

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Introduced**

## **House Bill 2031**

By Delegate Hornbuckle

[Introduced January 11, 2023; 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 to  
 2 modifying the school calendar; setting the school year to 170 days of instruction;  
 3 establishing limits on the start and end of the school year; and modifying the number and  
 4 purposes of noninstructional days.

*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 ~~(4)~~ "Instructional day" means a day within the instructional term which meets the following  
 3 criteria:

4 ~~(A)~~ (1) Instruction is offered to students for at least the minimum number of minutes as  
 5 follows:

6 ~~(i)~~ (A) For early childhood programs as provided in §18-5-44(d) of this code;

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

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

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

13 ~~(B)~~ (2) Instructional time is used for instruction and cocurricular activities; and

14 ~~(C)~~ (3) Other criteria as the state board determines appropriate.

15 ~~(2)~~ "Cocurricular activities" are activities that are closely related to identifiable academic  
 16 programs or areas of study that serve to complement academic curricula as further defined by the  
 17 state board; and

18 ~~(3)~~ "Instruction delivered through alternative methods" means a plan developed by a  
 19 county board and approved by the state board for teachers to assign and grade work to be

20 completed by students on days when schools are closed due to inclement weather or other  
21 unforeseen circumstances.

22 (b) *Findings.* –

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

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

26 (3) The school calendar shall provide for ~~one hundred eighty~~ 170 separate instructional  
27 days or an equivalent amount of instructional time as provided in this section.

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

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

32 (2) Within the employment term, an instructional term for students of no less than ~~one~~  
33 ~~hundred eighty~~ 170 separate instructional days, which includes an inclement weather and  
34 emergencies plan designed to guarantee an instructional term for students of no less than ~~one~~  
35 ~~hundred eighty~~ 170 separate instructional days, subject to the following:

36 (A) A county board may increase the length of the instructional day as defined in this  
37 section by at least 30 minutes per day to ensure that it achieves at least an amount of instructional  
38 time equivalent to ~~one hundred and eighty~~ 170 separate instructional days within its school  
39 calendar and:

40 (i) Apply up to five days of this equivalent time to cancel days lost due to necessary school  
41 closures;

42 (ii) Plan within its school calendar and not subject to cancellation and rescheduling as  
43 instructional days up to a minimum of an additional ~~five~~ 15 days or equivalent portions of days,  
44 without students present to be used as determined by the county board exclusively for activities by  
45 educators at the school level designed to improve instruction; and

46 (iii) Apply any additional equivalent time to recover time lost due to late arrivals and early  
47 dismissals;

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

52 (C) The use of equivalent time gained by lengthening the school day to cancel days lost,  
53 and the delivery of instruction through alternative methods, both as defined in this section, shall be  
54 considered instructional days for the purpose of meeting the ~~180~~ 170 separate day requirement  
55 and as employment days for the purpose of meeting the 200 day employment term; and

56 (D) The instructional term for students shall begin no earlier than September 1 and end no  
57 later than May 31 each school year. *Provided*, That nothing in this subdivision may apply to any  
58 school operating on a balanced calendar as defined by state board policy.

59 (3) Within the employment term, noninstructional days shall total ~~twenty~~ 30 and shall be  
60 comprised of the following:

61 (A) Seven paid holidays;

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

63 (C) Six days to be designated by the county board to be used by the employees outside the  
64 school environment, with at least four outside the school environment days scheduled to occur  
65 after the 130th instructional day of the school calendar;

66 (D) ~~One day~~ Three days to be designated by the county board to be used by the  
67 employees for preparation for opening school and ~~one day~~ two days to be designated by the  
68 county board to be used by the employees for preparation for closing school: *Provided*, That the  
69 school preparation days may be used for the purposes set forth in paragraph (E) of this subdivision  
70 at the teacher's discretion; and

71 (E) The remaining days to be designated by the county board for purposes to include, but

72 not be limited to:

73 (i) Curriculum development;

74 (ii) ~~Professional development~~ Post-secondary education outreach;

75 (iii) Teacher-pupil-parent conferences;

76 (iv) Professional meetings and collaboration;

77 (v) Record keeping;

78 ~~(v)~~ (vi) Making up days when instruction was scheduled but not conducted; and

79 ~~(vi)~~ (vii) At least six two-hour blocks of time for faculty senate meetings with at least one  
80 two-hour block of time scheduled in the first month of the employment term, at least one two-hour  
81 block of time scheduled in the last month of the employment term and at least one two-hour block  
82 of time scheduled in each of the months of October, December, February, and April; and

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

85 (d) A county board of education shall develop a policy that requires additional minutes of  
86 instruction in the school day or additional days of instruction to recover time lost due to late arrivals  
87 and early dismissals.

88 (e) If it is not possible to complete ~~one hundred eighty~~ 170 separate instructional days with  
89 the current school calendar and the additional five days of instructional time gained by increasing  
90 the length of the instructional day as provided in subsection (c) of this section are insufficient to  
91 offset the loss of separate instructional days, the county board shall schedule instruction on any  
92 available noninstructional day, regardless of the purpose for which the day originally was  
93 scheduled, or an out-of-calendar day and the day will be used for instruction of students: *Provided,*

94 That the provisions of this subsection do not apply to:

95 (1) Holidays;

96 (2) Election day;

97 (3) Saturdays and Sundays; and

98           (4) The ~~five~~ 15 days or equivalent portions of days planned within the school calendar  
99 exclusively for activities by educators at the school level to improve instruction that are gained by  
100 increasing the length of the instructional day as provided in subsection (c) of this section.

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

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

106           (h) The following applies to co-curricular activities:

107           (1) The state board shall determine what activities may be considered co-curricular;

108           (2) The state board shall determine the amount of instructional time that may be consumed  
109 by co-curricular activities; and

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

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

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

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

118           (l) In formulation of a school's calendar, a county school board shall hold at least two public  
119 meetings that allow parents, teachers, teacher organizations, businesses, and other interested  
120 parties within the county to discuss the school calendar. The public notice of the date, time, and  
121 place of the public hearing must be published in a local newspaper of general circulation in the  
122 area as a Class II legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this  
123 code.

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

126 (n) The minimum instructional term may be decreased by order of the state superintendent  
127 in any county declared a federal disaster area and, in any county, subject to an emergency or  
128 disaster declaration by the Governor when the event causing the declaration is substantially  
129 related to the loss of instructional days in the county.

130 (o) Notwithstanding any provision of this code to the contrary, the state board may grant a  
131 waiver to a county board for its noncompliance with provisions of chapters 18, 18A, 18B, and 18C  
132 of this code to maintain compliance in reaching the mandatory ~~one hundred eighty~~ 170 separate  
133 instructional days established in this section.

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

NOTE: The purpose of this bill is to set the school calendar to 170 days of instruction and 30 noninstructional days and to change the acceptable functions during noninstructional days.

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