

1 **H. B. 2973**

2
3 (By Delegate Walters)

4 [Introduced March 19, 2013; referred to the
5 Committee on Education then Finance.]

6 **FISCAL**
7 **NOTE**

8
9
10 A BILL to amend and reenact §18-5-45 of the Code of West Virginia,
11 1931, as amended, relating to allowing county boards of
12 education with low density student populations to operate
13 their schools on a four-day school week.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §18-5-45 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

18 **§18-5-45. School calendar.**

19 (a) As used in this section, the following terms have the
20 following meanings:

21 (1) "Instructional day" means a day within the instructional
22 term which meets the following criteria:

23 (A) Instruction is offered to students for at least the

1 minimum amounts of time provided by state board rule;

2 (B) Instructional time is used for instruction, cocurricular
3 activities and approved extracurricular activities and, pursuant to
4 the provisions of subdivision twelve, subsection (b), section five,
5 article five-a of this chapter, faculty senates; and

6 (C) Such other criteria as the state board determines
7 appropriate.

8 (2) "Accrued instructional time" means instructional time
9 accruing during the instructional term from time added to the
10 instructional day beyond the time required by state board rule for
11 an instructional day. Accrued instructional time may be
12 accumulated and used in larger blocks of time during the school
13 year for instructional or noninstructional activities as further
14 defined by the state board.

15 (3) "Extracurricular activities" are activities under the
16 supervision of the school such as athletics, noninstructional
17 assemblies, social programs, entertainment and other similar
18 activities as further defined by the state board.

19 (4) "Cocurricular activities" are activities that are closely
20 related to identifiable academic programs or areas of study that
21 serve to complement academic curricula as further defined by the
22 state board.

23 (b) *Findings.* --

24 (1) The primary purpose of the school system is to provide

1 instruction for students.

2 (2) The school calendar, as defined in this section, is
3 designed to define the school term both for employees and for
4 instruction.

5 (3) The school calendar traditionally has provided for one
6 hundred eighty actual days of instruction but numerous
7 circumstances have combined to cause the actual number of
8 instructional days to be less than one hundred eighty.

9 (4) The quality and amount of instruction offered during the
10 instructional term is affected by the extracurricular and
11 cocurricular activities allowed to occur during scheduled
12 instructional time.

13 (5) Within reasonable guidelines, the school calendar should
14 be designed at least to guarantee that one hundred eighty actual
15 days of instruction are possible.

16 (c) The county board shall provide a school term for its
17 schools that contains the following:

18 (1) An employment term for teachers of no less than two
19 hundred days, exclusive of Saturdays and Sundays; and

20 (2) Within the employment term, an instructional term for
21 students of no less than one hundred eighty separate instructional
22 days, which shall include an icy conditions and emergencies plan
23 designed to guarantee an instructional term for students of no less
24 than one hundred eighty separate instructional days.

1 (d) The instructional term for students shall include one
2 instructional day in each of the months of October, December,
3 February, April and June which is an instructional support and
4 enhancement day scheduled by the board to include both
5 instructional activities for students and professional activities
6 for teachers to improve student instruction. Instructional support
7 and enhancement days are subject to the following provisions:

8 (1) Two hours of the instructional support and enhancement day
9 shall be used for instructional activities for students. The
10 instructional activities for students are subject to the following
11 provisions:

12 (A) The instructional activities for students require the
13 direct supervision or involvement by teachers;

14 (B) The instructional activities for students shall be limited
15 to two hours;

16 (C) The instructional activities for students shall be
17 determined and scheduled at the local school level;

18 (D) The instructional activities for students may include, but
19 are not limited to, both in-school and outside of school activities
20 such as student mentoring, tutoring, counseling, student research
21 and other projects or activities of an instructional nature,
22 community service, career exploration, parent and teacher
23 conferences, visits to the homes of students, college and financial
24 aid workshops and college visits;

1 (E) To ensure that the students who attend are properly
2 supervised, the instructional activities for students shall be
3 arranged by appointment with the individual school through the
4 principal, a teacher or other professional personnel at the school;
5 and

6 (F) Each school shall establish a policy relating to the use
7 of the two-hour block scheduled for instructional activities for
8 students;

9 (2) The instructional support and enhancement day shall
10 include a two-hour block of time for professional activities for
11 teachers during which the faculty senate shall have the opportunity
12 to meet;

13 (3) All time remaining in the school day after meeting the
14 requirements of subdivisions (1) and (2) of this subsection, not
15 including the duty-free lunch period, shall be used for other
16 professional activities for teachers to improve student instruction
17 which may include, but are not limited to, professional staff
18 development, curriculum team meetings, individualized education
19 plan meetings and other meetings between teachers, principals,
20 aides and paraprofessionals to improve student instruction as
21 determined and scheduled at the local school level;

22 (4) Notwithstanding any other provision of law or policy to
23 the contrary, the presence of any specific number of students in
24 attendance at the school for any specific period of time shall not

1 be required on instructional support and enhancement days and the
2 transportation of students to the school shall not be required;

3 (5) Instructional support and enhancement days are also a
4 scheduled work day for all service personnel and shall be used for
5 training or other tasks related to their job classification if
6 their normal duties are not required; and

7 (6) Nothing in this section may be construed to require that
8 the instructional activities for students, faculty senate meetings
9 and other professional activities for teachers be scheduled in any
10 certain order.

11 (e) The instructional term shall commence on a date selected
12 by the county board and terminate on a date selected by the county
13 board.

14 (f) Noninstructional days shall total twenty and shall be
15 comprised of the following:

16 (1) Seven holidays as specified in section two, article five,
17 chapter eighteen-a of this code;

18 (2) Election day as specified in section two, article five,
19 chapter eighteen-a of this code;

20 (3) Six days to be designated by the county board to be used
21 by the employees outside the school environment; and

22 (4) Six days to be designated by the county board for any of
23 the following purposes:

24 (A) Curriculum development;

1 (B) Preparation for opening and closing school;
2 (C) Professional development;
3 (D) Teacher-pupil-parent conferences;
4 (E) Professional meetings; and
5 (F) Making up days when instruction was scheduled but not
6 conducted.

7 (g) Three of the days described in subdivision (4), subsection
8 (f) of this section shall be scheduled prior to the commencement of
9 the instructional term for the purposes of preparing for the
10 opening of school and staff development.

11 (h) At least one of the days described in subdivision (4),
12 subsection (f) of this section shall be scheduled after the
13 termination of the instructional term for the purpose of preparing
14 for the closing of school.

15 (i) At least four of the days described in subdivision (3),
16 subsection (f) of this section shall be scheduled after March 1.

17 (j) At least two of the days described in subdivision (4),
18 subsection (f) of this section will be scheduled for professional
19 development. The professional development conducted on these days
20 will be consistent with the goals established by the state board
21 pursuant to the provisions of section twenty-three-a, article two
22 of this chapter.

23 (k) Subject to the provisions of subsection (h) of this
24 section, all noninstructional days will be scheduled prior to the

1 termination of the instructional term.

2 (1) The state board may not schedule the primary statewide
3 assessment program prior to May 15 of the instructional year unless
4 the state board determines that the nature of the test mandates an
5 earlier testing date.

6 (m) If, on or after March 1, the county board determines that
7 it is not possible to complete one hundred eighty separate days of
8 instruction, the county board shall schedule instruction on any
9 available noninstructional day, regardless of the purpose for which
10 the day originally was scheduled, and the day will be used for
11 instruction, subject to the following:

12 (1) The noninstructional days scheduled for professional
13 development shall be the last available noninstructional days to be
14 rescheduled as instructional days;

15 (2) On or after March 1, the county board also may require
16 additional minutes of instruction in the school day to make up for
17 lost instructional days in excess of the days available through
18 rescheduling and, if in its judgment it is reasonable and necessary
19 to improve student performance, to avoid scheduling instruction on
20 noninstructional days previously scheduled for professional
21 development; and

22 (3) The provisions of this subsection do not apply to:

23 (1) Holidays; and

24 (2) Election day.

1 (n) The following applies to accrued instructional time:

2 (1) Except as provided in subsection (m) of this section,
3 accrued instructional time may not be used to avoid one hundred
4 eighty separate days of instruction;

5 (2) Accrued instructional time may not be used to lengthen the
6 time provided in law for faculty senates;

7 (3) The use of accrued instructional time for extracurricular
8 activities will be limited by the state board;

9 (4) Accrued instructional time may be used by schools and
10 counties to provide additional time for professional staff
11 development and continuing education as may be needed to improve
12 student performance and meet the requirements of the federal
13 mandates affecting elementary and secondary education. The amount
14 of accrued instructional time used for this purpose may not exceed
15 three instructional days; and

16 (5) Other requirements or restrictions the state board may
17 provide in the rule required to be promulgated by this section.

18 (o) The following applies to cocurricular activities:

19 (1) The state board shall determine what activities may be
20 considered cocurricular;

21 (2) The state board shall determine the amount of
22 instructional time that may be consumed by cocurricular activities;
23 and

24 (3) Other requirements or restrictions the state board may

1 provide in the rule required to be promulgated by this section.

2 (p) The following applies to extracurricular activities:

3 (1) Except as provided by subdivision (3) of this subsection,
4 extracurricular activities may not be scheduled during
5 instructional time;

6 (2) The use of accrued instructional time for extracurricular
7 activities will be limited by the state board; and

8 (3) The state board shall provide for the attendance by
9 students of certain activities sanctioned by the Secondary School
10 Activities Commission when those activities are related to
11 statewide tournaments or playoffs or are programs required for
12 Secondary School Activities Commission approval.

13 (q) Noninstructional interruptions to the instructional day
14 shall be minimized to allow the classroom teacher to teach.

15 (r) Nothing in this section prohibits establishing year-round
16 schools in accordance with rules to be established by the state
17 board.

18 (s) Prior to implementing the school calendar, the county
19 board shall secure approval of its proposed calendar from the state
20 board or, if so designated by the state board, from the state
21 superintendent.

22 (t) The county board may contract with all or part of the
23 personnel for a longer term.

24 (u) The minimum instructional term may be decreased by order

1 of the state superintendent in any county declared a federal
2 disaster area and where the event causing the declaration is
3 substantially related to a reduction of instructional days.

4 (v) Where the employment term overlaps a teacher's or service
5 personnel's participation in a summer institute or institution of
6 higher education for the purpose of advancement or professional
7 growth, the teacher or service personnel may substitute, with the
8 approval of the county superintendent, the participation for up to
9 five of the noninstructional days of the employment term.

10 (w) The state board shall promulgate a rule in accordance with
11 the provisions of article three-b, chapter twenty-nine-a of this
12 code for the purpose of implementing the provisions of this
13 section.

14 (x) Notwithstanding any other provision in this code to the
15 contrary, beginning with school years starting after June 30, 2013,
16 county boards of education located in low density counties, as
17 defined in section one, article one, chapter eighteen may operate
18 their schools on the basis of a four-day school week so long as the
19 four-day school week meets the hourly equivalent of the minimum
20 instructional day requirements of this section.

NOTE: The purpose of this bill is to allow county boards of education in low density counties to operate their schools on a four-day school week basis.

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