

COMMITTEE SUBSTITUTE

FOR

H. B. 2391

(BY DELEGATE(S) PASDON, DUKE, STATLER,
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D. EVANS, COOPER, ROMINE, WAGNER AND ROWAN)

[Originating in the Committee on Education.]
(February 13, 2015)

A BILL to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to minimum instructional days per week, minimum instructional minutes per week and minimum instructional days per year for early childhood education programs.

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

6 (b) *Findings.* –

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

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

10 (B) Decrease behavioral problems;

11 (C) Improve student attendance;

12 (D) Increase scores on achievement tests;

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

14 and

15 (F) Decrease the number of students placed in special

16 education programs;

17 (2) Quality early childhood education programs improve

18 school performance, and low-quality early childhood education

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

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

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

30 (5) For the school year 2008-2009, 13,135 students were
31 enrolled in prekindergarten, a number equal to approximately
32 sixty-three percent of the number of students enrolled in
33 kindergarten;

34 (6) Excluding projected increases due to increases in
35 enrollment in the early childhood education program, projections
36 indicate that total student enrollment in West Virginia will
37 decline by one percent, or by approximately 2,704 students, by
38 the school year 2012-2013;

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

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

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

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

54 (11) West Virginia citizens will benefit from the establish-
55 ment of quality comprehensive early childhood education
56 programs.

57 (c) Beginning no later than the school year 2012-2013, and
58 continuing thereafter, county boards shall provide early child-

59 hood education programs for all children who have attained the
60 age of four prior to September 1 of the school year in which the
61 ~~pupil enters~~ children enter the early childhood education
62 program. Beginning no later than the school year 2016-2017, and
63 continuing thereafter, these early childhood education programs
64 shall provide at least that are full day and five days four days of
65 instruction per week, provide at least one thousand two hundred
66 minutes of instruction per week and include at least one hundred
67 forty-six instructional days per year. ~~shall be available to all~~
68 ~~children meeting the age requirement set forth in this subsection.~~

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

70 (1) It shall be voluntary, except that, upon enrollment, the
71 provisions of section ~~one~~ one-a, article eight of this chapter
72 apply to an enrolled student, subject to subdivision (~~34~~) of this
73 subsection;

74 (2) It shall be open to All ~~all~~ children meeting the age
75 requirement set forth in this section; ~~shall have the opportunity~~
76 ~~to enroll in a program that is full day and five~~

77 (3) It shall provide at least four days of instruction per week,
78 provide at least one thousand two hundred minutes of instruction

79 per week and include at least one hundred forty-six instructional
80 days per year; ~~The program may be for fewer than five days per~~
81 ~~week and may be less than full day based on family need if a~~
82 ~~sufficient number of families request such programs and the~~
83 ~~county board finds that such programs are in the best interest of~~
84 ~~the requesting families and students: *Provided*, That the ability~~
85 ~~of families to request programs that are fewer than five days a~~
86 ~~week or less than a full day does not relieve the county of the~~
87 ~~obligation to provide all resident children with the opportunity~~
88 ~~to enroll in a full-day program and~~

89 (34) It shall permit ~~A~~ a parent of a an enrolled child ~~enrolled~~
90 ~~in an early education program may~~ to ~~withdraw a~~ the ~~child from~~
91 ~~that program for good cause by notifying the district. Good cause~~
92 ~~includes, but is not limited to, enrollment of the child in another~~
93 ~~program or the immaturity of the child. A child withdrawn under~~
94 ~~this section is not subject to the attendance provisions of this~~
95 ~~chapter until that child again enrolls in a public school in this~~
96 ~~state.~~

97 (e) Enrollment of students in Head Start, or in any other
98 program approved by the state superintendent as provided in

99 ~~subsection (k)~~ of this section, may be counted toward satisfying
100 the requirement of subsection (c) of this section.

101 (f) For the purposes of implementation financing, all
102 counties are encouraged to make use of funds from existing
103 sources, including:

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

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

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

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

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

115 (6) Any other public or private funds.

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

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

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

122 (3) Financial requirements for implementation and potential
123 sources of funding to assist implementation;

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

128 (5) Specific time lines for implementation; and

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

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

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

135 (2) The county board has provided for the maximum
136 implementation of Head Start programs and other public and
137 private programs approved by the state superintendent pursuant
138 to the terms of ~~subsection (k)~~ of this section; and or

139 (3) ~~If the~~ The ~~Secretary of the Department of Health and~~
140 ~~Human Resources~~ secretary finds that, if the the county board
141 has not met one or more of the requirements of this subsection,
142 ~~but that~~ the county board has acted in good faith and the failure
143 to comply was not the primary fault of the county board. ~~then the~~
144 ~~secretary shall approve the plan.~~ Any denial by the secretary may
145 be appealed to the circuit court of the county in which the county
146 board is located.

147 (i) The county board shall submit its plan for approval to the
148 state board. The state board shall approve the plan if the county
149 board has complied substantially with the requirements of
150 subsection (g) of this section and has obtained the approval
151 required in subsection (h) of this section.

152 (j) Every county board shall submit its plan for reapproval
153 by the Secretary of the Department of Health and Human
154 Resources and by the state board at least every two years after
155 the initial approval of the plan and until full implementation of
156 the early childhood education program in the county. As part of
157 the submission, the county board shall provide a detailed
158 statement of the progress made in implementing its plan. The

159 standards and procedures provided for the original approval of
160 the plan apply to any reapproval.

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

165 (l) The state board annually may grant a county board a
166 waiver for total or partial implementation if the state board finds
167 that all of the following conditions exist:

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

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

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

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

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

176 Any county board seeking a waiver shall apply with the
177 supporting data to meet the criteria for which they are eligible on
178 or before March 25 for the following school year. The state

179 superintendent shall grant or deny the requested waiver on or
180 before April 15 of that same year.

181 (m) The provisions of subsections (b), (c) and (d), section
182 eighteen of this article relating to kindergarten apply to early
183 childhood education programs in the same manner in which they
184 apply to kindergarten programs.

185 (n) Annually, the state board shall report to the Legislative
186 Oversight Commission on Education Accountability on the
187 progress of implementation of this section.

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

191 (p) Neither the state board nor the state department may
192 provide any funds to any county board for the purpose of
193 implementing this section unless the county board has a plan
194 approved pursuant to subsections (h), (i) and (j) of this section.

195 (q) The state board shall promulgate a rule in accordance
196 with the provisions of article three-b, chapter twenty-nine-a of
197 this code for the purposes of implementing the provisions of this
198 section. The state board shall consult with the Secretary of the

199 Department of Health and Human Resources in the preparation
200 of the rule. The rule shall contain the following:

- 201 (1) Standards for curriculum;
- 202 (2) Standards for preparing students;
- 203 (3) Attendance requirements;
- 204 (4) Standards for personnel; and
- 205 (5) Any other terms necessary to implement the provisions
206 of this section.

207 (r) The rule shall include the following elements relating to
208 curriculum standards:

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

212 (2) A requirement that the curriculum be designed to achieve
213 long-range goals for the social, emotional, physical and aca-
214 demic development of young children;

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

217 (4) A requirement that the curriculum incorporate a wide
218 variety of learning experiences, materials and equipment, and

219 instructional strategies to respond to differences in prior experi-
220 ence, maturation rates and learning styles that young children
221 bring to the classroom;

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

225 (6) A requirement that the curriculum meet the recognized
226 standards of the relevant subject matter disciplines;

227 (7) A requirement that the curriculum engage children
228 actively in the learning process and provide them with opportu-
229 nities to make meaningful choices;

230 (8) A requirement that the curriculum emphasize the
231 development of thinking, reasoning, decision-making and
232 problem-solving skills;

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

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

239 (s) The secretary and the state superintendent shall submit a
240 report to the Legislative Oversight Commission on Education
241 Accountability and the Joint Committee on Government and
242 Finance which addresses, at a minimum, the following issues:

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

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

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

249 (4) An analysis of the effect of the programs on the maximi-
250 zation of the use of federal funds for early childhood programs.

251 The intent of this subsection is to enable the Legislature to
252 proceed in a fiscally responsible manner and make any necessary
253 program improvements based on reported information prior to
254 implementation of the early childhood education programs.

255 (t) After the school year 2012-2013, on or before July 1 of
256 each year, each county board shall report the following informa-
257 tion to the Secretary of the Department of Health and Human
258 Resources and the state superintendent:

259 (1) Documentation indicating the extent to which county
260 boards are maximizing resources by using the existing capacity
261 of community-based programs, including, but not limited to,
262 Head Start and child care; and

263 (2) For those county boards that are including eligible
264 children attending approved, contracted community-based
265 programs in their net enrollment for the purposes of calculating
266 state aid pursuant to article nine-a of this chapter, documentation
267 that the county board is equitably distributing funding for all
268 children regardless of setting.

