

**WEST VIRGINIA LEGISLATURE**

**2019 FIRST EXTRAORDINARY SESSION**

**Introduced**

**Senate Bill Number**

BY SENATORS

[Introduced ; Referred  
to the Committee on ]

1 A BILL to repeal §18-5B-4, §18-5B-5, §18-5B-6, §18-5B-13, and §18-5B-14 of the Code of West  
2 Virginia, 1931, as amended; to amend and reenact 18-5A-2; to amend and reenact §18-  
3 5B-3; to amend said code by adding thereto a new section designated as 18-5B-15; and,  
4 all relating to restoring local public school flexibility; reforming local school improvement  
5 councils; and reforming the school innovation zone act to increase flexibility and decrease  
6 bureaucracy.

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

## **ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.**

### **§18-5A-2. Local school improvement councils; election.**

1 (a) A local school improvement council shall be established at every school consisting of  
2 the following:

3 (1) The principal, who serves as an ex officio member of the council and is entitled to vote;

4 (2) Three teachers elected by the faculty Senate of the school;

5 (3) One bus operator who transports students enrolled at the school and one school  
6 service person, each elected by the school service personnel employed at the school;

7 (4) ~~Three~~ Four parent(s), guardian(s) or custodian(s) of students enrolled at the school,  
8 one of whom must be the parent of a special-needs student, elected by the parent(s), guardian(s)  
9 or custodian(s) members of the school's parent teacher organization. If there is no parent teacher  
10 organization, the parent(s), guardian(s) or custodian(s) members shall be elected by the  
11 parent(s), guardian(s) or custodian(s) of students enrolled at the school in such manner as may  
12 be determined by the principal;

13 (5) Two at-large members appointed by the principal, one of whom resides in the school's  
14 attendance area and one of whom represents business or industry, neither of whom is eligible for  
15 membership under any of the other elected classes of members;

16 (6) A mental health professional;

17 (7) In the case of vocational-technical schools, the vocational director. If there is no

vocational director, then the principal may appoint no more than two additional representatives, one of whom represents business and one of whom represents industry;

~~(7)~~ (8) In the case of a school with students in grade seven or higher, the student body president or other student in grade seven or higher elected by the student body in those grades.

(b) Under no circumstances may more than one parent member of the council be then employed at that school in any capacity.

(c) The principal shall arrange for such elections to be held prior to September 15, of each school year to elect a council and shall give notice of the elections at least one week prior to the elections being held. Notice of the election must be posted on a bulletin board at the school and on a public website maintained by the school, if the school has one. To the extent practicable, all elections to select council members shall be held within the same week.

(d) Parent(s), guardian(s) or custodian(s), teachers and service personnel elected to the council shall serve a two-year term and elections shall be arranged in such a manner that no more than two teachers, no more than two parent(s), guardian(s) or custodian(s) and no more than one service person are elected in a given year. All other non-ex-officio members shall serve one-year terms.

(e) Council members may only be replaced upon death, resignation, failure to appear at three consecutive meetings of the council for which notice was given, or a change in personal circumstances so that the person is no longer representative of the class of members from which appointed. In the case of a vacancy in an elected position, the chair of the council shall appoint another qualified person to serve the unexpired term of the person being replaced or, in the case of an appointed member of the council, the principal shall appoint a replacement as soon as practicable.

(f) As soon as practicable after the election of council members, and no later than October

1, of each school year, the principal shall convene an organizational meeting of the school improvement council. The principal shall notify each member in writing at least two employment days in advance of the organizational meeting. At this meeting, the principal shall provide each member with the following:

(1) A copy of the current applicable sections of this code;

(2) Any state board rule or regulation promulgated pursuant to the operation of these councils; and

(3) Any information as may be developed by the Department of Education on the operation and powers of local school improvement councils and their important role in improving student and school performance and progress.

(g) The council shall elect from its membership a chair and two members to assist the chair in setting the agenda for each council meeting. The chair shall serve a term of one year and a person may not serve as chair for more than two consecutive terms. If the chair's position becomes vacant for any reason, the principal shall call a meeting of the council to elect another qualified person to serve the unexpired term. Once elected, the chair is responsible for notifying each member of the school improvement council in writing two employment days in advance of any council meeting.

(h) School improvement councils shall meet at least once every nine weeks or equivalent grading period at the call of the chair or by three fourths of its members.

(1) The school improvement council shall schedule any meeting that involves the issue of student discipline pursuant to subdivision (2), subsection (l) of this section, outside the regularly scheduled working hours of any school employee member of the council.

(2) The school improvement council annually shall conduct a meeting to engage parents, students, school employees and other interested parties in a positive and interactive dialogue

66 regarding effective discipline policies. The meeting shall afford ample time for the dialogue and  
67 comply with any applicable provision of state, federal or county board policy, rule or law, as  
68 appropriate, regarding student privacy rights.

69 (3) An agenda for regularly scheduled meetings must be posted on a bulletin board in a  
70 publicly accessible place at the school and on a public website maintained by the school, if the  
71 school has one, at least 24 hours prior to the meeting.

72 (i) The local school improvement council shall meet at least annually with the county board,  
73 in accordance with the provisions in section fourteen, article five of this chapter. At this annual  
74 meeting, the local school improvement council chair, or another member designated by the chair,  
75 shall be prepared to address any matters as may be requested by the county board as specified  
76 in the meeting agenda provided to the council and may further provide any other information,  
77 comments or suggestions the local school improvement council wishes to bring to the county  
78 board's attention. Anything presented under this subsection shall be submitted to the county board  
79 in writing.

80 (j) School improvement councils shall be considered for the receipt of school of excellence  
81 awards under section three of this article and competitive grant awards under section twenty-nine,  
82 article two of this chapter and may receive and expend such grants for the purposes provided in  
83 such section. In any and all matters which may fall within the scope of both the school  
84 improvement councils and the school curriculum teams authorized in section five of this article,  
85 the school curriculum teams have jurisdiction.

86 (k) In order to promote innovations and improvements in the environment for teaching and  
87 learning at the school, a school improvement council shall receive cooperation from the school in  
88 implementing policies and programs it may adopt to:

89 (1) Encourage the involvement of parent(s), guardian(s) or custodian(s) in their child's

educational process and in the school;

(2) Encourage businesses to provide time for their employees who are parent(s), guardian(s) or custodian(s) to meet with teachers concerning their child's education;

(3) Encourage advice and suggestions from the business community;

(4) Encourage school volunteer programs and mentorship programs; and

(5) Foster utilization of the school facilities and grounds for public community activities.

(l) Each local school improvement council annually shall develop and deliver a report to the countywide council on productive and safe schools. The report shall include:

(1) Guidelines for the instruction and rehabilitation of students who have been excluded from the classroom, suspended from the school or expelled from the school, the description and recommendation of in-school suspension programs, a description of possible alternative settings, schedules for instruction and alternative education programs and an implementation schedule for such guidelines. The guidelines shall include the following:

(A) A system to provide for effective communication and coordination between school and local emergency services agencies;

(B) A preventive discipline program which may include the responsible students program devised by the West Virginia Board of Education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

(C) A student involvement program, which may include the peer mediation program or programs devised by the West Virginia Board of Education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

(2) The local school improvement council's findings regarding its examination of the following, which also shall be reported to the county superintendent:

(A) Disciplinary measures at the school; and

(B) The fairness and consistency of disciplinary actions at the school. If the council believes that student discipline at the school is not enforced fairly or consistently, it shall transmit that determination in writing, along with supporting information, to the county superintendent. Within ten days of receiving the report, the superintendent, or designee, shall respond in writing to the council. The county board shall retain and file all such correspondence and maintain it for public review.

(C) Any report or communication made as required by this subdivision shall comply with any applicable provision of state, federal or county board policy, rule or law, as appropriate, regarding student privacy rights.

(m) The council may include in its report to the county-wide council on productive and safe schools provisions of the state Board of Education policy 4373, student code of conduct, or any expansion of such policy which increases the safety of students in schools in this state and is consistent with the policies and other laws of this state.

(n) Councils may adopt their own guidelines established under this section. In addition, the councils may adopt all or any part of the guidelines proposed by other local school improvement councils, as developed under this section, which are not inconsistent with the laws of this state, the policies of the West Virginia Board of Education or the policies of the county board.

(o) The State Board of Education shall provide assistance to a local school improvement council upon receipt of a reasonable request for that assistance. The state board also may solicit proposals from other parties or entities to provide orientation training for local school improvement council members and may enter into contracts or agreements for that purpose. Any training for members shall meet the guidelines established by the state board.

## ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.

### §18-5B-3. School innovation zones; application for designation; state board rule.

1 (a) A school district, school, a group of schools, a subdivision or department of a group of  
2 schools, or a subdivision or department of a school may be designated as an innovation zone in  
3 accordance with this article.

4 (b) The state board shall promulgate a rule, including an emergency rule if necessary, in  
5 accordance with article three-b, chapter twenty-nine-a of this code to implement the provisions of  
6 this article. The rule shall include provisions for at least the following:

7 (1) A process for a school district, school, a group of schools, a subdivision or department  
8 of a group of schools or a subdivision or department of a school to apply for designation as an  
9 innovation zone that encompasses at least the following:

10 (A) The manner, time and process for the submission of an innovation zone application;

11 (B) The contents of the application, which must include a general description of the  
12 innovations the school district, school or schools seek to institute; ~~and~~ an estimation of the  
13 employees who may be affected by the implementation of the innovations; and requests to the  
14 state board for exceptions to statutes, policies, rules and interpretations that are required to permit  
15 implementation of the innovative strategies contemplated in its innovation zone plan; and

16 (C) Factors to be considered by the state board when evaluating an application, which  
17 shall include, but are not limited to, the following factors:

18 (i) The level of staff commitment to apply for designation as an innovation zone as  
19 determined by a vote by secret ballot at a special meeting of employees eligible to vote on the  
20 plan, ~~as provided in section six of this article~~;

21 (ii) Support from parents, students, the county board of education, the local school  
22 improvement ~~council~~ councils and school business partners; and



(iii) The potential for an applicant to be successful as an innovation zone; and

(2) Standards for the state board to review applications for designation as innovation zones and to make determinations on the designation of innovation zones.

(c) The state board shall review innovation zone applications in accordance with the standards adopted by the board and shall determine whether to designate the applicant as an innovation zone, including the approval of any requests for exceptions to statutes, policies, rules and interpretations in accordance with subsection (d). The state board shall notify an applicant of the board's determination within sixty days of receipt of an innovation zone application.

~~When initially designating innovation zones after the enactment of this article by the first extraordinary session of the 2009 Legislature, the state board shall consider applicants for designation in the following order: (1) A school and groups of schools; (2) a group of schools seeking designation across the same subdivision or department of the schools; and (3) a school seeking designation of a subdivision or a department.~~

(d) The state board shall review requests for exceptions to statutes, policies, rules and interpretations in accordance with the standards in its rule and shall determine whether to approve or disapprove the request. The approval or disapproval of a request is at the sole discretion of the state board in accordance with the requirements of this section.

(1) Except as provided in subdivision (3), the state board shall approve or disapprove the request subject to the following:

(A) No exceptions to state board policies, rules or interpretations are granted unless the state board approves the request at least conditionally pursuant to subdivision (5) of this subsection; and

(B) If the request is disapproved, the state board shall communicate its reasons for the disapproval to the county board and shall make recommendations for improving the request. The county board may amend and resubmit the request.

(2) Upon approval of the request by the state board, all of the exceptions to state board

49 policies, rules and interpretations that were requested are granted;

50 (3) If a request, or a part thereof, may not be implemented unless an exception to a statute  
51 is granted by an Act of the Legislature, the state board may approve the request, or the part  
52 thereof, only upon the condition that the Legislature acts to grant the exception. If the state board  
53 approves a request on that condition, the state board shall submit the request for an exception to  
54 a statute, along with supporting reasons, to the Legislative Oversight Commission of Education  
55 Accountability. The commission shall review the request and make a recommendation to the  
56 Legislature regarding the exception requested; and

57 (4) A request for an exception may not be granted from any of the following:

58 (A) A required statewide assessment program administered by the West Virginia  
59 Department of Education;

60 (B) Any provision of law or policy required by Public Law 94-142, Public Law No. 107-110  
61 or other federal law;

62 (C) Sections two and seven, article two, chapter eighteen-a of this code and sections  
63 seven-a, seven-b, eight and eight-b, article four, chapter eighteen-a of this code, except that an  
64 innovation zone may make a job posting for a teacher vacancy in accordance with the procedures  
65 and the approval by a vote of the teachers as provided in section eight of this article; and

66 (D) Any statute, policy, rule or other requirements of the state board or other agency  
67 related to the health and safety of students or employees, any requirements imposed by ethics  
68 laws or opinions, any requirements imposed by open records or open meetings laws, any  
69 requirements related to financial or academic reporting or transparency, or any requirements  
70 designed to protect the civil rights of students or employees.

71 (e) The state board after periodic review of an established innovation zone may, upon  
72 recommendation of the innovation zone application review committee, revoke the innovation  
73 zones's designation for noncompliance or nonperformance.

74 (f) When designating innovation zones under these provisions following the amendment

75 and reenactment of this section by the Legislature at its ~~regular session 2014~~ 2019 first  
76 extraordinary session, and for each of the four succeeding school years, the state board shall  
77 establish a priority for applications that include the establishment of entrepreneurship education  
78 programs as a curricular offering for students. To qualify under this priority, the program strategy  
79 must include the active involvement of one or more partners from the business community in  
80 program delivery. Nothing in this subsection requires the state board to designate all applicants  
81 that include the establishment of entrepreneurship education programs as innovation zones, or  
82 to exclude other qualified applicants for innovations in other areas from designation.

**§18-5B-4. Innovation zones; required plans; plan approval; state board rule.**

1 [Repealed]

**§18-5B-5. Approval of innovation zone plans; waiver of statutes, policies, rules or interpretations.**

1 [Repealed]

**§18-5B-6. Employee approval of innovation plan application and plan; transfer of employees.**

1 [Repealed]

**§18-5B-13. Innovation school district Act; legislative findings, intent and purpose; eligibility; application; innovation plan and plan approval; designation; waiver of statutes, policies, rules or interpretations; exceptions; progress reviews and annual reports; state board rule.**

1 [Repealed]

**§18-5B-14. Termination of funding for School Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones.**

1 [Repealed]

**§18-5B-15. Funding for Innovation Zones.**

1 There is hereby created in the State Treasury a special revenue fund to be known as the

2 “Innovation Zone Fund.” The fund shall consist of all moneys received from whatsoever source  
3 to further the purpose of this article. At a minimum, these funds shall consist of a five million-dollar  
4 line item appropriation for the purposes of this article. The fund shall be administered by the state  
5 board solely for the purposes of this article, including providing grants and other financial  
6 assistance to designated innovation zones to implement and carry out innovation zone plans.  
7 Any moneys remaining in the fund at the close of the fiscal year shall be carried forward for use  
8 in the next fiscal year. Fund balances shall be invested with the state’s consolidated investment  
9 fund and any and all interest shall be used solely for the purposes that moneys deposited in the  
10 fund may be used pursuant to this article.

NOTE: The purpose of this bill is to restore local public-school flexibility by (1) reforming local school improvement councils; and (2) reforming the school innovation zone act to increase flexibility and decrease bureaucracy.

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