

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 667

By Senators Grady, Weld, Smith, and Taylor

[Introduced February 17, 2023; referred
to the Committee on Education]

1 A BILL to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to
 2 requiring the legislative auditor conduct periodic performance audits of the West Virginia
 3 Secondary Schools Athletic Commission.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules by state board; incorporation; funds; participation by private and parochial schools and by home-schooled students; legislative audits.

1 (a) The county boards of education shall exercise the control, supervision, and regulation
 2 of all interscholastic athletic events, and other extracurricular activities of the students in public
 3 secondary schools, and of those schools of their respective counties. The county board of
 4 education may delegate control, supervision, and regulation of interscholastic athletic events and
 5 band activities to the West Virginia Secondary School Activities Commission.

6 (b) The West Virginia Secondary School Activities Commission is composed of the
 7 principals, or their representatives, of those secondary schools whose county boards of education
 8 have certified in writing to the State Superintendent of Schools that they have elected to delegate
 9 the control, supervision, and regulation of their interscholastic athletic events and band activities of
 10 the students in the public secondary schools in their respective counties to the commission. The
 11 West Virginia Secondary School Activities Commission may exercise the control, supervision, and
 12 regulation of interscholastic athletic events and band activities of secondary schools, delegated to
 13 it pursuant to this section. The rules of the West Virginia Secondary School Activities Commission
 14 shall contain a provision for a proper review procedure and review board and be promulgated in
 15 accordance with the provisions of chapter 29A of this code, but shall, in all instances, be subject to
 16 the prior approval of the state board. The West Virginia Secondary School Activities Commission,

17 may, with the consent of the State Board of Education, incorporate under the name of West
18 Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock corporation under
19 the provisions of chapter 31 of this code. County boards of education may expend moneys for and
20 pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to the
21 commission, as well as moneys derived from any contest or other event sponsored by the
22 commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this code, and the funds of the
23 commission are subject to an annual audit by the State Tax Commissioner.

24 (c) The West Virginia Secondary School Activities Commission shall promulgate
25 reasonable rules providing for the control, supervision, and regulation of the interscholastic
26 athletic events and other extracurricular activities of private and parochial secondary schools as
27 elect to delegate to the commission control, supervision, and regulation, upon the same terms and
28 conditions, subject to the same rules and requirements and upon the payment of the same fees
29 and charges as those provided for public secondary schools. Any such private or parochial
30 secondary school shall receive any monetary or other benefits in the same manner and in the
31 same proportion as any public secondary school.

32 (d) Notwithstanding any other provision of this section, or the commission's rules, the
33 commission shall consider eligible for participation in interscholastic athletic events and other
34 extracurricular activities of secondary schools a student who is receiving home instruction
35 pursuant to §18-8-1(c) of this code and who:

36 (1) Has demonstrated satisfactory evidence of academic progress for one year in
37 compliance with the provisions of that subsection: *Provided*, That the student's average test
38 results are within or above the fourth stanine in all subject areas;

39 (2) Is enrolled in at least one virtual instructional course per semester, consistent with the
40 applicable virtual instruction policy of the county board in which the home-schooled student lives
41 and the State Board;

42 (3) Has not reached the age of 19 by August 1 of the current school year;

43 (4) Is an amateur who receives no compensation but participates solely for the
44 educational, physical, mental and social benefits of the activity;

45 (5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School
46 Activities Commission and the county board in which the home-schooled student lives; and

47 (6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission
48 governing awards, all-star games, parental consents, physical examinations, and vaccinations
49 applicable to all high school athletes.

50 Eligibility is limited to participation in interscholastic athletic events and other
51 extracurricular activities at the public secondary school serving the attendance zone in which the
52 student lives: *Provided*, That home-schooled students who leave a member school during the
53 school year are subject to the same transfer protocols that apply to member-to-member transfers.
54 Reasonable fees may be charged to the student to cover the costs of participation in
55 interscholastic athletic events and other extracurricular activities.

56 (e) The West Virginia Secondary School Activities Commission shall recognize
57 preparatory athletic programs, whose participants attend a secondary school in West Virginia for
58 academic instruction, as nonparticipating members of the commission solely for the purpose of
59 competing on the national level: *Provided*, That the preparatory athletic program shall pay the
60 same fees as member schools. Such recognition does not entitle the preparatory athletic program
61 to compete against a member school during the regular season or in any commission state
62 championship events. The commission may promulgate an emergency rule pursuant to
63 subsection (b) of this section, if necessary, to carry out the intent of this subsection.

64 (f) The Legislative Auditor may, at reasonable and prudent intervals, conduct performance
65 audits of the commission. For this purpose, as recognized in *B.P.J., et al. v. West Virginia State*
66 *Board of Education, et al.*, the Legislature finds that the West Virginia Secondary School Activities
67 Commission is a state actor. The Legislative Auditor shall have the power and authority to examine
68 the revenues, expenditures, and performance of the commission, which shall allow the Legislative

69 Auditor to inspect all records and accounts of the commission and to examine the personnel of the
70 commission. For any legally protected information provided or disclosed to the Legislative Auditor
71 pursuant to this subsection, the Legislative Auditor shall protect the confidentiality, privacy, or
72 security of the protected information in like manner and with the same duty as is required of the
73 commission. The Legislative Auditor shall complete an initial performance audit of the commission
74 by December 1, 2023, and, on that date, deliver a report thereof to the Joint Committee on
75 Government and Finance and to the Legislative Oversight Commission on Education
76 Accountability.

NOTE: The purpose of this bill is to require the legislative auditor conduct periodic performance audits of the West Virginia Secondary Schools Athletic Commission.

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