

# AFT-WV LEGISLATIVE UPDATE

FIGHTING FOR PUBLIC EDUCATION



FROM STATEHOUSE TO SCHOOLHOUSE

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## 2023 Legislative Session: Final Update

### PEIA and Pay Raise Bills

[SB 268](#) makes numerous changes to PEIA. It is a very lengthy bill, and includes increasing premiums in order to meet the 80/20 mandate and a provision that limits PEIA coverage for spouses who have other insurance coverage available through their employer. The bill requires spouses who have employer-provided health coverage available to pay the full actuarial value of their premium in order to remain on PEIA. The estimated monthly cost for a spouse to remain covered under PEIA is \$147. Two amendments were adopted, including one to retain the current provision to cover care in contiguous counties at the 80/20 rate, and a second to allow non-medicare eligible retirees to remain on the plan. Numerous attempts by pro-educator delegates to amend the bill to soften the financial impact to plan participants were defeated.

Governor Justice's pay raise bill, [SB 423](#), initially proposed an average 5% across the board pay increase for all public employees, teachers and service personnel in his state of the state address. A committee substitute for the bill was advanced from the Senate Finance Committee that amended the proposed increase to \$2300 across the board and passed.

"This PEIA cost shifting, placed squarely on the backs of employees, will hurt 230,000 West Virginians and further exacerbate the shortage of education and public employees in our state. Far too many of our education employees will see their pay raise gobbled up by the PEIA increases at a time when salaries need to be more competitive to fill the massive shortages in our classrooms, cafeterias and buses. A \$2300 raise won't help our state attract and retain educators when the PEIA increases will take most, or in some cases, all of the pay raise. Many will choose to leave the education profession, or maybe even West Virginia altogether, for better wages and benefits. I'm not sure how much worse the teacher shortage has to get before the legislature addresses it in a serious way. If they would walk into any school, they'd understand we are already at a crisis level," remarked AFT-WV President Fred Albert.

### Other Bills That Passed

Committee Sub for [SB 461](#) relates to the WV public employees grievance procedure. The bill initially proposed several changes to the grievance procedure, including extending timelines for steps and requiring a notarized grievance form upon filing. The most concerning of the changes was a provision where the losing party may be required to pay the legal costs of the winning party. The employer (county BOEs) would have the unfair advantage of always paying their share on the taxpayer dime, whereas employees (or their representative organization) would shoulder that cost privately. An amendment was adopted to stipulate the financial burden would only be placed on the losing party for appeals to the WV Intermediate Court of Appeals or WV Supreme Court. Additionally, the amendment stipulates that an employee who lost at the Intermediate Court of Appeals or Supreme Court level would not be required to pay for the county BOE legal fees if the employee had been the prevailing party at any lower level of the process. Additionally, amendments were adopted that removed the requirement that grievance filings be notarized, and removed the prohibition on filing grievances during a declared state of emergency. These amendments make this a much better bill for employees.

Committee Sub for [SB 422](#) requires public schools to publish curriculum online. The bill states curriculum and a syllabus (including any books used) must be posted online only at beginning of each new school year. An amendment was approved to permit county boards to contract the duty of posting the content out to private entities. Classroom teachers are not responsible for this task. After some floor discussion about the duplicative nature of the provisions of the bill, and the fact that most counties are already doing this, the bill passed.



Eng. Committee Sub for [HB 3035](#) originally related generally to high-quality education programs and school operations. A strike and insert amendment offered by the committee stripped all language from HB 3035 and replaced it with the provisions of SB 274 and HB 3293. SB 274 was the Senate's comprehensive education bill addressing early classroom teaching needs (known as the Third Grade Success Act) while HB 3293 established requirements for the state educational agency and local educational agencies to support students in the public school system who exhibit indicators of risk for, or who have been diagnosed with, dyslexia and dyscalculia. The Senate amendments were approved by the House, who also sent an amendment of their own back to the Senate, which concurred on the final day on the session.

[HB 3547](#) increases the number of personal leave days (from 4 to 5) that county board of education employees may use without cause.

Committee Sub for [HB 2890](#) modifies student discipline sections of current law. It inserts language that appears to strengthen the teacher's ability to remove disruptive student's from the classroom. It also permits counties to develop (with teacher input) a tiered system of disciplinary consequences.

[HB 2597](#) requires that employee evaluations must provide data and an explanation in support of any statement or rating in which the employee is assessed to be less than satisfactory.

[SB 10](#), dubbed Campus Carry, permits the concealed carry of a deadly weapon by licensed individuals at higher education institutions, with some limitations.

Committee Sub for [HB 3369](#) creates a School Safety Unit within the Division of Protective Services. The main provision of this bill will establish a School Safety Unit within the Division of Protective Services. Officers shall be assigned to the School Safety Unit at the discretion of the director. The officers assigned to the School Safety Unit shall primarily be charged to make school safety inspections and to make recommendations to appropriate county school superintendents, principals, or other school administrators regarding school safety. The officers assigned to the School Safety Unit shall also be authorized to respond to and investigate all school safety matters, in consultation with county boards of education; provided, that any officer of the School Safety Unit shall have statewide jurisdiction and powers of general law enforcement and arrest for violations of law committed in their presence.

Eng. Committee Sub for [HB 3271](#) increases monitoring of special education classrooms by adding audio recording requirements in restrooms of self-contained classrooms, with a clause to allow parents to opt out for their child.

Committee Sub for [HB 2820](#) permits HOPE Scholarship recipients to play WVSSAC sanctioned sports. On the last day of the session, the Rules committee added an amendment to allow all student athletes to transfer once without penalty to their athletic eligibility.

[HB 2346](#) allows retired bus operators to work as substitutes without affecting their monthly retirement benefit, due to the current bus driver shortage.

[SB 121](#) creates the Student Journalist Press Freedom Restoration Act, to provide for legislative findings, to require that the West Virginia Department of Education and the West Virginia Higher Education Policy Commission allow for the free expression of student journalists on campuses of middle schools, high schools, and colleges and universities, to provide a framework and parameters for free expression, and to allow for injunctive relief in the event that this article is violated.

Committee Sub for [SB 187](#) creates new criminal offenses of sexual contact, intrusion, or abuse of students by a school employee.

Committee Sub for [HB 3055](#) creates a vocational math class for students interested in careers in the trades.

Committee Sub for [SB 51](#) requires an impact statement in certain instances of a school closing or consolidation.

[HB 2602](#) reestablishes certain specialized school service personnel classifications. This bill will add special teaching assistants Aide V and Aide VI to the class titles of service personnel of the state minimum pay scale and class titles that are set forth in §18A-4-8a of this code.

[HB 3218](#) requires suicide prevention resources be printed on student identification cards.

Committee Sub for [HB 3113](#) requires high school students to complete course of study in personal finance.

[SB 688](#) allows county boards of education to hire retired teachers to assist with tutoring.

[HB 3084](#) permits public charter schools to access School Safety funds for safety and security upgrades.

## Bills of Interest that Died

[HB 2549](#) permits teachers, service personnel and administrators in K-12 schools to volunteer to be authorized to carry concealed firearms as a designated school protection officer. HB 2549 advanced from the House Education Committee and was never considered by the House Judiciary Committee in order to pass the House.

[SB 130](#) creates the Anti-Racism Act of 2023. (You may recall a similar “critical race theory” bill was thought to have passed last year, but later was determined to have not made it through before the midnight deadline on the final day of the session.) The bill prohibits a school district, charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee from requiring or compelling a student, teacher, administrator, or another employee to affirm, adopt or adhere to certain specified concepts. SB 130 passed the Senate and was advanced by the House Education Committee, however it thankfully died in House Judiciary.

[SB 74](#) will require county boards of education, county superintendents, employees of county boards of education, and the West Virginia Public Employees' Grievance Board to give substantial deference to the State Superintendent's interpretations of school law or State Board of Education rules, essentially watering down the grievance process.

[HB 3548](#) requires state board rule providing uniform procedure, prohibition, form and benefit regarding a teacher's voluntary exchange of duty-free lunch recess to perform duties at the school. The bill passed the House and was on second reading in the Senate before being removed from the calendar and referred to Rules, where it died.

[HB 3549](#) prohibits regular classroom teachers and special education classroom teachers who are required to participate an individualized education program committee from also being required to prepare or reduce to writing the individualized education program plan unless no other professional educator with the knowledge is available. The bill passed the House but was never considered by Senate Education.

[SB 619](#) - Allowing teachers in public schools to teach intelligent design. The bill passed the Senate but was never considered by House Education.

Committee Sub [for HB 3098](#) eliminates the WV General Summative Assessment and replaces it with a formative assessment given three times a year. The bill passed the House and but died in the Senate.

[HB 2832](#) clarifies the duties for school counselors while also providing the definition of a school counselor. The bill passed the House and died in Senate Education.

[SB 216](#) requires all schools to instruct students on the Holocaust and other genocides. Senator Roberts amended the bill to exclude private and parochial schools. The amendment was expanded to include the removal of existing law requiring private and parochial schools to teach civics topics including, but not limited to, American history, political and economic systems, and philosophies of American governance. Instruction on financial literacy was also added to the bill. The bill passed the Senate and died in House Finance.

SB [282](#) creates the West Virginia Guardian program to provide public safety and/or security on public school grounds and buildings, authorizing former police and military veterans to serve as armed school security officers. The bill passed the Senate and died in House Judiciary.

Committee Sub for [HB 2850](#) clarifies general education teachers' academic support for students identified as having an exceptionality whose least restrictive environment remains the general education classroom. The bill would add an assistant teacher for regular education classrooms when a student with specific exceptionalities is present. The bill passed the House and died in Senate Education.

[SB 264](#) prohibits persons who have been convicted of certain crimes against minors from holding positions on boards of education. SB 264 was passed by the full Senate and died in House Judiciary Committee.

[SB 41](#) establishes minimum student enrollment for the school aid formula. This bill would affect only three counties: Calhoun, Gilmer, and Wirt. These counties currently have a net enrollment of under 1200 students and this bill would ease the financial hardship posed by small student enrollment and assist the counties in providing adequate student services. SB 41 passed Senate Education and was never considered by the Senate Finance Committee.

[SB 519](#) provides that discriminatory and retaliatory actions against whistle-blowers are prohibited. SB 519 advanced from Senate