

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### House Bill 2761

FISCAL  
NOTE

By Delegates Ross and Dillon

[Introduced January 18, 2023; Referred to the  
Committee on Education]

1 A BILL to amend and reenact §18A-2-2 of the Code of West Virginia, 1931, as amended, relating  
 2 to authorizing county boards to employ eligible classroom aides as classroom teachers  
 3 when certain conditions are met.

*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; classroom aides.**

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 of  
 4 the county board and shall be filed, together with the certificate of the teacher, by the secretary of  
 5 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 section two-b, article three of this chapter, if applicable. If, after three  
 14 years of such employment, the teacher who holds a professional certificate, based on at least a  
 15 bachelor's degree, has met the qualifications for a bachelors degree and the county board enter  
 16 into a new 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 the  
30 then current year, after written notice, served upon the teacher, return receipt requested, stating  
31 cause or causes and an opportunity to be heard at a meeting of the board prior to the board's  
32 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 is  
36 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 the

44 lack of need for the teacher's services pursuant to the provisions of law relating to the allocation to  
45 teachers and pupil-teacher ratios. The written notification of teachers being considered for  
46 dismissal for lack of need shall be limited to only those teachers whose consideration for dismissal  
47 is based upon known or expected circumstances which will require dismissal for lack of need. An  
48 employee who was not provided notice and an opportunity for a hearing pursuant to this  
49 subsection may not be included on the list. In case of dismissal for lack of need, a dismissed  
50 teacher shall be placed upon a preferred list in the order of their length of service with that board. A  
51 teacher may not be employed by the board until each qualified teacher on the preferred list, in  
52 order, has been offered the opportunity for reemployment in a position for which he or she is  
53 qualified, not including a teacher who has accepted a teaching position elsewhere. The  
54 reemployment shall be upon a teacher's preexisting continuing contract and has the same effect  
55 as though the contract had been suspended during the time the teacher was not employed.

56 (d) In the assignment of position or duties of a teacher under a continuing contract, the  
57 board may provide for released time of a teacher for any special professional or governmental  
58 assignment without jeopardizing the contractual rights of the teacher or any other rights, privileges  
59 or benefits under the provisions of this chapter. Released time shall be provided for any  
60 professional educator while serving as a member of the Legislature during any duly constituted  
61 session of that body and its interim and statutory committees and commissions without  
62 jeopardizing his or her contractual rights or any other rights, privileges, benefits or accrual of  
63 experience for placement on the state minimum salary schedule in the following school year under  
64 the provisions of this chapter, board policy and law.

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

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

69 (2) Violates any lawful provision of his or her contract: *Provided*, That the marriage of a

70 teacher is not considered a failure to fulfill, or violation of, the contract.

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

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

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

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

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

103 (h) Notwithstanding any other provision of this code to the contrary, a county board that  
104 employs classroom aides may consider a classroom aide with no less than 10 years of service and  
105 satisfactory evaluations for a position as a classroom teacher to address areas of critical need:  
106 Provided, That the eligible classroom aide will graduate from an institution of higher education  
107 within three years of the school year for which the classroom aide is selected to teach: *Provided,*  
108 *however,* That the classroom teacher contract signed with an eligible classroom aide may be  
109 signed upon the condition that a professional certificate is issued to the employee within three  
110 years from the end of the initial employment term.

NOTE: The purpose of this bill is to allow county boards to employ eligible classroom aides as classroom teachers when certain conditions are met.

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