

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4554**

4 (By Delegates Shaver, Perry, Williams and Pethtel)

5  
6 (Originating in the Committee on Finance)

7 [February 23, 2012]

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9  
10 A BILL to amend and reenact §18-5-44 of the Code of West Virginia,  
11 1931, as amended, relating to early childhood education  
12 programs offered by county boards of education; allowing  
13 counties with a fully implemented early childhood education  
14 program to accept addition students; and clarifying reporting  
15 requirements.

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

17 That §18-5-44 of the Code of West Virginia, 1931, as amended,  
18 be amended and reenacted to read as follows:

19 **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

20 **§18-5-44. Early childhood education programs.**

21 (a) For the purposes of this section, "early childhood  
22 education" means programs for children who have attained the age of  
23 four prior to September 1 of the school year in which the pupil  
24 enters the program created in this section.

25 (b) *Findings.* --

1 (1) Among other positive outcomes, early childhood education  
2 programs have been determined to:

- 3 (A) Improve overall readiness when children enter school;
- 4 (B) Decrease behavioral problems;
- 5 (C) Improve student attendance;
- 6 (D) Increase scores on achievement tests;
- 7 (E) Decrease the percentage of students repeating a grade; and
- 8 (F) Decrease the number of students placed in special  
9 education programs;

10 (2) Quality early childhood education programs improve school  
11 performance and low-quality early childhood education programs may  
12 have negative effects, especially for at-risk children;

13 (3) West Virginia has the lowest percentage of its adult  
14 population twenty-five years of age or older with a bachelor's  
15 degree and the education level of parents is a strong indicator of  
16 how their children will perform in school;

17 (4) During the 2006-2007 school year, West Virginia ranked  
18 thirty-ninth among the fifty states in the percentage of school  
19 children eligible for free and reduced lunches and this percentage  
20 is a strong indicator of how the children will perform in school;

21 (5) For the school year 2008-2009, thirteen thousand one  
22 hundred thirty-five students were enrolled in prekindergarten, a  
23 number equal to approximately sixty-three percent of the number of  
24 students enrolled in kindergarten;

25 (6) Excluding projected increases due to increases in  
26 enrollment in the early childhood education program, projections

1 indicate that total student enrollment in West Virginia will  
2 decline by one percent, or by approximately two thousand seven  
3 hundred four students, by the school year 2012-2013;

4 (7) In part, because of the dynamics of the state aid formula,  
5 county boards will continue to enroll four-year old students to  
6 offset the declining enrollments;

7 (8) West Virginia has a comprehensive kindergarten program for  
8 five-year olds, but the program was established in a manner that  
9 resulted in unequal implementation among the counties which helped  
10 create deficit financial situations for several county boards;

11 (9) Expansion of current efforts to implement a comprehensive  
12 early childhood education program should avoid the problems  
13 encountered in kindergarten implementation;

14 (10) Because of the dynamics of the state aid formula,  
15 counties experiencing growth are at a disadvantage in implementing  
16 comprehensive early childhood education programs; and

17 (11) West Virginia citizens will benefit from the  
18 establishment of quality comprehensive early childhood education  
19 programs.

20 (c) Beginning no later than the school year 2012-2013, and  
21 continuing thereafter, county boards shall provide early childhood  
22 education programs for all children who have attained the age of  
23 four prior to September 1 of the school year in which the pupil  
24 enters the early childhood education program.

25 (d) The program shall meet the following criteria:

26 (1) It shall be voluntary, except, upon enrollment, the

1 provisions of section one, article eight of this chapter apply to  
2 an enrolled student; and

3       (2) It may be for fewer than five days per week and may be  
4 less than full day.

5       (e) Enrollment of students in Head Start, in any other program  
6 approved by the state superintendent as provided in subsection (k)  
7 of this section shall be counted toward satisfying the requirement  
8 of subsection (c) of this section.

9       (f) For the purposes of implementation financing, all counties  
10 are encouraged to make use of funds from existing sources,  
11 including:

12       (1) Federal funds provided under the Elementary and Secondary  
13 Education Act pursuant to 20 U.S.C. §6301, *et seq.*;

14       (2) Federal funds provided for Head Start pursuant to 42  
15 U.S.C. §9831, *et seq.*;

16       (3) Federal funds for temporary assistance to needy families  
17 pursuant to 42 U.S.C. §601, *et seq.*;

18       (4) Funds provided by the School Building Authority pursuant  
19 to article nine-d of this chapter;

20       (5) In the case of counties with declining enrollments, funds  
21 from the state aid formula above the amount indicated for the  
22 number of students actually enrolled in any school year; and

23       (6) Any other public or private funds.

24       (g) Each county board shall develop a plan for implementing  
25 the program required by this section. The plan shall include the  
26 following elements:

1 (1) An analysis of the demographics of the county related to  
2 early childhood education program implementation;

3 (2) An analysis of facility and personnel needs;

4 (3) Financial requirements for implementation and potential  
5 sources of funding to assist implementation;

6 (4) Details of how the county board will cooperate and  
7 collaborate with other early childhood education programs  
8 including, but not limited to, Head Start, to maximize federal and  
9 other sources of revenue;

10 (5) Specific time lines for implementation; and

11 (6) Any other items the state board may require by policy.

12 (h) A county board shall submit its plan to the Secretary of  
13 the Department of Health and Human Resources. The secretary shall  
14 approve the plan if the following conditions are met:

15 (1) The county board has maximized the use of federal and  
16 other available funds for early childhood programs;

17 (2) The county board has provided for the maximum  
18 implementation of Head Start programs and other public and private  
19 programs approved by the state superintendent pursuant to the terms  
20 of ~~subsection (k)~~ of this section; and

21 (3) If the Secretary of the Department of Health and Human  
22 Resources finds that the county board has not met one or more of  
23 the requirements of this subsection, but that the county board has  
24 acted in good faith and the failure to comply was not the primary  
25 fault of the county board, then the secretary shall approve the  
26 plan. Any denial by the secretary may be appealed to the circuit

1 court of the county in which the county board is located.

2 (i) The county board shall submit its plan for approval to the  
3 state board. The state board shall approve the plan if the county  
4 board has complied substantially with the requirements of  
5 subsection (g) of this section and has obtained the approval  
6 required in subsection (h) of this section.

7 (j) Every county board shall submit its plan for reapproval by  
8 the Secretary of the Department of Health and Human Resources and  
9 by the state board at least every two years after the initial  
10 approval of the plan and until full implementation of the early  
11 childhood education program in the county. As part of the  
12 submission, the county board shall provide a detailed statement of  
13 the progress made in implementing its plan. The standards and  
14 procedures provided for the original approval of the plan apply to  
15 any reapproval.

16 (k) A county board may not increase the total number of  
17 students enrolled in the county in an early childhood program until  
18 its program is approved by the Secretary of the Department of  
19 Health and Human Resources and the state board.

20 (l) After full implementation of the early childhood education  
21 program in the county, nothing in this section or in any previous  
22 plan approved under this section prohibits a county board at its  
23 sole discretion from accepting additional students for enrollment  
24 in its early childhood education program subject to space  
25 available.

26 ~~(l)~~ (m) The state board annually may grant a county board a

1 waiver for total or partial implementation if the state board finds  
2 that all of the following conditions exist:

3 (1) The county board is unable to comply either because:

4 (A) It does not have sufficient facilities available; or

5 (B) It does not and has not had available funds sufficient to  
6 implement the program;

7 (2) The county has not experienced a decline in enrollment at  
8 least equal to the total number of students to be enrolled; and

9 (3) Other agencies of government have not made sufficient  
10 funds or facilities available to assist in implementation.

11 Any county board seeking a waiver shall apply with the  
12 supporting data to meet the criteria for which they are eligible on  
13 or before March 25 for the following school year. The state  
14 superintendent shall grant or deny the requested waiver on or  
15 before April 15 of that same year.

16 ~~(m)~~ (n) The provisions of subsections (b), (c) and (d),  
17 section eighteen of this article relating to kindergarten apply to  
18 early childhood education programs in the same manner in which they  
19 apply to kindergarten programs.

20 ~~(n)~~ (o) Annually, the state board shall report to the  
21 Legislative Oversight Commission on Education Accountability on the  
22 progress of implementation of this section.

23 ~~(o)~~ (p) Except as required by federal law or regulation, no  
24 county board may enroll students who will be less than four years  
25 of age prior to September 1 for the year they enter school.

26 ~~(p)~~ (q) Neither the state board nor the state department may

1 provide any funds to any county board for the purpose of  
2 implementing this section unless the county board has a plan  
3 approved pursuant to subsections (h), (i) and (j) of this section.

4 ~~(q)~~ (r) The state board shall promulgate a rule in accordance  
5 with the provisions of article three-b, chapter twenty-nine-a of  
6 this code for the purposes of implementing the provisions of this  
7 section. The state board shall consult with the Secretary of the  
8 Department of Health and Human Resources in the preparation of the  
9 rule. The rule shall contain the following:

- 10 (1) Standards for curriculum;
- 11 (2) Standards for preparing students;
- 12 (3) Attendance requirements;
- 13 (4) Standards for personnel; and
- 14 (5) Any other terms necessary to implement the provisions of  
15 this section.

16 ~~(r)~~ (s) The rule shall include the following elements relating  
17 to curriculum standards:

- 18 (1) A requirement that the curriculum be designed to address  
19 the developmental needs of four-year old children, consistent with  
20 prevailing research on how children learn;
- 21 (2) A requirement that the curriculum be designed to achieve  
22 long-range goals for the social, emotional, physical and academic  
23 development of young children;
- 24 (3) A method for including a broad range of content that is  
25 relevant, engaging and meaningful to young children;
- 26 (4) A requirement that the curriculum incorporate a wide



1 variety of learning experiences, materials and equipment, and  
2 instructional strategies to respond to differences in prior  
3 experience, maturation rates and learning styles that young  
4 children bring to the classroom;

5 (5) A requirement that the curriculum be designed to build on  
6 what children already know in order to consolidate their learning  
7 and foster their acquisition of new concepts and skills;

8 (6) A requirement that the curriculum meet the recognized  
9 standards of the relevant subject matter disciplines;

10 (7) A requirement that the curriculum engage children actively  
11 in the learning process and provide them with opportunities to make  
12 meaningful choices;

13 (8) A requirement that the curriculum emphasize the  
14 development of thinking, reasoning, decisionmaking and problem-  
15 solving skills;

16 (9) A set of clear guidelines for communicating with parents  
17 and involving them in decisions about the instructional needs of  
18 their children; and

19 (10) A systematic plan for evaluating program success in  
20 meeting the needs of young children and for helping them to be  
21 ready to succeed in school.

22 ~~(s)~~ (t) The secretary and the state superintendent shall  
23 submit a report to the Legislative Oversight Commission on  
24 Education Accountability and the Joint Committee on Government and  
25 Finance which addresses, at a minimum, the following issues:

26 (1) A summary of the approved county plans for providing the

1 early childhood education programs pursuant to this section;

2 (2) An analysis of the total cost to the state and county  
3 boards of implementing the plans;

4 (3) A separate analysis of the impact of the plans on counties  
5 with increasing enrollment; and

6 (4) An analysis of the effect of the programs on the  
7 maximization of the use of federal funds for early childhood  
8 programs.

9 The intent of this subsection is to enable the Legislature to  
10 proceed in a fiscally responsible manner, make any necessary  
11 program improvements based on reported information prior to  
12 implementation of the early childhood education programs.

13 ~~(t)~~ (u) After the school year 2012-2013, on or before July 1  
14 of each year, each county board shall report the following  
15 information to the Secretary of the Department of Health and Human  
16 Resources and the state superintendent:

17 (1) Documentation indicating the extent to which ~~county boards~~  
18 ~~are maximizing resources by using~~ the existing capacity of  
19 ~~community-based programs~~ of eligible early childhood programs  
20 within the county is being utilized, including, but not limited to,  
21 programs operated by the county board, Head Start and other  
22 community-based child care providers in the county; and

23 (2) For those county boards that are including eligible  
24 children attending approved, contracted community-based programs in  
25 their net enrollment for the purposes of calculating state aid  
26 pursuant to article nine-a of this chapter, documentation that the

1 county board is equitably distributing funding for all children  
2 regardless of setting.