

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3543

By Delegates Hornby, Hanna, Hite, Horst, Ellington,

Clark, Smith, Willis, and Tully

[Introduced February 14, 2023; referred
to the Committee on Education then the Judiciary]

1 A BILL to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to
 2 providing that the West Virginia Secondary School Activities Commission promulgate
 3 legislative rules.

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.

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

6 (b) The West Virginia Secondary School Activities Commission is composed of the
 7 principals, or their representatives, of those secondary schools whose county boards of education
 8 have certified in writing to the State Superintendent of Schools that they have elected to delegate
 9 the control, supervision, and regulation of their interscholastic athletic events and band activities of
 10 the students in the public secondary schools in their respective counties to the commission. The
 11 West Virginia Secondary School Activities Commission may exercise the control, supervision, and
 12 regulation of interscholastic athletic events and band activities of secondary schools, delegated to
 13 it pursuant to this section. The rules of the West Virginia Secondary School Activities Commission
 14 shall contain a provision for a proper review procedure and review board and be promulgated in
 15 accordance with the provisions of chapter 29A of this code, but shall, in all instances, be subject to

16 the prior approval of the state board. The West Virginia Secondary School Activities Commission,
17 may, with the consent of the State Board of Education, incorporate under the name of West
18 Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock corporation under
19 the provisions of chapter 31 of this code. County boards of education may expend moneys for and
20 pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to the
21 commission, as well as moneys derived from any contest or other event sponsored by the
22 commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this code, and the funds of the
23 commission are subject to an annual audit by the State Tax Commissioner.

24 (c) The West Virginia Secondary School Activities Commission shall promulgate
25 reasonable legislative rules, in accordance with the provisions of §29A-3-1 *et seq.* of this code,
26 providing for the control, supervision, and regulation of the interscholastic athletic events and
27 other extracurricular activities of private and parochial secondary schools as elect to delegate to
28 the commission control, supervision, and regulation, upon the same terms and conditions, subject
29 to the same rules and requirements and upon the payment of the same fees and charges as those
30 provided for public secondary schools. Any such private or parochial secondary school shall
31 receive any monetary or other benefits in the same manner and in the same proportion as any
32 public secondary school: *Provided, That each rule promulgated on or before December 1, 2022, is*
33 *deemed to have been validly promulgated, notwithstanding any failure to comply with any*
34 *requirement of §29A-3-1 *et seq.* of this code.*

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

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

42 (2) Is enrolled in at least one virtual instructional course per semester, consistent with the
43 applicable virtual instruction policy of the county board in which the home-schooled student lives
44 and the State Board;

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

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

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

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

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

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

NOTE: The purpose of this bill is to require the West Virginia Secondary School Activities Commission to promulgate legislative rules.

West Virginia Code §18-2-25 was amended by two bills passed during the 2020 Regular Session of the Legislature, by the House. House Bill 4925 (passed last on March 4, 2020); House Bill 3127 (passed first on March 2, 2020). The two versions of this section have been merged into this bill. The addition of subsection designations and Subsection (e) were in one of the versions of this section and represent the only substantive differences between the two versions.

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