

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 839

By Senator Trump

[Introduced February 16, 2024; referred
to the Committee on Banking and Insurance; and
then to the Committee on Finance]

1 A BILL to amend and reenact §29-12-5a of the Code of West Virginia, 1931, as amended, relating
 2 to providing county boards of education the option to obtain professional or other liability
 3 insurance coverage from other insurance carriers licensed in the state.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. STATE INSURANCE.

§29-12-5a. Liability insurance for county boards of education, their employees and members, the county superintendent of schools, and public charter schools electing to obtain coverage; written notice of coverage to insureds.

1 (a) In accordance with the provisions of this article, the State Board of Risk and Insurance
 2 Management shall or any other licensed insurance carrier in this state may provide appropriate
 3 professional or other liability insurance for all county boards of education, teachers, supervisory
 4 and administrative staff members, service personnel, county superintendents of schools, and
 5 school board members: *Provided,* That the Board of Risk and Insurance Management is not
 6 required to provide insurance for every property, activity, or responsibility of county boards of
 7 education, teachers, supervisory, and administrative staff members, service personnel, county
 8 superintendents of schools, and school board members.

9 (b) Insurance provided by the Board of Risk and Insurance Management or any other
 10 licensed insurance carrier in this state pursuant to the provisions of subsection (a) of this section
 11 shall cover claims, demands, actions, suits, or judgments by reason of alleged negligence or other
 12 acts resulting in bodily injury or property damage to any person within or without any school
 13 building if, at the time of the alleged injury, the teacher, supervisor, administrator, service
 14 personnel employee, county superintendent, or school board member was acting in the discharge
 15 of his or her duties, within the scope of his or her office, position or employment, under the
 16 direction of the county board of education, or in an official capacity as a county superintendent or
 17 as a school board member.

18 (c) Insurance coverage provided by the Board of Risk and Insurance Management or any

19 other licensed insurance carrier in this state pursuant to subsection (a) of this section shall be in an
20 amount to be determined by the State Board of Risk and Insurance Management, but in no event
21 less than \$1,250,000 for each occurrence. In addition, each county board of education shall
22 purchase, through the Board of Risk and Insurance Management, excess coverage of at least \$5
23 million for each occurrence. The cost of this excess coverage will be paid by the respective county
24 boards of education. Any insurance purchased under this section shall be obtained from a
25 company licensed to do business in this state.

26 (d) The insurance policy provided by the Board of Risk and Insurance Management or any
27 other licensed insurance carrier in this state pursuant to subsection (a) of this section shall include
28 comprehensive coverage, personal injury coverage, malpractice coverage, corporal punishment
29 coverage, legal liability coverage, as well as a provision for the payment of the cost of attorney's
30 fees in connection with any claim, demand, action, suit, or judgment arising from such alleged
31 negligence or other act resulting in bodily injury under the conditions specified in this section.

32 (e) The county superintendent and other school personnel shall be defended by the county
33 board or an insurer in the case of suit, unless the act or omission ~~shall not have been~~ was not
34 within the course or scope of employment or official responsibility or was motivated by malicious or
35 criminal intent.

36 (f) At least annually, beginning with the 2019-2020 school year, county boards shall provide
37 written notice of insurance coverage to each of its insureds, including teachers, supervisors,
38 administrators, service personnel employees, county superintendent, and school board members.
39 The notice shall identify the coverages, monetary limits of insurance, and duty to defend for each
40 occurrence as provided to insureds by the Board of Risk and Insurance Management or any other
41 licensed insurance carrier in this state under this section. The written notice may be sent via email,
42 or via first-class mail to the insured's last mailing address known to the county board. The written
43 notice shall also include contact information for the Board of Risk and Insurance Management or
44 of the other licensed insurance carrier in this state.

45 (g) The provisions of this section apply to public charter schools that have been authorized
46 pursuant to §18-5G-1 *et seq.* of this code and have included in their charter contract entered into
47 pursuant to §18-5G-7 of this code a determination to obtain insurance coverage from the Board of
48 Risk and Insurance Management pursuant to this section. If a public charter school elects to obtain
49 coverage pursuant to this section:

50 (1) Any provision in this section applicable to a county board also applies to a charter
51 school governing board;

52 (2) Any provision in this section applicable to a school board member also applies to a
53 member of a charter school governing board; and

54 (3) Any provision of this section applicable to teachers, supervisory and administrative staff
55 members, and service personnel employed by a county board also applies to teachers,
56 supervisory or administrative staff members, and service personnel employed by a public charter
57 school.

58 (h) The amendments to this section during the 2019 First Extraordinary Session of the
59 Legislature shall be effective for fiscal years beginning on or after July 1, 2019: *Provided*, That the
60 amendment to subsection (c) of this section during the 2019 First Extraordinary Session of the
61 Legislature shall be effective for fiscal years beginning on or after July 1, 2020.

NOTE: The purpose of this bill is to provide county boards of education with the option of seeking insurance coverage from licensed insurance carriers.

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