

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2104**

BY DELEGATES ELDRIDGE AND HICKS

[Introduced February 8, 2017; Referred  
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-2-5 of the Code of West Virginia, 1931, as amended, relating  
 2 to the State Board of Education; and providing that the board require that public schools  
 3 provide facilities for students of all faiths and religions to have a place of fellowship, prayer  
 4 and worship.

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

1 That §18-2-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
 2 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.**

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  
 3 promulgate rules in accordance with ~~the provisions of article three-b, chapter twenty-nine-a of this~~  
 4 code for carrying into effect the laws and policies of the state relating to education. The rules shall  
 5 relate to the following:

- 6 (1) Standards for performance and measures of accountability;
- 7 (2) Physical welfare of students;
- 8 (3) Education of all children of school age;
- 9 (4) School attendance;
- 10 (5) Evening and continuation or part-time day schools;
- 11 (6) School extension work;
- 12 (7) Classification of schools;
- 13 (8) Issuing certificates based upon credentials;
- 14 (9) Distribution and care of instructional resources by county boards;
- 15 (10) Requiring that public schools provide facilities for students of all faiths and religions  
 16 to have a place of fellowship, prayer and worship;

17           ~~(40)~~ (11) General powers and duties of county boards, teachers, principals, supervisors  
18 and superintendents; and

19           ~~(44)~~ (12) Such other matters pertaining to the public schools of the state as the state board  
20 considers necessary and expedient.

21           (b) The state board, in exercising its constitutional responsibility for the general  
22 supervision of public schools, must do so as provided by general law. Included within the general  
23 law is the process for improving education which has been recognized by the court as the method  
24 chosen by the Legislature to measure whether a thorough and efficient education is being  
25 provided. The court further recognized that the resulting student learning is the ultimate measure  
26 of a thorough education and that it must be achieved in an efficient manner. To achieve this result,  
27 the state board must have reasonable discretion to balance the local autonomy and flexibility  
28 needed by schools to deliver a thorough and efficient education with the letter of the laws as  
29 enacted for school operations.

30           (c) The purpose of this subsection is to authorize the state board to approve alternatives  
31 to the letter of the laws enacted for school operations in the areas enumerated in this subsection.  
32 The state board may approve such alternatives as proposed by a county board or school if, in the  
33 sole judgment of the state board, the alternatives meet the spirit and intent of the applicable  
34 statutes and are intended solely to optimize student learning.

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

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

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

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

45 (D) Allows for school-level determination of alternatives affecting time within the school  
46 day that preserve the spirit and intent of providing teachers with: (i) Sufficient planning time to  
47 develop engaging, differentiated instruction for all students in all classes, which includes at least  
48 forty minutes in length for the elementary level and as required by section fourteen, article four,  
49 chapter eighteen-a of this code for the secondary level; and (ii) collaborative time for teachers to  
50 undertake and sustain instructional improvement. This determination may be made only in the  
51 form of a school policy that is part of the school's strategic improvement plan and is approved by  
52 a vote of the faculty senate; and

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

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

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

59 (B) Learning time is that portion of instructional time in the school day during which a  
60 student is paying attention and receiving instruction that is appropriately leveled, and learning is  
61 taking place. Learning time must not be assumed to be the time that a student is seated at a desk,  
62 but may be achieved through a variety of methods that actively engage students in learning;

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

67 (D) Providing teachers with the resources and support needed to engage students in  
68 meaningful, appropriately leveled learning for as much time as is possible during the school day

69 may be as important as facilities, equipment and staff development for maximizing learning time  
70 and improving student learning;

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

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

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

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

NOTE: The purpose of this bill is to provide that the State Board of Education require that public schools provide facilities for students of all faiths and religions to have a place of fellowship, prayer and worship.

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