

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 282

BY SENATORS GRADY, WOELFEL, DEEDS, AND OLIVERIO

[Passed April 4, 2025; in effect from passage]

1 AN ACT to amend and reenact §18A-2-3 and §18A-4-15a of the Code of West Virginia, 1931, as
2 amended, relating to statutory provisions that pertain to allowing a person receiving
3 retirement benefits under the Teachers Retirement System to accept employment as a
4 critical needs substitute teacher or bus operator for an unlimited number of days each
5 fiscal year if certain conditions are satisfied; creating exceptions to posting related
6 requirements applicable when a retired teacher is employed as a critical needs substitute;
7 changing the statutory expiration date; creating exceptions to posting related requirements
8 applicable when a retired bus operator is employed as a critical needs substitute; and
9 changing the statutory expiration date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. SCHOOL PERSONNEL.

**§18A-2-3. Employment of substitute teachers; and employment of retired teachers as
substitutes in areas of critical need and shortage.**

1 (a) The county superintendent, subject to approval of the county board, may employ and
2 assign substitute teachers to any of the following duties:

3 (1) Fill the temporary absence of any teacher or an unexpired school term made vacant
4 by resignation, death, suspension, or dismissal;

5 (2) Fill a teaching position of a regular teacher on leave of absence; and

6 (3) Perform the instructional services of any teacher who is authorized by law to be absent
7 from class without loss of pay, providing the absence is approved by the board of education in
8 accordance with the law.

9 The substitute shall be a duly certified teacher.

10 (b) Notwithstanding any other provision of this code to the contrary, a substitute teacher
11 who has been assigned as a classroom teacher in the same classroom continuously for more
12 than one half of a grading period and whose assignment remains in effect two weeks prior to the
13 end of the grading period, shall remain in the assignment until the grading period has ended,

14 unless the principal of the school certifies that the regularly employed teacher has communicated
15 with and assisted the substitute with the preparation of lesson plans and monitoring student
16 progress or has been approved to return to work by his or her physician. For the purposes of this
17 section, teacher and substitute teacher, in the singular or plural, mean professional educator as
18 defined in §18A-1-1 of this code.

19 (c) Persons who are hired as long-term substitute teachers shall be provided information
20 by the county board relating to an IEP plan and 504 plan, detailing their uses and what those
21 long-term substitute teachers should do to implement these plans upon their hiring.

22 (d) (1) The Legislature hereby finds and declares that due to a shortage of qualified
23 substitute teachers, a compelling state interest exists in expanding the use of retired teachers to
24 provide service as substitute teachers in areas of critical need and shortage. The Legislature
25 further finds that diverse circumstances exist among the counties for the expanded use of retired
26 teachers as substitutes.

27 (2) For the purposes of this subsection:

28 (A) "Area of critical need and shortage for substitute teachers" means an area of
29 certification and training in which the number of available substitute teachers in the county who
30 hold certification and training in that area and who are not retired is insufficient to meet the
31 projected need for substitute teachers; and

32 (B) "Teacher or substitute teacher" includes speech pathologists, school nurses, and
33 school counselors.

34 (3) A person receiving retirement benefits under §18-7A-1 *et seq.* of this code or who is
35 entitled to retirement benefits during the fiscal year in which that person retired may accept
36 employment as a critical needs substitute teacher for an unlimited number of days each fiscal
37 year without affecting the monthly retirement benefit to which the retirant is otherwise entitled if
38 the following conditions are satisfied:

39 (A) The county board adopts a policy recommended by the superintendent to address
40 areas of critical need and shortage for substitute teachers;

41 (B) The policy sets forth the areas of critical need and shortage for substitute teachers in
42 the county in accordance with the definition of “area of critical need and shortage for substitute
43 teachers” set forth in subdivision (2) of this subsection;

44 (C) The policy provides for the employment of retired teachers as critical needs substitute
45 teachers during the school year on an expanded basis in areas of critical need and shortage for
46 substitute teachers as provided in this subsection;

47 (D) The policy provides that a retired teacher may be employed as a substitute teacher in
48 an area of critical need and shortage for substitute teachers on an expanded basis as provided
49 in this subsection only when no other teacher who holds certification and training in the area and
50 who is not retired is available and accepts the substitute assignment;

51 (E) The policy is effective for one school year only and is subject to annual renewal by the
52 county board;

53 (F) The state board approves the policy and the use of retired teachers as substitute
54 teachers on an expanded basis in areas of critical need and shortage for substitute teachers as
55 provided in this subsection; and

56 (G) Prior to employment of a retired teacher as a critical needs substitute teacher beyond
57 the post-retirement employment limitations established by the Consolidated Public Retirement
58 Board, the superintendent of the affected county submits to the state board in a form approved
59 by the Consolidated Public Retirement Board and the state board, an affidavit signed by the
60 superintendent stating the name of the county, the fact that the county has adopted a policy to
61 employ retired teachers as substitutes to address areas of critical need and shortage, the name
62 or names of the person or persons to be employed as a critical needs substitute pursuant to the
63 policy, the critical need and shortage area position filled by each person, the date that the person
64 gave notice to the county board of the person’s intent to retire, and the effective date of the

65 person's retirement. Upon verification of compliance with this section and the eligibility of the
66 critical needs substitute teacher for employment beyond the post-retirement limit, the state board
67 shall submit the affidavit to the Consolidated Public Retirement Board.

68 (4) Any person who retires and begins work as a critical needs substitute teacher within
69 the same fiscal year in which that person retired shall lose those retirement benefits attributed to
70 the annuity reserve, effective from the first day of employment as a retiree critical needs substitute
71 teacher in that fiscal year and ending with the month following the date the retiree ceases to
72 perform service as a critical needs substitute teacher.

73 (5) Retired teachers employed to perform expanded substitute service pursuant to this
74 subsection are considered day-to-day, temporary, part-time employees. The substitutes are not
75 eligible for additional pension or other benefits paid to regularly employed employees and may
76 not accrue seniority.

77 (6) A retired teacher is eligible to be employed as a critical needs substitute teacher to fill
78 a vacant position without any loss of retirement benefits attributed to the annuity reserve only if
79 the retired teacher's retirement became effective before the first day of July preceding at least the
80 fiscal year during which he or she is employed as a critical needs substitute teacher.

81 (7) When a retired teacher is employed as a critical needs substitute to fill a vacant
82 position, the county board shall continue to post the vacant position until it is filled with a regularly
83 employed teacher who is fully certified or permitted for the position: *Provided, That:*

84 (A) The posting is only required to occur once at the beginning of the year and once mid-
85 year;

86 (B) This subdivision does not apply when filling a teaching position of a regular teacher on
87 leave of absence; and

88 (C) This subdivision does not apply when a position is filled with a regularly employed
89 teacher who is fully certified or permitted for the position but the teacher is not available at the
90 time he or she accepts the position.

91 (8) When a retired teacher is employed as a critical needs substitute to fill a vacant
92 position, the position vacancy shall be posted electronically and easily accessible to prospective
93 employees as determined by the state board: *Provided, That:*

94 (A) The posting is only required to occur once at the beginning of the year and once mid-
95 year;

96 (B) This subdivision does not apply when filling a teaching position of a regular teacher on
97 leave of absence; and

98 (C) This subdivision does not apply when a position is filled with a regularly employed
99 teacher who is fully certified or permitted for the position but the teacher is not available at the
100 time he or she accepts the position.

101 (9) Until this subsection is expired pursuant to subdivision (10) of this subsection, the state
102 board shall report to the Joint Committee on Government and Finance, prior to February 1 of each
103 year, information indicating the effectiveness of the provisions of this subsection on reducing the
104 critical need and shortage of substitute teachers including, but not limited to, the number of retired
105 teachers, by critical need and shortage area position filled and by county, employed beyond the
106 post-retirement employment limit established by the Consolidated Public Retirement Board, the
107 date that each person gave notice to the county board of the person's intent to retire, and the
108 effective date of the person's retirement. A copy of the report shall also be provided to the
109 Legislative Oversight Commission on Education Accountability.

110 (10) The provisions of this subsection shall expire on June 30, 2030.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

**§18A-4-15a. Employment of retired bus operators as substitutes in areas of critical need
and shortage.**

1 (a) The Legislature hereby finds and declares that due to a shortage of qualified substitute
2 bus operators a compelling state interest exists in expanding the use of retired bus operators to
3 provide service as substitute bus operators in an area of critical need and shortage.

4 (b) The Legislature further finds and declares that this shortage is significant and
5 overarching, and in order to comply with §18-5-13(f)(1) of this code, this need supersedes any
6 preclusion of modification of rights codified in §18-7A-28e of this code.

7 (1) For the purposes of this subsection, “area of critical need and shortage for substitute
8 bus operators” means that the number of available qualified substitute bus operators in the county
9 who are not retired and are available and willing to accept substitute bus operator assignments is
10 insufficient to meet the projected need for qualified substitute bus operators.

11 (2) A person receiving retirement benefits under §18-7A-1 *et seq.* of this code, or who is
12 entitled to retirement benefits during the fiscal year in which that person retired, may accept
13 employment as a critical need substitute bus operator for an unlimited number of days each fiscal
14 year without affecting the monthly retirement benefit to which the retirant is otherwise entitled,
15 subject to satisfaction of the following conditions:

16 (A) The county board adopts a policy recommended by the superintendent to address a
17 critical need and shortage for substitute bus operators;

18 (B) The superintendent of the county board submits the policy to the State Board of
19 Education for approval in the first year of its utilization. After initial approval by the State Board of
20 Education, the county board must annually renew the policy at the local level and provide
21 confirmation to the State Board of Education of its intent to utilize the policy in the subsequent
22 year;

23 (C) The policy sets forth the critical need and shortage for substitute bus operators in the
24 county in accordance with the definition of area of critical need and shortage for substitute bus
25 operators as provided in subdivision (1) of this subsection;

26 (D) The policy provides for the employment of retired bus operators as critical need
27 substitute bus operators during the school year on an expanded basis in areas of critical need
28 and shortage for substitute bus operators as provided in this subsection;

29 (E) The policy provides that a retired bus operator may be employed as a substitute bus
30 operator in an area of critical need and shortage for substitute bus operators on an expanded
31 basis as provided in this subsection only when no other qualified bus operator who is not retired
32 is available and accepts the substitute assignment; and

33 (F) Prior to employment of a retired bus operator as a critical need substitute bus operator
34 beyond the post-retirement employment limitations established by the Consolidated Public
35 Retirement Board, the superintendent of the affected county submits to the state board in a form
36 approved by the Consolidated Public Retirement Board and the state board, an affidavit signed
37 by the superintendent stating the name of the county, the fact that the county has adopted a policy
38 to employ retired bus operators as substitutes to address its critical need and shortage, the name
39 or names of the person or persons to be employed as a critical need substitute pursuant to the
40 policy, the date that the person gave notice to the county board of the person's intent to retire,
41 and the effective date of the person's retirement. Upon verification of compliance with this section
42 and the eligibility of the critical need substitute bus operator for employment beyond the post-
43 retirement limit, the state board shall submit the affidavit to the Consolidated Public Retirement
44 Board.

45 (3) Any person who retires and begins work as a critical need substitute bus operator
46 within the same fiscal year in which that person retired shall lose those retirement benefits
47 attributed to the annuity reserve, effective from the first day of employment as a retiree critical
48 need substitute bus operator in that fiscal year and ending with the month following the date the
49 retiree ceases to perform service as a critical need substitute bus operator.

50 (4) Retired bus operators employed to perform expanded substitute service pursuant to
51 this subsection are considered day-to-day, temporary, part-time employees. The substitutes are
52 not eligible for additional pension or other benefits paid to regularly employed employees and
53 may not accrue seniority.

54 (5) A retired bus operator is eligible to be employed as a critical need substitute bus
55 operator to fill a vacant position without any loss of retirement benefits attributed to the annuity
56 reserve only if the retired bus operator's retirement became effective before the first day of July
57 preceding at least the fiscal year during which he or she is employed as a critical need substitute
58 bus operator.

59 (6) When a retired bus operator is employed as a critical need substitute to fill a vacant
60 position, the county board shall continue to post the vacant position until it is filled with a regularly
61 employed bus operator who is fully qualified for the position: *Provided, That:*

62 (A) The posting is only required to occur once at the beginning of the year and once mid-
63 year;

64 (B) This subdivision does not apply when filling a bus operator position of a regular bus
65 operator on leave of absence; and

66 (C) This subdivision does not apply when a position is filled with a certified bus operator
67 but the bus operator is not available at the time the bus operator accepts the position.

68 (7) When a retired bus operator is employed as a critical need substitute to fill a vacant
69 position, the position vacancy shall be posted electronically and easily accessible to prospective
70 employees as determined by the state board: *Provided, That:*

71 (A) The posting is only required to occur once at the beginning of the year and once mid-
72 year;

73 (B) This subdivision does not apply when filling a bus operator position of a regular bus
74 operator on leave of absence; and

75 (C) This subdivision does not apply when a position is filled with a certified bus operator
76 but the bus operator is not available at the time the bus operator accepts the position.

77 (8) The provisions of this subsection shall expire on June 30, 2030.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the Senate

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Clerk of the House of Delegates

Originated in the Senate.

In effect from passage.

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President of the Senate

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Speaker of the House of Delegates

The within is this the.....
Day of, 2025.

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Governor