

WEST VIRGINIA LEGISLATURE
2019 FIRST EXTRAORDINARY SESSION

Introduced
House Bill 138

BY DELEGATES HORNBUCKLE, MILEY, SKAFF, LAVENDER-
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[Introduced May 20, 2019; Referred
to the Select Committee on Education D.]

1 A BILL to repeal §18-5B-4, §18-5B-5, §18-5B-6, §18-5B-13, and §18-5B-14 of the Code of West
 2 Virginia, 1931, as amended; to amend and reenact 18-5A-2 of said code; to amend and
 3 reenact §18-5B-3 of said code; and to amend said code by adding thereto a new section,
 4 designated as 18-5B-15, all relating to restoring local public school flexibility; reforming
 5 local school improvement councils; and reforming the school innovation zone act to
 6 increase flexibility and decrease bureaucracy.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-2. Local school improvement councils; election.

1 (a) A local school improvement council shall be established at every school consisting of
 2 the following:

3 (1) The principal, who serves as an ex officio member of the council and is entitled to vote;

4 (2) Three teachers elected by the faculty Senate of the school;

5 (3) One bus operator who transports students enrolled at the school and one school
 6 service person, each elected by the school service personnel employed at the school;

7 (4) ~~Three~~ Four parent(s), guardian(s) or custodian(s) of students enrolled at the school,
 8 one of whom must be the parent of a special-needs student, elected by the parent(s), guardian(s)
 9 or custodian(s) members of the school's parent teacher organization. If there is no parent teacher
 10 organization, the parent(s), guardian(s) or custodian(s) members shall be elected by the
 11 parent(s), guardian(s) or custodian(s) of students enrolled at the school in such manner as may
 12 be determined by the principal;

13 (5) Two at-large members appointed by the principal, one of whom resides in the school's
 14 attendance area and one of whom represents business or industry, neither of whom is eligible for
 15 membership under any of the other elected classes of members;

16 (6) A mental health professional;

17 ~~(6) (7)~~ In the case of vocational-technical schools, the vocational director. If there is no

18 vocational director, then the principal may appoint no more than two additional representatives,
19 one of whom represents business and one of whom represents industry;

20 ~~(7)~~ (8) In the case of a school with students in grade seven or higher, the student body
21 president or other student in grade seven or higher elected by the student body in those grades.

22 (b) Under no circumstances may more than one parent member of the council be then
23 employed at that school in any capacity.

24 (c) The principal shall arrange for such elections to be held prior to September 15, of each
25 school year to elect a council and shall give notice of the elections at least one week prior to the
26 elections being held. Notice of the election must be posted on a bulletin board at the school and
27 on a public website maintained by the school, if the school has one. To the extent practicable, all
28 elections to select council members shall be held within the same week.

29 (d) Parent(s), guardian(s) or custodian(s), teachers and service personnel elected to the
30 council shall serve a two-year term and elections shall be arranged in such a manner that no more
31 than two teachers, no more than two parent(s), guardian(s) or custodian(s) and no more than one
32 service person are elected in a given year. All other nonex officio members shall serve one-year
33 terms.

34 (e) Council members may only be replaced upon death, resignation, failure to appear at
35 three consecutive meetings of the council for which notice was given, or a change in personal
36 circumstances so that the person is no longer representative of the class of members from which
37 appointed. In the case of a vacancy in an elected position, the chair of the council shall appoint
38 another qualified person to serve the unexpired term of the person being replaced or, in the case
39 of an appointed member of the council, the principal shall appoint a replacement as soon as
40 practicable.

41 (f) As soon as practicable after the election of council members, and no later than
42 October 1, of each school year, the principal shall convene an organizational meeting of the
43 school improvement council. The principal shall notify each member in writing at least two

44 employment days in advance of the organizational meeting. At this meeting, the principal shall
45 provide each member with the following:

46 (1) A copy of the current applicable sections of this code;

47 (2) Any state board rule or regulation promulgated pursuant to the operation of these
48 councils; and

49 (3) Any information as may be developed by the Department of Education on the operation
50 and powers of local school improvement councils and their important role in improving student
51 and school performance and progress.

52 (g) The council shall elect from its membership a chair and two members to assist the
53 chair in setting the agenda for each council meeting. The chair shall serve a term of one year and
54 a person may not serve as chair for more than two consecutive terms. If the chair's position
55 becomes vacant for any reason, the principal shall call a meeting of the council to elect another
56 qualified person to serve the unexpired term. Once elected, the chair is responsible for notifying
57 each member of the school improvement council in writing two employment days in advance of
58 any council meeting.

59 (h) School improvement councils shall meet at least once every nine weeks or equivalent
60 grading period at the call of the chair or by three fourths of its members.

61 (1) The school improvement council shall schedule any meeting that involves the issue of
62 student discipline pursuant to subdivision (2), subsection (l) of this section, outside the regularly
63 scheduled working hours of any school employee member of the council.

64 (2) The school improvement council annually shall conduct a meeting to engage parents,
65 students, school employees and other interested parties in a positive and interactive dialogue
66 regarding effective discipline policies. The meeting shall afford ample time for the dialogue and
67 comply with any applicable provision of state, federal or county board policy, rule or law, as
68 appropriate, regarding student privacy rights.

69 (3) An agenda for regularly scheduled meetings must be posted on a bulletin board in a

70 publicly accessible place at the school and on a public website maintained by the school, if the
71 school has one, at least 24 hours prior to the meeting.

72 (i) The local school improvement council shall meet at least annually with the county board,
73 in accordance with the provisions in §18-5-14 of this code. At this annual meeting, the local school
74 improvement council chair, or another member designated by the chair, shall be prepared to
75 address any matters as may be requested by the county board as specified in the meeting agenda
76 provided to the council and may further provide any other information, comments or suggestions
77 the local school improvement council wishes to bring to the county board's attention. Anything
78 presented under this subsection shall be submitted to the county board in writing.

79 (j) School improvement councils shall be considered for the receipt of school of excellence
80 awards under section three of this article and competitive grant awards under §18-2-29 of this
81 code and may receive and expend such grants for the purposes provided in such section. In any
82 and all matters which may fall within the scope of both the school improvement councils and the
83 school curriculum teams authorized in section five of this article, the school curriculum teams
84 have jurisdiction.

85 (k) In order to promote innovations and improvements in the environment for teaching and
86 learning at the school, a school improvement council shall receive cooperation from the school in
87 implementing policies and programs it may adopt to:

88 (1) Encourage the involvement of parent(s), guardian(s) or custodian(s) in their child's
89 educational process and in the school;

90 (2) Encourage businesses to provide time for their employees who are parent(s),
91 guardian(s) or custodian(s) to meet with teachers concerning their child's education;

92 (3) Encourage advice and suggestions from the business community;

93 (4) Encourage school volunteer programs and mentorship programs; and

94 (5) Foster utilization of the school facilities and grounds for public community activities.

95 (l) Each local school improvement council annually shall develop and deliver a report to

96 the countywide council on productive and safe schools. The report shall include:

97 (1) Guidelines for the instruction and rehabilitation of students who have been excluded
98 from the classroom, suspended from the school or expelled from the school, the description and
99 recommendation of in-school suspension programs, a description of possible alternative settings,
100 schedules for instruction and alternative education programs and an implementation schedule for
101 such guidelines. The guidelines shall include the following:

102 (A) A system to provide for effective communication and coordination between school and
103 local emergency services agencies;

104 (B) A preventive discipline program which may include the responsible students program
105 devised by the West Virginia Board of Education as adopted by the county board, pursuant to the
106 provisions of §18A-5-1(e), of this code; and

107 (C) A student involvement program, which may include the peer mediation program or
108 programs devised by the West Virginia Board of Education as adopted by the county board,
109 pursuant to the provisions of §18A-5-1(e), of this code; and

110 (2) The local school improvement council's findings regarding its examination of the
111 following, which also shall be reported to the county superintendent:

112 (A) Disciplinary measures at the school; and

113 (B) The fairness and consistency of disciplinary actions at the school. If the council
114 believes that student discipline at the school is not enforced fairly or consistently, it shall transmit
115 that determination in writing, along with supporting information, to the county superintendent.
116 Within ten days of receiving the report, the superintendent, or designee, shall respond in writing
117 to the council. The county board shall retain and file all such correspondence and maintain it for
118 public review.

119 (C) Any report or communication made as required by this subdivision shall comply with
120 any applicable provision of state, federal or county board policy, rule or law, as appropriate,
121 regarding student privacy rights.

122 (m) The council may include in its report to the county-wide council on productive and safe
123 schools provisions of the state Board of Education policy 4373, student code of conduct, or any
124 expansion of such policy which increases the safety of students in schools in this state and is
125 consistent with the policies and other laws of this state.

126 (n) Councils may adopt their own guidelines established under this section. In addition,
127 the councils may adopt all or any part of the guidelines proposed by other local school
128 improvement councils, as developed under this section, which are not inconsistent with the laws
129 of this state, the policies of the West Virginia Board of Education or the policies of the county
130 board.

131 (o) The State Board of Education shall provide assistance to a local school improvement
132 council upon receipt of a reasonable request for that assistance. The state board also may solicit
133 proposals from other parties or entities to provide orientation training for local school improvement
134 council members and may enter into contracts or agreements for that purpose. Any training for
135 members shall meet the guidelines established by the state board.

ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.

§18-5B-3. School innovation zones; application for designation; state board rule.

1 (a) A school district, school, a group of schools, a subdivision or department of a group of
2 schools, or a subdivision or department of a school may be designated as an innovation zone in
3 accordance with this article.

4 (b) The state board shall promulgate a rule, including an emergency rule if necessary, in
5 accordance with §29A-3B-1 *et seq.* of this code to implement the provisions of this article. The
6 rule shall include provisions for at least the following:

7 (1) A process for a *school district*, school, a group of schools, a subdivision or department
8 of a group of schools or a subdivision or department of a school to apply for designation as an
9 innovation zone that encompasses at least the following:

10 (A) The manner, time and process for the submission of an innovation zone application;

11 (B) The contents of the application, which must include a general description of the
12 innovations the school district, school or schools seek to institute and an estimation of the
13 employees who may be affected by the implementation of the innovations; and requests to the
14 state board for exceptions to statutes, policies, rules and interpretations that are required to permit
15 implementation of the innovative strategies contemplated in its innovation zone plan; and

16 (C) Factors to be considered by the state board when evaluating an application, which
17 shall include, but are not limited to, the following factors:

18 (i) The level of staff commitment to apply for designation as an innovation zone as
19 determined by a vote by secret ballot at a special meeting of employees eligible to vote on the
20 plan, as provided in section six of this article;

21 (ii) Support from parents, students, the county board of education, the local school
22 improvement ~~council~~ councils and school business partners; and

23 (iii) The potential for an applicant to be successful as an innovation zone; and

24 (2) Standards for the state board to review applications for designation as innovation
25 zones and to make determinations on the designation of innovation zones.

26 (c) The state board shall review innovation zone applications in accordance with the
27 standards adopted by the board and shall determine whether to designate the applicant as an
28 innovation zone, including the approval of any requests for exceptions to statutes, policies, rules
29 and interpretations in accordance with subsection (d) of this section. The state board shall notify
30 an applicant of the board's determination within 60 days of receipt of an innovation zone
31 application.

32 ~~When initially designating innovation zones after the enactment of this article by the first~~
33 ~~extraordinary session of the 2009 Legislature, the state board shall consider applicants for~~
34 ~~designation in the following order: (1) A school and groups of schools; (2) a group of schools~~
35 ~~seeking designation across the same subdivision or department of the schools; and (3) a school~~

36 ~~seeking designation of a subdivision or a department~~

37 (d) The state board shall review requests for exceptions to statutes, policies, rules, and
38 interpretations in accordance with the standards in its rule and shall determine whether to approve
39 or disapprove the request. The approval or disapproval of a request is at the sole discretion of the
40 state board in accordance with the requirements of this section.

41 (1) Except as provided in subdivision (3), the state board shall approve or disapprove the
42 request subject to the following:

43 (A) No exceptions to state board policies, rules, or interpretations are granted unless the
44 state board approves the request at least conditionally pursuant to subdivision (3) of this
45 subsection; and

46 (B) If the request is disapproved, the state board shall communicate its reasons for the
47 disapproval to the county board and shall make recommendations for improving the request. The
48 county board may amend and resubmit the request.

49 (2) Upon approval of the request by the state board, all of the exceptions to state board
50 policies, rules, and interpretations that were requested are granted;

51 (3) If a request, or a part thereof, may not be implemented unless an exception to a statute
52 is granted by an act of the Legislature, the state board may approve the request, or the part
53 thereof, only upon the condition that the Legislature acts to grant the exception. If the state board
54 approves a request on that condition, the state board shall submit the request for an exception to
55 a statute, along with supporting reasons, to the Legislative Oversight Commission of Education
56 Accountability. The commission shall review the request and make a recommendation to the
57 Legislature regarding the exception requested; and

58 (4) A request for an exception may not be granted from any of the following:

59 (A) A required statewide assessment program administered by the West Virginia
60 Department of Education;

61 (B) Any provision of law or policy required by Public Law 94-142, Public Law No. 107-110
62 or other federal law;

63 (C) §18A-2-2 and §18A-2-7 of this code and §18A-4-7a, §18A-4-7b, §18A-4-8, and
64 §18A-4-8b of this code, except that an innovation zone may make a job posting for a teacher
65 vacancy in accordance with the procedures and the approval by a vote of the teachers as provided
66 in §18-5B-8 of this code; or

67 (D) Any statute, policy, rule, or other requirements of the state board or other agency
68 related to the health and safety of students or employees, any requirements imposed by ethics
69 laws or opinions, any requirements imposed by open records or open meetings laws, any
70 requirements related to financial or academic reporting or transparency, or any requirements
71 designed to protect the civil rights of students or employees.

72 (e) The state board after periodic review of an established innovation zone may, upon
73 recommendation of the innovation zone application review committee, revoke the innovation
74 zones designation for noncompliance or nonperformance.

75 ~~(d)~~(f) When designating innovation zones under these provisions following the amendment
76 and reenactment of this section by the Legislature at its regular session 2014, and for each of the
77 four succeeding school years, the state board shall establish a priority for applications that include
78 the establishment of entrepreneurship education programs as a curricular offering for students.
79 To qualify under this priority, the program strategy must include the active involvement of one or
80 more partners from the business community in program delivery. Nothing in this subsection
81 requires the state board to designate all applicants that include the establishment of
82 entrepreneurship education programs as innovation zones, or to exclude other qualified
83 applicants for innovations in other areas from designation.

§18-5B-4. Innovation zones; required plans; plan approval; state board rule.

1 [Repealed]

§18-5B-5. Approval of innovation zone plans; waiver of statutes, policies, rules or interpretations.

1 [Repealed]

§18-5B-6. Employee approval of innovation plan application and plan; transfer of employees.

1 [Repealed]

§18-5B-13. Innovation school district Act; legislative findings, intent and purpose; eligibility; application; innovation plan and plan approval; designation; waiver of statutes, policies, rules or interpretations; exceptions; progress reviews and annual reports; state board rule.

1 [Repealed]

§18-5B-14. Termination of funding for School Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones.

1 [Repealed]

§18-5B-15. Funding for Innovation Zones.

1 There is hereby created in the State Treasury a special revenue fund to be known as the
2 “Innovation Zone Fund.” The fund shall consist of all moneys received from whatsoever source
3 to further the purpose of this article. At a minimum, these funds shall consist of a five million-dollar
4 line item appropriation for the purposes of this article. The fund shall be administered by the state
5 board solely for the purposes of this article, including providing grants and other financial
6 assistance to designated innovation zones to implement and carry out innovation zone plans.
7 Any moneys remaining in the fund at the close of the fiscal year shall be carried forward for use
8 in the next fiscal year. Fund balances shall be invested with the state’s consolidated investment
9 fund and any and all interest shall be used solely for the purposes that moneys deposited in the
10 fund may be used pursuant to this article.

NOTE: The purpose of this bill is to restore local public-school flexibility by (1) reforming local school improvement councils; and (2) reforming the school innovation zone act to increase flexibility and decrease bureaucracy.

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