of students shall require the vehicle owner to maintain insurance
103 coverage against negligence in an amount specified by the county board;

104 (i) Provide for the full cost or any portion thereof for group plan insurance benefits not
105 provided or available under the West Virginia Public Employees Insurance Act. Any of these
106 benefits shall be provided:

107 (1) Solely from county board funds; and

108 (2) For all regular full-time employees of the county board;

109 (j) Employ teacher aides; to provide in-service training for the aides pursuant to rules
110 established by the state board; and, prior to assignment, to provide a four-clock-hour program of
111 training for a service person assigned duties as a teacher aide in an exceptional children program.

112 The four-clock-hour program shall consist of training in areas specifically related to the education
113 of exceptional children;

114 (k) Establish and operate a self-supporting dormitory for:

115 (1) Students attending a high school or participating in a post high school program; and

116 (2) Persons employed to teach in the high school or post high school program;

117 (l) At the county board's discretion, employ, contract with or otherwise engage legal
118 counsel in lieu of using the services of the prosecuting attorney to advise, attend to, bring,
119 prosecute or defend, as the case may be, any matters, actions, suits and proceedings in which
120 the county board is interested;

121 (m) Provide appropriate uniforms for school service personnel;

122 (n) Provide at public expense for payment of traveling expenses incurred by any person
123 invited to appear to be interviewed concerning possible employment by the county board, subject
124 to rules established by the county board;

125 (o) Allow designated employees to use publicly provided carriage to travel from their
126 residences to their workplace and return. The use:

127 (1) Is subject to the supervision of the county board; and

128 (2) Shall be directly connected with, required by and essential to the performance of the
129 employee's duties and responsibilities;

130 (p) Provide at public expense adequate public liability insurance, including professional
131 liability insurance, for county board employees;

132 (q) (1) Enter into cooperative agreements with one or more county boards or educational
133 services cooperative to provide improvements to the instructional needs of each district. The
134 cooperative agreements may be used to employ specialists in a field of academic study or for
135 support functions or services for the field.

136 (2) Enter into cooperative agreements with one or more county boards to facilitate
137 coordination and cooperation in areas of service to reduce administrative and/or operational

138 costs, including the consolidation of administrative, coordinating, and other county level functions
139 into shared functions to promote the efficient administration and operation of the public school
140 systems including, but not limited to:

141 (A) Purchasing;

142 (B) Operation of specialized programs for exceptional children;

143 (C) Employment of any school personnel as defined in section one, article one, chapter
144 eighteen-a of this code;

145 (D) Professional development;

146 (E) Technology including, but not limited to WVEIS; and

147 (F) Billing for school-based Medicaid services in schools throughout the state.

148 Each such cooperative agreement shall be in writing and agreed to by each county board
149 participating in the cooperative agreement. Each cooperative agreement that is an employment
150 agreement may be entered into on a case-by-case basis. Notwithstanding the geographic
151 quadrants as provided in section thirteen-b of this article, school systems may enter into
152 cooperative agreements with any school system in the state.

153 (3) Enter into a cooperative agreement with other county boards to establish educational
154 services cooperatives as provided in section thirteen-c of this article.

155 (r) Provide information about vocational and higher education opportunities to exceptional
156 students. The county board shall provide in writing to the students and their parents or guardians
157 information relating to programs of vocational education and to programs available at state
158 institutions of higher education. The information may include sources of available funding,
159 including grants, mentorships and loans for students who wish to attend classes at institutions of
160 higher education;

161 (s) Enter into agreements with other county boards for the transfer and receipt of any funds
162 determined to be fair when students are permitted or required to attend school in a district other
163 than the district of their residence. These agreements are subject to the approval of the state
164 board; and

165 (t) Enter into job-sharing arrangements, as defined in section one, article one, chapter
166 eighteen-a of this code, with its employees, subject to the following provisions:

167 (1) A job-sharing arrangement shall meet all the requirements relating to posting,
168 qualifications and seniority, as provided in article four, chapter eighteen-a of this code;

169 (2) Notwithstanding any contrary provision of this code or legislative rule and specifically
170 article sixteen, chapter five of this code, a county board that enters into a job-sharing arrangement:

171 (A) Shall provide insurance coverage to the one employee mutually agreed upon by the
172 employees participating in that arrangement; and

173 (B) May not provide insurance benefits of any type to more than one of the job-sharing
174 employees, including any group plan available under the State Public Employees Insurance Act;

175 (3) Each job-sharing agreement shall be in writing on a form prescribed and furnished by
176 the county board. The agreement shall designate specifically one employee only who is entitled
177 to the insurance coverage. Any employee who is not designated is not eligible for state public
178 employees insurance coverage regardless of the number of hours he or she works;

179 (4) All employees involved in the job-sharing agreement shall meet the requirements of
180 subdivision (3), section two, article sixteen, chapter five of this code; and

181 (5) When entering into a job-sharing agreement, the county board and the participating
182 employees shall consider issues such as retirement benefits, termination of the job-sharing
183 agreement and any other issue the parties consider appropriate. Any provision in the agreement
184 relating to retirement benefits may not cause any cost to be incurred by the retirement system
185 that is more than the cost that would be incurred if a single employee were filling the position; and

186 (u) Under rules it establishes for each child, expend an amount not to exceed the
187 proportion of all school funds of the district that each child would be entitled to receive if all the
188 funds were distributed equally among all the children of school age in the district upon a per capita
189 basis.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2022.

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Governor