

**THE SCHOOL LAW OF WEST
VIRGINIA AND OPINIONS OF THE
ATTORNEY-GENERAL AND
DECISIONS OF THE STATE
SUPERINTENDENT OF FREE SCHOOLS**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649698516

The School Law of West Virginia and Opinions of the Attorney-General and Decisions of the State Superintendent of Free Schools by Various

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Cover @ 2017

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VARIOUS

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THE
SCHOOL LAW
OF
WEST VIRGINIA

AND

Opinions of the Attorney-General and Decisions of the State
Superintendent of Free Schools

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8/31/18

WITH EXPLANATIONS AND FORMS

REVISED AND ARRANGED BY
THOS. C. MILLER,
STATE SUPERINTENDENT OF FREE SCHOOLS



CHARLESTON:
THE TRIBUNE PRINTING COMPANY,
1908.

L B 2529
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1903



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CONSTITUTIONAL PROVISIONS
RELATING TO THE
SCHOOL SYSTEM OF WEST VIRGINIA

ARTICLE IV

5. Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the Constitution of the United States and the Constitution of this State, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided. Oath of office.

6. All officers elected or appointed under this Constitution, may, unless in cases herein otherwise provided for, be removed from office for official misconduct, incompetence, neglect or duty, or gross immorality, in such manner as may be prescribed by general laws, and unless so removed, they shall continue to discharge the duties of their respective offices, until their successors are elected, or appointed and qualified. Removal from office.

8. The Legislature, in cases not provided for in this Constitution, shall prescribe by general laws, the terms of office, powers, duties and compensation of all public officers and agents, and the manner in which they shall be elected, appointed and removed. Legislature to prescribe terms of office.

ARTICLE VIII

27. Each county shall be laid off into districts, not less than three nor more than ten in number, and as nearly equal as may be in territory and population Districts.

ARTICLE IX

County officers subject to indictment.

4. The Presidents of the County Courts, the Justices of the Peace, Sheriffs, Prosecuting Attorneys, Clerks of the Circuit and of the County Courts, and all other county officers, shall be subject to indictment for malfeasance, misfeasance, or neglect of official duty, and on conviction thereof, their offices shall become vacant.

I. I am inclined to the opinion that the words "all other county officers," as used in this section, include members of boards of education, although they are elected in districts. This is by no means clear, however. This section is in force *ex proprio vigore* and needs no additional legislation.—*Alfred Caldwell, Attorney-General.*

ARTICLE X

Capitation tax.

2. The Legislature shall levy an annual capitation tax of one dollar upon each male inhabitant of the State who has attained the age of twenty-one years, which shall be annually appropriated to the support of Free Schools. Persons afflicted with bodily infirmity may be exempted from this tax.

Power of Legislature to levy.

5. The power of taxation of the Legislature shall extend to provisions for the payment of the State debt, and interest thereon, the support of free schools, and the payment of the annual estimated expenses of the State; but whenever any deficiency in the revenue shall exist in any year, it shall, at the regular session thereof held next after the deficiency occurs, levy a tax for the ensuing year, sufficient with the other sources of income, to meet such deficiency, as well as the estimated expenses of such year.

County taxes not to exceed etc.

7. County authorities shall never assess taxes, in any one year, the aggregate of which shall exceed ninety-five cents per hundred dollars valuation, except for the support of free schools; payment of indebtedness existing at the time of the adoption of this Constitution; and for the payment of any indebtedness with the interest thereon, created under the succeeding section, unless such assessment, with all questions involving the increase of such aggregate, shall have been submitted to the vote of the people of the county, and have received three-fifths of all the votes cast for and against it.

See *Brannon vs. County Court*, 33 W. Va., p. 789, construing this section.

8. No county, city, school district, or municipal corporation, except in cases where such corporations have already authorized their bonds to be issued, shall hereafter be allowed to become indebted, in any manner, or for any purpose, to an amount, including existing indebtedness in the aggregate, exceeding five per centum on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness; nor without, at the same time providing for the collection of a direct annual tax, sufficient to pay, annually, the interest on such debt, and the principal thereof, within, and not exceeding thirty-four years; *Provided*, That no debt shall be contracted under this section, unless all questions connected with the same, shall have been first submitted to a vote of the people, and received three-fifths of all the votes cast for and against the same.

Bonded indebtedness.

No debt except by vote of people.

ARTICLE XII

1. The Legislature shall provide by general law, for a thorough and efficient system of Free Schools.

See 4 W. Va., p. 499.

2. The State Superintendent of Free Schools shall have a general supervision of free schools, and perform such other duties in relation thereto as may be prescribed by law. If in the performance of any such duty imposed upon him by the Legislature, he shall incur any expenses, he shall be reimbursed therefor; *Provided*, The amount does not exceed five hundred dollars in any one year.

General supervision.

3. The Legislature may provide for county superintendents, and such other officers as may be necessary to carry out the objects of this Article, and define their duties, powers and compensation.

County superintendents.

4. The existing permanent and invested school fund, and all money accruing to this State from forfeited, delinquent, waste and unappropriated lands; and from lands heretofore sold for taxes and purchased by the State of Virginia, if hereafter redeemed or sold to others than this State; all grants, devises or bequests that may be made to this State for the purposes of education or where the purposes of such grants, devises or bequests are not specified; this State's just share of the literary fund of Virginia, whether paid over or otherwise liquidated; and any sums of money, stocks, or property, which this State shall have the right to claim from the State of Virginia for educational purposes; the proceeds

School fund.

of the estates of persons who may die without leaving a will or heir, and of all escheated lands; the proceeds of any taxes that may be levied on the revenues of any corporation; all moneys that may be paid as an equivalent for exemption from military duty; and such sums as may, from time to time, be appropriated by the Legislature for the purpose, shall be set apart as a separate fund to be called the "School Fund," and invested under such regulation as may be prescribed by law, in the interest bearing securities of the United States, or of this State, or if such interest bearing securities cannot be obtained, then said "School Fund" shall be invested in such other solvent interest bearing securities as shall be approved by the Governor, Superintendent of Free Schools, Auditor and Treasurer, who are hereby constituted the "Board of the School Fund," to manage the same under such regulations as may be prescribed by law; and the interest thereof shall be annually applied to the support of Free Schools throughout the State, and to no other purpose whatever. But any portion of said interest remaining unexpended at the close of the fiscal year shall be added to, and remain a part of, the capital of the "School Fund"; *Provided*, That all taxes which shall be received by the State upon delinquent lands, except the taxes due to the State thereon, shall be refunded to the county, or district by or for which the same were levied.

Board of the
School Fund.

Legislature
to provide for
Free Schools.

5. The Legislature shall provide for the support of free schools, by appropriating thereto the interest of the invested "School Fund," the net proceeds of all forfeitures and fines accruing to this State under the laws thereof; the State capitation tax; and by general taxation of persons and property, or otherwise. It shall also provide for raising, in each county or district, by the authority of the people thereof, such a proportion of the amount required for the support of Free Schools therein as shall be prescribed by general laws.

6. The school districts into which any county is now divided shall continue until changed in pursuance of law.

Levies to be
reported to
Clerk of
County Court.

7. All levies that may be laid by any county or district for the purpose of free schools shall be reported to the Clerk of the County Court, and shall, under such regulations as may be prescribed by law, be collected by the Sheriff, or other collector, who shall make annual settlement with the County Court; which settlements shall be made a matter of record by the Clerk thereof, in a book to be kept for that purpose.

8. White and colored persons shall not be taught in the same school.

9. No person connected with the free school system of the State, or with any educational institution of any name or grade, under State control, shall be interested in the sale, proceeds or profits of any book or other thing used, or to be used therein, under such penalties as may be prescribed by law; *Provided*, That nothing herein shall be construed to apply to any work written or thing invented by such person.

School officers
not to be
interested in
sale of books.

10. No independent Free School district, or organization shall hereafter be created, except with the consent of the school district or districts out of which the same is to be created, expressed by a majority of the voters voting on the question.

Independent
Districts.

11. No appropriation shall hereafter be made to any State Normal School, or branch thereof, except to those already established, and in operation, or now chartered.

Normal
Schools.

12. The Legislature shall foster and encourage moral, intellectual, scientific and agricultural improvement; it shall, whenever it may be practicable, make suitable provision for the blind, mute and insane, and for the organization of such institutions of learning as the best interests of general education in the State may demand.

Legislature to
encourage im-
provements.