WEST virginia legislature

**FISCAL NOTE**

2021 regular session

Introduced

Senate Bill 592

By Senators Woelfel, Baldwin, Roberts, and Lindsay

[Introduced March 8, 2021; referred
to the Committee on Education; and then to the Committee on Finance]

A BILL to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to permitting member private and parochial schools to enter into an agreement with member public schools to permit students of private and parochial schools to participate in athletic and other extracurricular activities as a participant of the public school; defining terms; and providing eligibility criteria for students from member private and parochial schools.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules by state board; incorporation; funds; participation by private and parochial schools and by home-schooled students.

(a)For purposes of this section, the term “member public school” means a public school which is a member of the West Virginia Secondary School Activities Commission and the term “member private, parochial, or church school or school operated by a religious order” means a private, parochial, or church school or school operated by a religious order which is a member of the West Virginia Secondary School Activities Commission.

~~(a)~~ (b) The county boards of education shall exercise the control, supervision, and regulation of all interscholastic athletic events, and other extracurricular activities of the students in public secondary schools, and of those schools of their respective counties. The county board of education may delegate control, supervision, and regulation of interscholastic athletic events and band activities to the West Virginia Secondary School Activities Commission.

~~(b)~~ (c) The West Virginia Secondary School Activities Commission is composed of the principals, or their representatives, of those secondary schools whose county boards of education have certified in writing to the State Superintendent of Schools that they have elected to delegate the control, supervision, and regulation of their interscholastic athletic events and band activities of the students in the public secondary schools in their respective counties to the commission. The West Virginia Secondary School Activities Commission may exercise the control, supervision, and regulation of interscholastic athletic events and band activities of secondary schools, delegated to it pursuant to this section. The rules of the West Virginia Secondary School Activities Commission shall contain a provision for a proper review procedure and review board and be promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all instances, be subject to the prior approval of the state board. The West Virginia Secondary School Activities Commission, may, with the consent of the State Board of Education, incorporate under the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock corporation under the provisions of chapter 31 of this code. County boards of education may expend moneys for and pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to the commission, as well as moneys derived from any contest or other event sponsored by the commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this code, and the funds of the commission are subject to an annual audit by the State Tax Commissioner.

~~(c)~~ (d) The West Virginia Secondary School Activities Commission shall promulgate reasonable rules providing for the control, supervision, and regulation of the interscholastic athletic events and other extracurricular activities of private and parochial secondary schools as elect to delegate to the commission control, supervision, and regulation, upon the same terms and conditions, subject to the same rules and requirements and upon the payment of the same fees and charges as those provided for public secondary schools. Any such private or parochial secondary school shall receive any monetary or other benefits in the same manner and in the same proportion as any public secondary school.

(e) Notwithstanding any other provision in law or the commission’s rules, a member private, parochial, or church school or school operated by a religious order may enter into a cooperative sponsorship interscholastic athletic events and extracurricular activities agreement with a member public school to permit students enrolled and attending a member private, parochial, or church school or school operated by a religious order to otherwise participate in interscholastic athletic events and other extracurricular activities as a participant of the member public school subject to the provisions of subsection (f) of this section: *Provided*, That the interscholastic athletic event or other extracurricular activity is not offered at the private, parochial, or church school or school operated by a religious order where the student is enrolled and attending.

(f) In accordance with subsection (e) of this article, the commission shall consider eligible for participation in interscholastic athletic events and other extracurricular activities of secondary schools a student who:

(1) Attends a member private, parochial, or church school or school operated by a religious order which has entered into a cooperative sponsorship interscholastic athletic events and extracurricular activities agreement with a member public school for that student;

(2) Satisfies the same residency requirements as other students in the school at which the student participates such as participating at the member public school serving the attendance zone in which the student lives;

(3) Has not reached the age of 19 by August 1 of the current school year;

(4) Pays any participation or activity fee in an amount equal to the fee charged to other participants of the team or activity;

(5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School Activities Commission and the county board in which he or she lives;

(6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission governing awards, all-star games, parental consents, physical examinations, and vaccinations applicable to other participants of the team or activity;

(7) Adheres to the same academic standards as other participants of the team or activity, with those standards confirmed by appropriate documentation provided to the member school providing the activity in which the student is to participate: *Provided*, That the responsibility of ensuring academic eligibility of any student participant is shared by both the member public school as well as the member private, parochial, or church school or school operated by a religious order: *Provided, however,* That both the member public school as well as the member private, parochial, or church school or school operated by a religious order may be sanctioned or otherwise punished according to the West Virginia Secondary School Activities Commission rules and regulations for the participation of an academic ineligible student;

(8) Adheres to the same standards of behavior, responsibility, performance, disciplinary procedures and penalties, and code of conduct as other participants of the team of activity: *Provided*, That the responsibility of ensuring behavioral and code of conduct eligibility of any student participant is shared by both the member public school as well as the member private, parochial, or church school or school operated by a religious order: *Provided, however,* That both the member public school as well as the member private, parochial, or church school or school operated by a religious order may be sanctioned or otherwise punished according to the West Virginia Secondary School Activities Commission rules and regulations for the participation of a behaviorally ineligible student; and

(9) Pays reasonable fees charged to the student to cover the costs of participation in interscholastic athletic events and other extracurricular activities.

~~(d)~~ (g) Notwithstanding any other provision of this section, or the commission’s rules, the commission shall consider eligible for participation in interscholastic athletic events and other extracurricular activities of secondary schools a student who is receiving home instruction pursuant to §18-8-1(c) of this code and who:

(1) Has demonstrated satisfactory evidence of academic progress for one year in compliance with the provisions of that subsection: *Provided,* That the student’s average test results are within or above the fourth stanine in all subject areas;

(2) Is enrolled in at least one virtual instructional course per semester, consistent with the

applicable virtual instruction policy of the county board in which the home-schooled student lives and the state board;

(3) Has not reached the age of 19 by August 1 of the current school year;

(4) Is an amateur who receives no compensation but participates solely for the educational, physical, mental and social benefits of the activity;

(5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School Activities Commission and the county board in which the home-schooled student lives; and

(6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission governing awards, all-star games, parental consents, physical examinations, and vaccinations applicable to all high school athletes.

Eligibility is limited to participation in interscholastic athletic events and other extracurricular activities at the public secondary school serving the attendance zone in which the student lives: *Provided,* That home-schooled students who leave a member school during the school year are subject to the same transfer protocols that apply to member-to-member transfers. Reasonable fees may be charged to the student to cover the costs of participation in interscholastic athletic events and other extracurricular activities.

~~(e)~~ (h) The West Virginia Secondary School Activities Commission shall recognize preparatory athletic programs, whose participants attend a secondary school in West Virginia for academic instruction, as nonparticipating members of the commission solely for the purpose of competing on the national level: *Provided*, That the preparatory athletic program shall pay the same fees as member schools. Such recognition does not entitle the preparatory athletic program to compete against a member school during the regular season or in any commission state championship events. The commission may promulgate an emergency rule pursuant to ~~subsection (b)~~ subsections (c) and (d) of this section, if necessary, to carry out the intent of this subsection.

NOTE: The purpose of this bill is to provide for the ability for a member private, parochial, or church school or school operated by a religious order to enter into an agreement with a member public school to permit a student enrolled and attending the private school to participate in athletic event or other extracurricular activities as a participant of the member public school.

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