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H. B. 2377

(By Delegates Pasdon, Statler, Duke, Wagner, Romine, Ambler
Espinosa and Campbell)

[Introduced January 26, 2015; referred to the
Committee on Education then the Judiciary.]

A BILL to amend and reenact §18-2-5 of the Code of West Virginia, 1931, as amended, relating to authorizing State Board of Education to approve certain alternatives with respect to instructional time proposed by a county board or school that meet the spirit and intent of affected statutes and are intended to optimize student learning; removing outdated and conflicting provisions related to school entrance and kindergarten; stating the purpose of subsection and providing context; providing limitations on alternatives; and making findings on learning time for consideration by state board.

Be it enacted by the Legislature of West Virginia:

That §18-2-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5. Powers and duties generally; specific powers and duties for alternatives that improve student learning. public school entrance age; "public schools" not to include kindergartens.

1 (a) Subject to and in conformity with the Constitution and laws of this state, the State Board
2 of Education shall exercise general supervision of the public schools of the state, and shall make
3 rules in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for
4 carrying into effect the laws and policies of the state relating to education, including rules relating
5 to standards for performance and measures of accountability, the physical welfare of pupils, the
6 education of all children of school age, school attendance, evening and continuation or part-time day
7 schools, school extension work, the classification of schools, the issuing of certificates upon
8 credentials, the distribution and care of ~~free textbooks~~ instructional resources by the county boards
9 of education, the general powers and duties of county boards of education, and of teachers,
10 principals, supervisors and superintendents and such other matters pertaining to the public schools
11 of the state as may seem to the state board to be necessary and expedient.

12 ~~Notwithstanding any other provision of law which may be to the contrary, and~~
13 ~~notwithstanding the rule-making powers given to the state Board of Education by this section, a child~~
14 ~~shall not be permitted to enter the public schools of this state in any school year, beginning with the~~
15 ~~school year 1983-1984, unless such child be six years of age prior to September 1, of such school~~
16 ~~year or is attending public school in accordance with article twenty of this chapter: *Provided, That*~~
17 ~~children who have successfully completed a kindergarten program in the school year 1982-1983,~~
18 ~~may enter the public schools notwithstanding the provisions of this section. The term "public~~
19 ~~schools" as used in the preceding sentence shall not be deemed to include public kindergartens, but~~
20 ~~nothing herein shall prevent a county board from permitting a child enrolled in kindergarten from~~
21 ~~entering public schools for attendance in particular curriculum areas.~~

22 ~~The state board shall develop a three-year plan to provide for the transition to developmental~~

1 programming and instruction to be provided to the students in kindergarten through fourth grade and
2 further shall, include the method of information dissemination in order to provide for parental
3 preparation, and further shall, in conjunction with the professional development center, develop an
4 ongoing program for training of principals and classroom teachers in methods of instruction to
5 implement the developmental program. The existing developmental programs throughout the state
6 shall be involved in this process and shall be provided an opportunity to assist in pilot programs to
7 begin no later than September 1, 1991. The plan shall be fully implemented by September 1, 1993.

8 (b) The state board in the exercise of its constitutional responsibility for the general
9 supervision of the public schools must do so as provided by general law. Included within the general
10 law is the process for improving education which has been recognized by the court as the method
11 chosen by the Legislature to measure whether a thorough and efficient education is being provided.
12 Further recognized is that the resulting student learning is the ultimate measure of a thorough
13 education and that it must be achieved in an efficient manner. To achieve this result, the state board
14 must have reasonable discretion to balance the local autonomy and flexibility needed by schools to
15 deliver a thorough and efficient education with the letter of the laws as enacted for school operations.
16 The purpose of this subsection is to authorize the state board to approve alternatives to the letter of
17 the laws enacted for school operations in the following enumerated areas and subject to the further
18 enumerated limitations when the alternatives are proposed by a county board or school and, in the
19 sole judgment of the state board, the alternatives meet the spirit and intent of the affected statutes
20 and are intended solely to optimize student learning:

21 (1) The Legislature finds that alternatives are warranted and may be approved by the state
22 board on a case-by-case basis when a county board submits a comprehensive plan for optimizing

1 student learning that:

2 (A) Achieves the spirit and intent of the laws for an instructional term that provides the
3 instructional time necessary for students to meet or exceed the high quality standards for student
4 performance adopted by the state board;

5 (B) Ensures sufficient time within the instructional term to promote the improvement of
6 instruction and instructional practices;

7 (C) Incorporates a school calendar approved in accordance with the approval process required
8 pursuant to section forty-five, article five of this chapter;

9 (D) Allows for school-level determination of alternatives affecting time within the school day
10 that preserve the spirit and intent of providing teachers with sufficient planning time to develop
11 engaging, differentiated instruction for all students in all classes, but in addition to individual
12 planning time, provides collaborative time for teachers to undertake and sustain instructional
13 improvement. An alternative school-level determination may be made only in the form of a school
14 policy that is a part of the school’s strategic improvement plan and is approved by a vote of the
15 faculty senate; and

16 (E) Has the sole purpose of improving student learning and the resulting improvement in
17 student learning is evident within a reasonable period.

18 (2) With respect to optimizing student learning, the Legislature makes the following findings
19 for consideration by the state board:

20 (A) Maximizing learning time is a critical factor needed to improve student learning and
21 requires multiple strategies and policies that support great teaching and learning;

22 (B) Learning time is that portion of instructional time during the school day in which a

1 student is paying attention, receiving instruction that is appropriately leveled and learning is taking
2 place. Learning time must not be assumed to be desk time for students and may be achieved through
3 a variety of methods that actively engage students in learning;

4 (C) A student's time engaged in learning is maximized when the student is allowed to
5 progress and acquire competency at a pace which challenges the interest and intellect of the student,
6 with guidance and assistance when needed. Instructional strategies to help "personalize" student
7 learning in this manner are frequently assisted by technology;

8 (D) Providing teachers with the resources and support needed to engage students in
9 meaningful, appropriately leveled learning for as much time as is possible during the school day may
10 be as important as facilities, equipment and staff development for maximizing learning time and
11 improving student learning;

12 (E) Successful schools are distinguishable from unsuccessful ones by the frequency and
13 extent to which teachers discuss professional practices, collectively design materials and inform and
14 critique one another;

15 (F) Even successful schools must be self-renewing systems, learning organizations marked
16 by deliberate effort to identify helpful knowledge and spread its use within the organization;

17 (G) Unless teachers are collectively involved in the planning and implementation of school
18 improvement, it is unlikely to be sustained; and

19 (H) Schools themselves, given sufficient control over their own programs and supportive
20 district leadership and policies, may be best suited to determine the variety of methods through
21 which time during the school day is allocated to enable teachers to plan individually and collectively
22 to maximize learning time. Examples of methods used by successful schools include, but are not

- 1 limited to, scheduling, use of special subject teachers and guest presenters, using time set aside for
- 2 staff development, alternative staff utilization patterns and providing opportunities for administrators
- 3 to teach and the use of accrued instructional time.

NOTE: The purpose of this bill is to describe the constitutional authority of the State Board of Education for the general supervision of the public schools and the statutory Process for Improving Education, including student performance as the ultimate measure of whether a thorough and efficient education is being provided. It recognizes the necessity of judgment and reasonable discretion by the state board to balance the need for local autonomy and flexibility to improve student performance with the letter of the law for school operations. It then authorizes the board to approve alternatives proposed by county boards and schools for instructional time and provides parameters for those alternatives. Finally, the bill makes findings for consideration by the state board on maximizing learning time.

Strike-throughs indicate existing language that would be removed, and underscoring indicates new language that would be added.