

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Senate Bill 661

SENATORS RUCKER AND CLINE, *original sponsors*

[Originating in the Committee on Education; reported
on February 24, 2020]

1 A BILL to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating
2 to replacing minimum minutes of instructional time required per day with a requirement for
3 an average of five hours per day throughout the instructional term; and requiring county
4 boards of education to provide public notice of public hearings for discussing the school
5 calendar by publishing prominently on the board's website in addition to publishing in a
6 local newspaper of general circulation in the area.

Be it enacted by the Legislature of West Virginia:

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 number of minutes as follows~~
5 an average of five hours per day throughout the instructional term;

6 ~~(i) For early childhood programs as provided in subsection (d) section forty-four of this~~
7 ~~article;~~

8 ~~(ii) For schools with grade levels kindergarten through and including grade five, 315~~
9 ~~minutes of instructional time per day;~~

10 ~~(iii) For schools with grade levels six through and including grade eight, 330 minutes of~~
11 ~~instructional time per day; and~~

12 ~~(iv) For schools with grade levels nine through and including grade twelve, 345 minutes of~~
13 ~~instructional time per day~~

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

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

16 (2) "Cocurricular activities" are activities that are closely related to identifiable academic
17 programs or areas of study that serve to complement academic curricula as further defined by

18 the state board; and

19 (3) "Instruction delivered through alternative methods" means a plan developed by a
20 county board and approved by the state board for teachers to assign and grade work to be
21 completed by students on days when schools are closed due to inclement weather or other
22 unforeseen circumstances.

23 (b) *Findings.* —

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

25 (2) School systems must have sufficient flexibility to design the school day in a way that
26 best provides quality instruction to their students.

27 (3) Critical to the delivery of quality instruction is sufficient collaborative time among
28 educators within the work day.

29 ~~(2)~~ (4) The school calendar, as defined in this section, is designed to define the school
30 term both for employees and for instruction.

31 ~~(3)~~ (5) The school calendar shall provide for 180 separate instructional days. ~~or an~~
32 ~~equivalent amount of instructional time as provided in this section~~

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

34 (1) An employment term that excludes Saturdays and Sundays and consists of at least
35 200 days, which need not be successive. The beginning and closing dates of the employment
36 term may not exceed 48 weeks;

37 (2) Within the employment term, an instructional term for students of no less than 180
38 separate instructional days with an average of five hours of instruction per day, which includes an
39 inclement weather and emergencies plan designed to guarantee an instructional term for students
40 of no less than 180 separate instructional days: subject to the following *Provided, That subject to*
41 approval of its plan by the state board, a county board may deliver instruction through alternative
42 methods on up to five days when schools are closed due to inclement weather or other unforeseen
43 circumstances and these days are instructional days notwithstanding the closure of schools.

44 ~~(A) A county board may increase the length of the instructional day as defined in this~~
45 ~~section by at least thirty minutes per day to ensure that it achieves at least an amount of~~
46 ~~instructional time equivalent to one hundred and eighty separate instructional days within its~~
47 ~~school calendar and:~~

48 ~~(i) Apply up to five days of this equivalent time to cancel days lost due to necessary school~~
49 ~~closures;~~

50 ~~(ii) Plan within its school calendar and not subject to cancellation and rescheduling as~~
51 ~~instructional days up to an additional five days or equivalent portions of days, without students~~
52 ~~present, to be used as determined by the county board exclusively for activities by educators at~~
53 ~~the school level designed to improve instruction; and~~

54 ~~(iii) Apply any additional equivalent time to recover time lost due to late arrivals and early~~
55 ~~dismissals~~

56 ~~(B) Subject to approval of its plan by the state board, a county board may deliver~~
57 ~~instruction through alternative methods on up to five days when schools are closed due to~~
58 ~~inclement weather or other unforeseen circumstances and these days are instructional days~~
59 ~~notwithstanding the closure of schools; and~~

60 ~~(C) The use of equivalent time gained by lengthening the school day to cancel days lost,~~
61 ~~and the delivery of instruction through alternative methods, both as defined in this section, shall~~
62 ~~be considered instructional days for the purpose of meeting the 180 separate day requirement~~
63 ~~and as employment days for the purpose of meeting the 200 day employment term~~

64 (3) Within the employment term, noninstructional days shall total 20 and shall be
65 comprised of the following:

66 (A) Seven paid holidays;

67 (B) Election day as specified in §18A-5-2 of this code;

68 (C) Six days to be designated by the county board to be used by the employees outside
69 the school environment, with at least four outside the school environment days scheduled to occur

70 after the 130th instructional day of the school calendar;

71 (D) One day to be designated by the county board to be used by the employees for
72 preparation for opening school and one day to be designated by the county board to be used by
73 the employees for preparation for closing school: *Provided*, That the school preparation days may
74 be used for the purposes set forth in paragraph (E) of this subdivision at the teacher's discretion;
75 and

76 (E) The remaining days to be designated by the county board for purposes to include, but
77 not be limited to:

78 (i) Curriculum development;

79 (ii) Professional development;

80 (iii) Teacher-pupil-parent conferences;

81 (iv) Professional meetings;

82 (v) Making up days when instruction was scheduled but not conducted; and

83 (vi) At least six two-hour blocks of time for faculty senate meetings with at least one two-
84 hour block of time scheduled in the first month of the employment term, at least one two-hour
85 block of time scheduled in the last month of the employment term and at least one two-hour block
86 of time scheduled in each of the months of October, December, February, and April; and

87 (4) Scheduled out-of-calendar days that are to be used for instructional days in the event
88 school is canceled for any reason.

89 ~~(d) A county board of education shall develop a policy that requires additional minutes of~~
90 ~~instruction in the school day or additional days of instruction to recover time lost due to late arrivals~~
91 ~~and early dismissals~~ School calendars shall be designed in a manner that achieves the minimum
92 average of five hours per day.

93 (e) If it is not possible to complete 180 separate instructional days with the current school
94 calendar, ~~and the additional five days of instructional time gained by increasing the length of the~~
95 ~~instructional day as provided in subsection (c) of this section are insufficient to offset the loss of~~

96 ~~separate instructional days~~ the county board shall schedule instruction on any available
97 noninstructional day, regardless of the purpose for which the day originally was scheduled, or an
98 out-of-calendar day and the day will be used for instruction of students: *Provided*, That the
99 provisions of this subsection do not apply to:

100 (1) Holidays;

101 (2) Election day; and

102 (3) Saturdays and Sundays. ~~and~~

103 ~~(4) The five days or equivalent portions of days planned within the school calendar~~
104 ~~exclusively for activities by educators at the school level to improve instruction that are gained by~~
105 ~~increasing the length of the instructional day as provided in subsection (c) of this section~~

106 (f) If it is not possible to complete 180 separate instructional days with the current school
107 calendar, and if scheduling instruction on any available noninstructional day pursuant to
108 subsection (e) of this section is not sufficient to accomplish 180 separate instructional days, the
109 county board still shall ensure that the average of five hours over 180 days or a total of 900
110 instructional hours during the school year is maintained.

111 ~~(f)~~ (g) The instructional term shall commence and terminate on a date selected by the
112 county board.

113 ~~(g)~~ (h) The state board may not schedule the primary statewide assessment program more
114 than 30 days prior to the end of the instructional year unless the state board determines that the
115 nature of the test mandates an earlier testing date.

116 ~~(h)~~ (i) The following applies to cocurricular activities:

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

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

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

122 ~~(j)~~ (i) Extracurricular activities may not be used for instructional time.

123 ~~(j)~~ (k) Noninstructional interruptions to the instructional day shall be minimized to allow the
124 classroom teacher to teach.

125 ~~(k)~~ (l) Prior to implementing the school calendar, the county board shall secure approval
126 of its proposed calendar from the state board or, if so designated by the state board, from the
127 State Superintendent.

128 ~~(l)~~ (m) In formulation of a school's calendar, a county school board shall hold at least two
129 public meetings that allow parents, teachers, teacher organizations, businesses, and other
130 interested parties within the county to discuss the school calendar. The public notice of the date,
131 time, and place of the public hearing must be published in a local newspaper of general circulation
132 in the area as a Class II legal advertisement, in accordance with the provisions of §59-3-1 *et seq.*
133 of this code and published prominently on the county board of education's website.

134 ~~(m)~~ (n) The county board may contract with all or part of the personnel for a longer term
135 of employment.

136 ~~(n)~~ (o) The minimum instructional term may be decreased by order of the State
137 Superintendent in any county declared a federal disaster area and in any county subject to an
138 emergency or disaster declaration by the Governor when the event causing the declaration is
139 substantially related to the loss of instructional days in the county.

140 ~~(o)~~ (p) Notwithstanding any provision of this code to the contrary, the state board may
141 grant a waiver to a county board for its noncompliance with provisions of this chapter and chapters
142 18A, 18B, and 18C of this code to maintain compliance in reaching the mandatory 180 separate
143 instructional days established in this section.

144 ~~(p)~~ (q) The state board shall promulgate a rule in accordance with the provisions of
145 §29A-3B-1 *et seq.* of this code for the purpose of implementing the provisions of this section.