

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 4773**

By Delegates Gearheart, Ellington, Ferrell, Smith,  
Maynor, E. Pritt, Heckert, Kump, Hornby, Riley, and  
Adkins

[Introduced January 16, 2024; Referred  
to the Committee on Education]

1 A BILL to amend and reenact §18-5-39 of the Code of West Virginia, 1931, as amended, relating to  
 2 permitting students in eighth and ninth grade to attend summer school in order to raise  
 3 their grades and establish academic eligibility to play sports in the fall.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 5. COUNTY BOARD OF EDUCATION**

**§18-5-39. Establishment of summer school programs; tuition.**

1 (a) Inasmuch as the present county school facilities for the most part lie dormant and  
 2 unused during the summer months, and inasmuch as there are many students who are in need of  
 3 remedial instruction and others who desire accelerated instruction, it is the purpose of this section  
 4 to provide for the establishment of a summer school program, which is to be separate and apart  
 5 from the full school term as established by each county.

6 (b) The board of any county has the authority to establish a summer school program  
 7 utilizing the public-school facilities and to charge tuition for students who attend the summer  
 8 school. The tuition may not exceed in any case the actual cost of operation of the summer school  
 9 program: *Provided*, That any deserving pupil whose parents, in the judgment of the board, are  
 10 unable to pay the tuition, may attend the summer school program at a reduced charge or without  
 11 charge. The county board may determine the term and curriculum of the summer schools based  
 12 upon the particular needs of the individual county. The curriculum may include, but is not limited to,  
 13 remedial instruction, accelerated instruction and the teaching of manual arts. The term of the  
 14 summer school program may not be established in such a manner as to interfere with the regular  
 15 school term.

16 (c) The county boards may employ any certified teacher as teachers for this summer  
 17 school program. Certified teachers employed by the county board to teach in the summer school  
 18 program shall be paid an amount to be determined by the county board and shall enter into a  
 19 contract of employment in such form as is prescribed by the county board: *Provided*, That teachers  
 20 who teach summer courses of instruction which are offered for credit and which are taught during

21 the regular school year shall be paid at the same daily rate they would receive if paid in  
22 accordance with the then current minimum monthly salary in effect for teachers in that county.

23 (d) Any funds accruing from the tuitions shall be credited to and expended within the  
24 existing framework of the general current expense fund of the county board.

25 (e) Notwithstanding any other provision of this code to the contrary, the board shall fill  
26 professional positions established pursuant to the provisions of this section on the basis of  
27 certification and length of time the professional has been employed in the county's summer school  
28 program. In the event that no employee who has been previously employed in the summer school  
29 program holds a valid certification or licensure, a board shall fill the position as a classroom  
30 teaching position in accordance with § 18A-4-7a of this code.

31 (f) Notwithstanding any other provision of the code to the contrary, the county board may  
32 employ school service personnel to perform any related duties outside the regular school term as  
33 defined in § 18A-4-8 of this code. An employee who was employed in any service personnel job or  
34 position during the previous summer shall have the option of retaining the job or position if the job  
35 or position exists during any succeeding summer. If the employee is unavailable or if the position is  
36 newly created, the position shall be filled pursuant to section § 18A-4-8b of this code. When any  
37 summer employee is absent, qualified regular employees within the same classification category  
38 who are not working because their employment term for the school year has ended or has not yet  
39 begun the succeeding school employment term, shall be given first opportunity to substitute for the  
40 absent summer employee on a rotating and seniority basis. When any summer employee who is  
41 employed in a summer position is granted a leave of absence for the summer months, the board  
42 shall give regular employment status to the employee for that summer position which shall be filled  
43 under the procedure set forth in § 18A-4-8b of this code. The summer employee on leave of  
44 absence has the option of returning to that summer position if the position exists the succeeding  
45 summer or whenever the position is reestablished if it were abolished. The salary of a summer  
46 employee shall be in accordance with the salary schedule of persons regularly employed in the

47 same position in the county where employed and persons employed in those positions are entitled  
48 to all rights, privileges and benefits provided in § 18A-4-5b, §18A-4-8, §18A-4-8a, § 18A-4-10 and  
49 § 18A-4-14 of this code: *Provided*, That those persons are not entitled to a minimum employment  
50 term of two hundred days for their summer position.

51 (g) If a county board reduces in force the number of employees to be employed in a  
52 particular summer program or classification from the number employed in that position in previous  
53 summers, the reductions in force and priority in reemployment to that summer position shall be  
54 based upon the length of service time in the particular summer program or classification.

55 (h) For the purpose of this section, summer employment for service personnel includes,  
56 but is not limited to, filling jobs and positions as defined in §18A-4-8 of this code and especially  
57 established for and which are to be predominantly performed during the summer months to meet  
58 the needs of a county board.

59 (i) Students in eighth and ninth grades shall be permitted to attend summer school in order  
60 to improve their grades so that they are academically eligible for extracurricular activities the  
61 following \_\_\_\_\_ year.

NOTE: The purpose of this bill is to permit students in eighth and ninth grade to attend summer school in order to raise their grades and establish academic eligibility to play sports in the fall.

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