

COMMITTEE SUBSTITUTE

for

H. B. 2377

(BY DELEGATE(S) PASDON, STATLER,
DUKE, WAGNER, ROMINE, AMBLER
ESPINOSA AND CAMPBELL)

(Originating in the Committee on the Judiciary.)
(February 2, 2015)

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or school that meet the spirit and intent of affected statutes and are intended to optimize student learning; removing outdated and conflicting provisions related to school entrance and kindergarten; stating the purpose of subsection and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
2 laws of this state, the State Board of Education shall exercise
3 general supervision of the public schools of the state, and shall
4 ~~make~~ promulgate rules in accordance with the provisions of
5 article three-b, chapter twenty-nine-a of this code for carrying
6 into effect the laws and policies of the state relating to education.
7 ~~including~~ The rules relating to shall relate to the following:

- 8 (1) Standards for performance and measures of
9 accountability; ~~the~~
10 (2) Physical welfare of ~~pupils, the~~ students;
11 (3) Education of all children of school age;

- 12 (4) School attendance;
- 13 (5) Evening and continuation or part-time day schools;
- 14 (6) School extension work; ~~the~~
- 15 (7) Classification of schools; ~~the~~
- 16 (8) Issuing ~~of~~ certificates based upon credentials; ~~the~~
- 17 (9) Distribution and care of ~~free textbooks by the~~
- 18 instructional resources by county boards; of education, the
- 19 (10) General powers and duties of county boards, ~~of~~
- 20 ~~education, and of~~ teachers, principals, supervisors and
- 21 superintendents; and
- 22 (11) Such other matters pertaining to the public schools of
- 23 the state as ~~may seem to~~ the state board ~~to be~~ considers
- 24 necessary and expedient.

25 ~~Notwithstanding any other provision of law which may be~~

26 ~~to the contrary, and notwithstanding the rule-making powers~~

27 ~~given to the state Board of Education by this section, a child~~

28 shall not be permitted to enter the public schools of this state in

29 any school year, beginning with the school year 1983-1984,

30 unless such child be six years of age prior to September 1, of

31 such school year or is attending public school in accordance with

32 ~~article twenty of this chapter: Provided, That children who have~~
33 ~~successfully completed a kindergarten program in the school~~
34 ~~year 1982-1983, may enter the public schools notwithstanding~~
35 ~~the provisions of this section. The term "public schools" as used~~
36 ~~in the preceding sentence shall not be deemed to include public~~
37 ~~kindergartens, but nothing herein shall prevent a county board~~
38 ~~from permitting a child enrolled in kindergarten from entering~~
39 ~~public schools for attendance in particular curriculum areas:~~

40 ~~The state board shall develop a three-year plan to provide for~~
41 ~~the transition to developmental programming and instruction to~~
42 ~~be provided to the students in kindergarten through fourth grade~~
43 ~~and further shall, include the method of information~~
44 ~~dissemination in order to provide for parental preparation, and~~
45 ~~further shall, in conjunction with the professional development~~
46 ~~center, develop an ongoing program for training of principals~~
47 ~~and classroom teachers in methods of instruction to implement~~
48 ~~the developmental program. The existing developmental~~
49 ~~programs throughout the state shall be involved in this process~~
50 ~~and shall be provided an opportunity to assist in pilot programs~~

51 ~~to begin no later than September 1, 1991. The plan shall be fully~~
52 ~~implemented by September 1, 1993.~~

53 (b) The state board, in exercising its constitutional
54 responsibility for the general supervision of public schools, must
55 do so as provided by general law. Included within the general
56 law is the process for improving education which has been
57 recognized by the court as the method chosen by the Legislature
58 to measure whether a thorough and efficient education is being
59 provided. The court further recognized that the resulting student
60 learning is the ultimate measure of a thorough education and that
61 it must be achieved in an efficient manner. To achieve this result,
62 the state board must have reasonable discretion to balance the
63 local autonomy and flexibility needed by schools to deliver a
64 thorough and efficient education with the letter of the laws as
65 enacted for school operations.

66 (c) The purpose of this subsection is to authorize the state
67 board to approve alternatives to the letter of the laws enacted for
68 school operations in the areas enumerated in this subsection. The
69 state board may approve such alternatives as proposed by a
70 county board or school if, in the sole judgment of the state board,

71 the alternatives meet the spirit and intent of the applicable
72 statutes and are intended solely to optimize student learning.

73 (1) The Legislature finds that alternatives are warranted and
74 may be approved by the state board on a case-by-case basis
75 when a county board submits to the state board a comprehensive
76 plan for optimizing student learning that:

77 (A) Achieves the spirit and intent of the laws for an
78 instructional term that provide the instructional time necessary
79 for students to meet or exceed the high quality standards for
80 student performance adopted by the state board;

81 (B) Ensures sufficient time within the instructional term to
82 promote the improvement of instruction and instructional
83 practices;

84 (C) Incorporates a school calendar approved in accordance
85 with the approval process required by section forty-five, article
86 five of this chapter;

87 (D) Allows for school-level determination of alternatives
88 affecting time within the school day that preserve the spirit and
89 intent of providing teachers with: (i) Sufficient planning time to
90 develop engaging, differentiated instruction for all students in all

91 classes, which includes at least forty minutes in length for the
92 elementary level and as required by section fourteen, article four,
93 chapter eighteen-a of this code for the secondary level; and (ii)
94 Collaborative time for teachers to undertake and sustain
95 instructional improvement. This determination may be made
96 only in the form of a school policy that is part of the school's
97 strategic improvement plan and is approved by a vote of the
98 faculty senate; and

99 (E) Has the sole purpose of improving student learning and
100 that improvement is evident within a reasonable period.

101 (2) The Legislature makes the following findings for
102 consideration by the state board with respect to optimizing
103 student learning:

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

107 (B) Learning time is that portion of instructional time in the
108 school day during which a student is paying attention and
109 receiving instruction that is appropriately leveled, and learning
110 is taking place. Learning time must not be assumed to be the

111 time that a student is seated at a desk, but may be achieved
112 through a variety of methods that actively engage students in
113 learning;

114 (C) A student's time engaged in learning is maximized when
115 the student is allowed to progress and acquire competency at a
116 pace which challenges his or her interest and intellect while
117 receiving guidance and assistance when needed. Instructional
118 strategies to help personalize student learning in this manner are
119 frequently assisted by technology;

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

126 (E) Successful schools are distinguishable from unsuccessful
127 schools by the frequency and extent to which teachers discuss
128 professional practices, collectively design materials and inform
129 and critique one another;

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

134 (G) Unless teachers are collectively involved in planning and
135 implementing school improvement, it is unlikely to be sustained;
136 and

137 (H) Given sufficient control over their own programs and
138 supportive district leadership and policies, schools themselves
139 may best be suited to determine the variety of methods through
140 which time during the school day is allocated for teachers to plan
141 individually and collectively to maximize learning time.
142 Examples of methods used by successful schools include, but are
143 not limited to, scheduling, using special subject teachers and
144 guest presenters, dedicating time set aside for staff development,
145 implementing alternative staff utilization patterns, providing
146 opportunities for administrators to teach, and utilizing accrued
147 instructional time.

