

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2491

FISCAL
NOTE

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[Introduced February 16, 2017; Referred
to the Committee on Education.]

1 A BILL to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating
 2 to school calendar and testing; changing mandatory instructional days from one hundred
 3 eighty separate days to a total number of minutes; permitting excess minutes to be banked
 4 and used later in the school year; establishing dates for when a school year begins and
 5 when it ends; requiring students to take achievement tests; exempting students who test
 6 at certain level from attending school past a certain date; and retaining certain current
 7 school policies.

Be it enacted by the Legislature of West Virginia:

1 That §18-5-45 of the Code of West Virginia, 1931, as amended, be amended and re-
 2 enacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-45. School calendar.

1 (a) As used in this section:

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

4 (A) Instruction is offered to students for at least the minimum amount of hours provided by
 5 state board rule;

6 (B) Instructional time is used for instruction and cocurricular activities; and

7 (C) Other criteria as the state board determines appropriate.

8 (2) "Cocurricular activities" are activities that are closely related to identifiable academic
 9 programs or areas of study that serve to complement academic curricula as further defined by
 10 the state board.

11 (b) *Findings.* –

12 (1) The primary purpose of the school system is to provide instruction for students.

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

15 (3) The school calendar shall provide for one hundred eighty ~~separate~~ instructional days,
16 converted into minutes pursuant to subdivision (2), subsection (c) of this section.

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

18 (1) An employment term that excludes Saturdays and Sundays and consists of at least
19 two hundred days, which need not be successive. The beginning and closing dates of the
20 employment term may not exceed forty-eight weeks;

21 (2) Within the employment term, an instructional term for students of no less than one
22 hundred eighty ~~separate~~ instructional days, which includes an inclement weather and
23 emergencies plan designed to guarantee an instructional term for students of no less than one
24 hundred eighty ~~separate~~ instructional days based upon the minimum amount of hours of
25 instruction offered to students provided by state board rules and converted to minutes as follows:

26 (A) For grades 1 to 5, three hundred fifteen minutes a day or fifty-six thousand seven
27 hundred minutes over a period of not less than one hundred eighty days;

28 (B) For grades 6 to 8, three hundred thirty minutes a day or fifty-nine thousand four
29 hundred minutes over a period of not less than one hundred eighty days; and

30 (C) For grades 9 to 12, three hundred forty-five minutes a day or sixty-two thousand one
31 hundred minutes over a period of not less than one hundred eighty days;

32 (3) Any instructional minutes in excess of the allotted minutes per day pursuant to
33 subdivision (2) of this subsection may be banked and used before the end of that instructional
34 term.

35 (4) The instructional term for students begins the day after Labor Day and ends two weeks
36 after Memorial Day of each year.

37 ~~(3)~~ (5) Within the employment term, noninstructional days shall total twenty and shall be
38 comprised of the following:

- 39 (A) Seven paid holidays;
- 40 (B) Election day as specified in section two, article five, chapter eighteen-a of this code;
- 41 (C) Six days to be designated by the county board to be used by the employees outside
42 the school environment, with at least four outside the school environment days scheduled to occur
43 after the one hundred and thirtieth instructional day of the school calendar; and
- 44 (D) The remaining days to be designated by the county board for purposes to include, but
45 not be limited to:
- 46 (i) Curriculum development;
- 47 (ii) Preparation for opening and closing school;
- 48 (iii) Professional development;
- 49 (iv) Teacher-pupil-parent conferences;
- 50 (v) Professional meetings;
- 51 (vi) Making up days when instruction was scheduled but not conducted; and
- 52 (vii) At least four two-hour blocks of time for faculty senate meetings with each two-hour
53 block of time scheduled once at least every forty-five instructional days; and
- 54 ~~(4)~~ (6) Scheduled out-of-calendar days that are to be used for instructional days in the
55 event school is canceled for any reason.
- 56 (d) A county board of education shall develop a policy that requires additional minutes of
57 instruction in the school day or additional days of instruction to recover time lost due to late arrivals
58 and early dismissals.
- 59 (e) If it is not possible to complete one hundred eighty ~~separate~~ instructional days with the
60 current school calendar, the county board shall schedule instruction on any available
61 noninstructional day, regardless of the purpose for which the day originally was scheduled, or an
62 out-of-calendar day and the day will be used for instruction of students: *Provided*, That the

63 provisions of this subsection do not apply to:

64 (A) Holidays;

65 (B) Election day;

66 (C) Saturdays and Sundays.

67 (f) The instructional term shall commence and terminate on a date selected by the county
68 board.

69 (g) The state board may not schedule the primary statewide assessment program more
70 than thirty days prior to the end of the instructional year unless the state board determines that
71 the nature of the test mandates an earlier testing date.

72 (h) The following applies to cocurricular activities:

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

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

76 (3) Other requirements or restrictions the state board may provide in the rule required to
77 be promulgated by this section.

78 (i) Extracurricular activities may not be used for instructional time.

79 (j) Noninstructional interruptions to the instructional day shall be minimized to allow the
80 classroom teacher to teach.

81 (k) Prior to implementing the school calendar, the county board shall secure approval of
82 its proposed calendar from the state board or, if so designated by the state board, from the state
83 superintendent.

84 (l) In formulation of a school's calendar, a county school board shall hold at least two public
85 meetings that allow parents, teachers, teacher organizations, businesses and other interested
86 parties within the county to discuss the school calendar. The public notice of the date, time and

87 place of the public hearing must be published in a local newspaper of general circulation in the
88 area as a Class II legal advertisement, in accordance with the provisions of article three, chapter
89 fifty-nine of this code.

90 (m) The county board may contract with all or part of the personnel for a longer term of
91 employment.

92 (n) The minimum instructional term may be decreased by order of the state superintendent
93 in any county declared a federal disaster area and where the event causing the declaration is
94 substantially related to a reduction of instructional days.

95 (o) Notwithstanding any provision of this code to the contrary, the state board may grant
96 a waiver to a county board for its noncompliance with provisions of chapter eighteen, eighteen-a,
97 eighteen-b and eighteen-c of this code to maintain compliance in reaching the mandatory one
98 hundred eighty ~~separate~~ instructional days established in this section.

99 (p)(1) Two weeks prior to Memorial Day all students shall take achievement tests in
100 subjects as determined by the West Virginia Department of Education (WVDE). The assessment
101 may be the testing procedures currently being used. County boards shall, however, devise and
102 administer assessment instruments for grades not currently being tested. The WVDE shall
103 determine achievement criteria for each subject tested.

104 (2) Notwithstanding any provision in this article to the contrary, students who meet the
105 achievement level set by WVDE in subdivision one of this subsection are not required to attend
106 school past Memoria! Day. Students who do not score at the predetermined achievement level
107 shall participate in reteach activities for ten additional school days after Memorial Day. At the end
108 of the ten days of the reteach activities the students shall be retested, thus determining which
109 students have achieved a passing grade. The current policy on retention and promotion will be
110 followed in respect to students not achieving a satisfactory score. The status of students with

111 exceptional needs shall be in accordance with current policy as established by the WVDE.

112 ~~(p)~~ (q) The state board shall promulgate a rule in accordance with the provisions of article
113 three-b, chapter twenty-nine-a of this code for the purpose of implementing the provisions of this
114 section.

115 ~~(q)~~(r) The amendments to this section during the ~~2013~~ 2017 regular session of the
116 Legislature shall be effective for school years beginning on or after July 1, ~~2014~~, 2018, and the
117 provisions of this section existing immediately prior to the ~~2013~~ 2017 regular session of the
118 Legislature remain in effect for school years beginning prior to July 1, ~~2014~~ 2018. Nothing in the
119 amendments to this section made during the 2017 regular session of the Legislature affects the
120 current employment contracts of school personnel.

NOTE: The purpose of this bill is to change the mandatory school instructional days from one hundred separate eighty days to a certain number of minutes depending on the grade. The bill permits excess minutes to be banked and used later in the school year. The bill establishes dates for when a school year begins and when it ends. The bill requires students to take achievement tests. The bill permits students who test at certain level to not attend school past a certain date. The bill retains certain current school policies.

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