

COMMITTEE SUBSTITUTE

FOR

H. B. 4554

(BY DELEGATES SHAVER, PERRY, WILLIAMS AND PETHTEL)

(Originating in the Committee on Finance)
[February 23, 2012]

A BILL to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to early childhood education programs offered by county boards of education; allowing counties with a fully implemented early childhood education program to accept additional students; and clarifying reporting requirements.

Be it enacted by the Legislature of West Virginia:

That §18-5-44 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-44. Early childhood education programs.

1 (a) For the purposes of this section, “early childhood
2 education” means programs for children who have attained
3 the age of four prior to September 1 of the school year in
4 which the pupil enters the program created in this section.

5 (b) *Findings.* --

6 (1) Among other positive outcomes, early childhood
7 education programs have been determined to:

8 (A) Improve overall readiness when children enter school;

9 (B) Decrease behavioral problems;

10 (C) Improve student attendance;

11 (D) Increase scores on achievement tests;

12 (E) Decrease the percentage of students repeating a
13 grade; and

14 (F) Decrease the number of students placed in special
15 education programs;

16 (2) Quality early childhood education programs improve
17 school performance and low-quality early childhood

18 education programs may have negative effects, especially for
19 at-risk children;

20 (3) West Virginia has the lowest percentage of its adult
21 population twenty-five years of age or older with a bachelor's
22 degree and the education level of parents is a strong indicator
23 of how their children will perform in school;

24 (4) During the 2006-2007 school year, West Virginia
25 ranked thirty-ninth among the fifty states in the percentage of
26 school children eligible for free and reduced lunches and this
27 percentage is a strong indicator of how the children will
28 perform in school;

29 (5) For the school year 2008-2009, thirteen thousand one
30 hundred thirty-five students were enrolled in prekindergarten,
31 a number equal to approximately sixty-three percent of the
32 number of students enrolled in kindergarten;

33 (6) Excluding projected increases due to increases in
34 enrollment in the early childhood education program,
35 projections indicate that total student enrollment in West
36 Virginia will decline by one percent, or by approximately two

37 thousand seven hundred four students, by the school year
38 2012-2013;

39 (7) In part, because of the dynamics of the state aid
40 formula, county boards will continue to enroll four-year old
41 students to offset the declining enrollments;

42 (8) West Virginia has a comprehensive kindergarten
43 program for five-year olds, but the program was established
44 in a manner that resulted in unequal implementation among
45 the counties which helped create deficit financial situations
46 for several county boards;

47 (9) Expansion of current efforts to implement a
48 comprehensive early childhood education program should
49 avoid the problems encountered in kindergarten
50 implementation;

51 (10) Because of the dynamics of the state aid formula,
52 counties experiencing growth are at a disadvantage in
53 implementing comprehensive early childhood education
54 programs; and

55 (11) West Virginia citizens will benefit from the
56 establishment of quality comprehensive early childhood
57 education programs.

58 (c) Beginning no later than the school year 2012-2013,
59 and continuing thereafter, county boards shall provide early
60 childhood education programs for all children who have
61 attained the age of four prior to September 1 of the school
62 year in which the pupil enters the early childhood education
63 program.

64 (d) The program shall meet the following criteria:

65 (1) It shall be voluntary, except, upon enrollment, the
66 provisions of section one, article eight of this chapter apply
67 to an enrolled student; and

68 (2) It may be for fewer than five days per week and may
69 be less than full day.

70 (e) Enrollment of students in Head Start, in any other
71 program approved by the state superintendent as provided in
72 subsection (k) of this section shall be counted toward
73 satisfying the requirement of subsection (c) of this section.

74 (f) For the purposes of implementation financing, all
75 counties are encouraged to make use of funds from existing
76 sources, including:

77 (1) Federal funds provided under the Elementary and
78 Secondary Education Act pursuant to 20 U.S.C. §6301, *et seq.*;

79 (2) Federal funds provided for Head Start pursuant to 42
80 U.S.C. §9831, *et seq.*;

81 (3) Federal funds for temporary assistance to needy
82 families pursuant to 42 U.S.C. §601, *et seq.*;

83 (4) Funds provided by the School Building Authority
84 pursuant to article nine-d of this chapter;

85 (5) In the case of counties with declining enrollments,
86 funds from the state aid formula above the amount indicated
87 for the number of students actually enrolled in any school
88 year; and

89 (6) Any other public or private funds.

90 (g) Each county board shall develop a plan for
91 implementing the program required by this section. The plan
92 shall include the following elements:

93 (1) An analysis of the demographics of the county related
94 to early childhood education program implementation;

95 (2) An analysis of facility and personnel needs;

96 (3) Financial requirements for implementation and
97 potential sources of funding to assist implementation;

98 (4) Details of how the county board will cooperate and
99 collaborate with other early childhood education programs
100 including, but not limited to, Head Start, to maximize federal
101 and other sources of revenue;

102 (5) Specific time lines for implementation; and

103 (6) Any other items the state board may require by policy.

104 (h) A county board shall submit its plan to the Secretary
105 of the Department of Health and Human Resources. The
106 secretary shall approve the plan if the following conditions
107 are met:

108 (1) The county board has maximized the use of federal
109 and other available funds for early childhood programs;

110 (2) The county board has provided for the maximum
111 implementation of Head Start programs and other public and

112 private programs approved by the state superintendent
113 pursuant to the terms of ~~subsection (k)~~ of this section; and

114 (3) If the Secretary of the Department of Health and
115 Human Resources finds that the county board has not met one
116 or more of the requirements of this subsection, but that the
117 county board has acted in good faith and the failure to
118 comply was not the primary fault of the county board, then
119 the secretary shall approve the plan. Any denial by the
120 secretary may be appealed to the circuit court of the county
121 in which the county board is located.

122 (i) The county board shall submit its plan for approval to the
123 state board. The state board shall approve the plan if the county
124 board has complied substantially with the requirements of
125 subsection (g) of this section and has obtained the approval
126 required in subsection (h) of this section.

127 (j) Every county board shall submit its plan for
128 reapproval by the Secretary of the Department of Health and
129 Human Resources and by the state board at least every two
130 years after the initial approval of the plan and until full

131 implementation of the early childhood education program in
132 the county. As part of the submission, the county board shall
133 provide a detailed statement of the progress made in
134 implementing its plan. The standards and procedures
135 provided for the original approval of the plan apply to any
136 reapproval.

137 (k) A county board may not increase the total number of
138 students enrolled in the county in an early childhood program
139 until its program is approved by the Secretary of the Department
140 of Health and Human Resources and the state board.

141 (l) After full implementation of the early childhood
142 education program in the county, nothing in this section or in
143 any previous plan approved under this section prohibits a
144 county board at its sole discretion from accepting additional
145 students for enrollment in its early childhood education
146 program subject to space available.

147 (†)(m) The state board annually may grant a county board
148 a waiver for total or partial implementation if the state board
149 finds that all of the following conditions exist:

150 (1) The county board is unable to comply either because:

151 (A) It does not have sufficient facilities available; or

152 (B) It does not and has not had available funds sufficient
153 to implement the program;

154 (2) The county has not experienced a decline in
155 enrollment at least equal to the total number of students to be
156 enrolled; and

157 (3) Other agencies of government have not made
158 sufficient funds or facilities available to assist in
159 implementation.

160 Any county board seeking a waiver shall apply with the
161 supporting data to meet the criteria for which they are eligible
162 on or before March 25 for the following school year. The
163 state superintendent shall grant or deny the requested waiver
164 on or before April 15 of that same year.

165 ~~(m)~~ (n) The provisions of subsections (b), (c) and (d),
166 section eighteen of this article relating to kindergarten apply
167 to early childhood education programs in the same manner in
168 which they apply to kindergarten programs.

169 ~~(n)~~ (o) Annually, the state board shall report to the
170 Legislative Oversight Commission on Education
171 Accountability on the progress of implementation of this
172 section.

173 ~~(o)~~ (p) Except as required by federal law or regulation, no
174 county board may enroll students who will be less than four
175 years of age prior to September 1 for the year they enter
176 school.

177 ~~(p)~~ (q) Neither the state board nor the state department may
178 provide any funds to any county board for the purpose of
179 implementing this section unless the county board has a plan
180 approved pursuant to subsections (h), (i) and (j) of this section.

181 ~~(q)~~ (r) The state board shall promulgate a rule in
182 accordance with the provisions of article three-b, chapter
183 twenty-nine-a of this code for the purposes of implementing
184 the provisions of this section. The state board shall consult
185 with the Secretary of the Department of Health and Human
186 Resources in the preparation of the rule. The rule shall
187 contain the following:

- 188 (1) Standards for curriculum;
189 (2) Standards for preparing students;
190 (3) Attendance requirements;
191 (4) Standards for personnel; and
192 (5) Any other terms necessary to implement the
193 provisions of this section.

194 ~~(1)~~ (s) The rule shall include the following elements
195 relating to curriculum standards:

196 (1) A requirement that the curriculum be designed to
197 address the developmental needs of four-year old children,
198 consistent with prevailing research on how children learn;

199 (2) A requirement that the curriculum be designed to
200 achieve long-range goals for the social, emotional, physical
201 and academic development of young children;

202 (3) A method for including a broad range of content that
203 is relevant, engaging and meaningful to young children;

204 (4) A requirement that the curriculum incorporate a wide
205 variety of learning experiences, materials and equipment, and
206 instructional strategies to respond to differences in prior

207 experience, maturation rates and learning styles that young
208 children bring to the classroom;

209 (5) A requirement that the curriculum be designed to
210 build on what children already know in order to consolidate
211 their learning and foster their acquisition of new concepts and
212 skills;

213 (6) A requirement that the curriculum meet the
214 recognized standards of the relevant subject matter
215 disciplines;

216 (7) A requirement that the curriculum engage children
217 actively in the learning process and provide them with
218 opportunities to make meaningful choices;

219 (8) A requirement that the curriculum emphasize the
220 development of thinking, reasoning, decision making and
221 problem-solving skills;

222 (9) A set of clear guidelines for communicating with
223 parents and involving them in decisions about the
224 instructional needs of their children; and

225 (10) A systematic plan for evaluating program success in
226 meeting the needs of young children and for helping them to
227 be ready to succeed in school.

228 ~~(s)~~ (t) The secretary and the state superintendent shall
229 submit a report to the Legislative Oversight Commission on
230 Education Accountability and the Joint Committee on
231 Government and Finance which addresses, at a minimum, the
232 following issues:

233 (1) A summary of the approved county plans for
234 providing the early childhood education programs pursuant
235 to this section;

236 (2) An analysis of the total cost to the state and county
237 boards of implementing the plans;

238 (3) A separate analysis of the impact of the plans on
239 counties with increasing enrollment; and

240 (4) An analysis of the effect of the programs on the
241 maximization of the use of federal funds for early childhood
242 programs.

243 The intent of this subsection is to enable the Legislature
244 to proceed in a fiscally responsible manner, make any
245 necessary program improvements based on reported
246 information prior to implementation of the early childhood
247 education programs.

248 (t) (u) After the school year 2012-2013, on or before July
249 1 of each year, each county board shall report the following
250 information to the Secretary of the Department of Health and
251 Human Resources and the state superintendent:

252 (1) Documentation indicating the extent to which ~~county~~
253 ~~boards are maximizing resources by using the existing~~
254 ~~capacity of community-based programs~~ of eligible early
255 childhood programs within the county is being utilized,
256 including, but not limited to, programs operated by the
257 county board, Head Start and other community-based child
258 care providers in the county; and

259 (2) For those county boards that are including eligible
260 children attending approved, contracted community-based
261 programs in their net enrollment for the purposes of

262 calculating state aid pursuant to article nine-a of this chapter,
263 documentation that the county board is equitably distributing
264 funding for all children regardless of setting.