

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 406**

BY SENATORS BOSO, BOLEY, GAUNCH, KARNES,

LEONHARDT AND SYPOLT

[Introduced January 27, 2016;

Referred to the Committee on Education.]

1 A BILL to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §18-8-1a of said code, all relating generally to compulsory school  
 3 attendance and early childhood education programs; changing age date of attending  
 4 school and early childhood education programs from September 1 to July 1; and  
 5 eliminating legislative findings portion of section relating to early childhood programs.

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

1 That §18-5-44 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted; and that §18-8-1a of said code be amended and reenacted, all to read as follows:

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

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

1 (a) For the purposes of this section, “early childhood education” means programs for  
 2 children who have attained the age of four prior to ~~September 4~~ July 1 of the school year in which  
 3 the pupil enters the program created in this section.

4 ~~(b) Findings.—~~

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

7 ~~(A) Improve overall readiness when children enter school;~~

8 ~~(B) Decrease behavioral problems;~~

9 ~~(C) Improve student attendance;~~

10 ~~(D) Increase scores on achievement tests;~~

11 ~~(E) Decrease the percentage of students repeating a grade; and~~

12 ~~(F) Decrease the number of students placed in special education programs;~~

13 ~~(2) Quality early childhood education programs improve school performance and low-~~  
 14 ~~quality early childhood education programs may have negative effects, especially for at-risk~~  
 15 ~~children;~~

16 ~~(3) West Virginia has the lowest percentage of its adult population twenty-five years of age~~

17 ~~or older with a bachelor's degree and the education level of parents is a strong indicator of how~~  
18 ~~their children will perform in school;~~

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

22 ~~(5) For the school year 2008-2009, 13,135 students were enrolled in prekindergarten, a~~  
23 ~~number equal to approximately sixty three percent of the number of students enrolled in~~  
24 ~~kindergarten;~~

25 ~~(6) Excluding projected increases due to increases in enrollment in the early childhood~~  
26 ~~education program, projections indicate that total student enrollment in West Virginia will decline~~  
27 ~~by one percent, or by approximately 2704 students, by the school year 2012-2013;~~

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

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

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

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

37 ~~(11) West Virginia citizens will benefit from the establishment of quality comprehensive~~  
38 ~~early childhood education programs.~~

39 ~~(e) (b)~~ Beginning no later than the school year 2012-2013, and continuing thereafter,  
40 county boards shall provide early childhood education programs for all children who have attained  
41 the age of four prior to ~~September 1~~ July 1 of the school year in which the pupil enters the early  
42 childhood education program. Beginning no later than the school year 2016-2017, and continuing

43 thereafter, early childhood education programs that are full day and five days per week shall be  
44 available to all children meeting the age requirement set forth in the subsection.

45 ~~(d)~~ (c) The program shall meet the following criteria:

46 (1) It shall be voluntary, except, upon enrollment, the provisions of section one, article  
47 eight of this chapter apply to an enrolled student, subject to subdivision (3) of this subsection;

48 (2) All children meeting the age requirement set forth in this section shall have the  
49 opportunity to enroll in a program that is full day and five days per week. The program may be for  
50 fewer than five days per week and may be less than full day based on family need if a sufficient  
51 number of families request such programs and the county board finds that such programs are in  
52 the best interest of the requesting families and students: *Provided*, That the ability of families to  
53 request programs that are fewer than five days a week or less than a full day does not relieve the  
54 county of the obligation to provide all resident children with the opportunity to enroll in a full-day  
55 program; and

56 (3) A parent of a child enrolled in an early education program may withdraw a child from  
57 that program for good cause by notifying the district. Good cause includes, but is not limited to,  
58 enrollment of the child in another program or the immaturity of the child. A child withdrawn under  
59 this section is not subject to the attendance provisions of this chapter until that child again enrolls  
60 in a public school in this state.

61 ~~(e)~~ (d) Enrollment of students in Head Start, in any other program approved by the State  
62 Superintendent as provided in subsection ~~(k)~~ (j) of this section may be counted toward satisfying  
63 the requirement of subsection ~~(e)~~ (b) of this section.

64 ~~(f)~~ (e) For the purposes of implementation financing, all counties are encouraged to make  
65 use of funds from existing sources, including:

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

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

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

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

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

75 (6) Any other public or private funds.

76 ~~(g)~~ (f) Each county board shall develop a plan for implementing the program required by  
77 this section. The plan shall include the following elements:

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

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

81 (3) Financial requirements for implementation and potential sources of funding to assist  
82 implementation;

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

86 (5) Specific time lines for implementation; and

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

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

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

92 (2) The county board has provided for the maximum implementation of Head Start  
93 programs and other public and private programs approved by the State Superintendent pursuant  
94 to the terms of subsection ~~(k)~~ (j) of this section; and

95 (3) If the Secretary of the Department of Health and Human Resources finds that the  
96 county board has not met one or more of the requirements of this subsection, but that the county  
97 board has acted in good faith and the failure to comply was not the primary fault of the county  
98 board, then the secretary shall approve the plan. Any denial by the secretary may be appealed to  
99 the circuit court of the county in which the county board is located.

100 ~~(f)~~ (h) The county board shall submit its plan for approval to the state board. The state  
101 board shall approve the plan if the county board has complied substantially with the requirements  
102 of subsection ~~(g)~~ (f) of this section and has obtained the approval required in subsection ~~(h)~~ (g) of  
103 this section.

104 ~~(f)~~ (i) Every county board shall submit its plan for reapproval by the Secretary of the  
105 Department of Health and Human Resources and by the state board at least every two years after  
106 the initial approval of the plan and until full implementation of the early childhood education  
107 program in the county. As part of the submission, the county board shall provide a detailed  
108 statement of the progress made in implementing its plan. The standards and procedures provided  
109 for the original approval of the plan apply to any reapproval.

110 ~~(k)~~ (j) A county board may not increase the total number of students enrolled in the county  
111 in an early childhood program until its program is approved by the Secretary of the Department  
112 of Health and Human Resources and the state board.

113 ~~(f)~~ (k) The state board annually may grant a county board a waiver for total or partial  
114 implementation if the state board finds that all of the following conditions exist:

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

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

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

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

120 (3) Other agencies of government have not made sufficient funds or facilities available to

121 assist in implementation.

122 Any county board seeking a waiver shall apply with the supporting data to meet the criteria  
123 for which they are eligible on or before March 25 for the following school year. The State  
124 Superintendent shall grant or deny the requested waiver on or before April 15 of that same year.

125 ~~(m)~~ (l) The provisions of subsections (b), (c) and (d), section eighteen of this article relating  
126 to kindergarten apply to early childhood education programs in the same manner in which they  
127 apply to kindergarten programs.

128 ~~(n)~~ (m) Annually, the state board shall report to the Legislative Oversight Commission on  
129 Education Accountability on the progress of implementation of this section.

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

132 ~~(p)~~ (o) Neither the state board nor the state department may provide any funds to any  
133 county board for the purpose of implementing this section unless the county board has a plan  
134 approved pursuant to subsections ~~(h), (i) and (j)~~ (g), (h) and (i) of this section.

135 ~~(q)~~ (p) The state board shall promulgate a rule in accordance with the provisions of article  
136 three-b, chapter twenty-nine-a of this code for the purposes of implementing the provisions of this  
137 section. The state board shall consult with the Secretary of the Department of Health and Human  
138 Resources in the preparation of the rule. The rule shall contain the following:

139 (1) Standards for curriculum;

140 (2) Standards for preparing students;

141 (3) Attendance requirements;

142 (4) Standards for personnel; and

143 (5) Any other terms necessary to implement the provisions of this section.

144 ~~(r)~~ (q) The rule shall include the following elements relating to curriculum standards:

145 (1) A requirement that the curriculum be designed to address the developmental needs of  
146 four-year old children, consistent with prevailing research on how children learn;

147 (2) A requirement that the curriculum be designed to achieve long-range goals for the  
148 social, emotional, physical and academic development of young children;

149 (3) A method for including a broad range of content that is relevant, engaging and  
150 meaningful to young children;

151 (4) A requirement that the curriculum incorporate a wide variety of learning experiences,  
152 materials and equipment, and instructional strategies to respond to differences in prior  
153 experience, maturation rates and learning styles that young children bring to the classroom;

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

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

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

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

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

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

166 ~~(s)~~ (r) The secretary and the State Superintendent shall submit a report to the Legislative  
167 Oversight Commission on Education Accountability and the Joint Committee on Government and  
168 Finance which addresses, at a minimum, the following issues:

169 (1) A summary of the approved county plans for providing the early childhood education  
170 programs pursuant to this section;

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

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

173 and

174 (4) An analysis of the effect of the programs on the maximization of the use of federal  
175 funds for early childhood programs.

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

179 (†) (s) After the school year 2012-2013, on or before July 1 of each year, each county  
180 board shall report the following information to the Secretary of the Department of Health and  
181 Human Resources and the State Superintendent:

182 (1) Documentation indicating the extent to which county boards are maximizing resources  
183 by using the existing capacity of community-based programs, including, but not limited to, Head  
184 Start and child care; and

185 (2) For those county boards that are including eligible children attending approved,  
186 contracted community-based programs in their net enrollment for the purposes of calculating state  
187 aid pursuant to article nine-a of this chapter, documentation that the county board is equitably  
188 distributing funding for all children regardless of setting.

## **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

### **§18-8-1a. Commencement and termination of compulsory school attendance; public school entrance requirements; exceptions.**

1 (a) Notwithstanding the provisions of section one of this article, compulsory school  
2 attendance begins with the school year in which the sixth birthday is reached prior to ~~September~~  
3 July 1 of such year or upon enrolling in a publicly supported kindergarten program and, subject  
4 to subdivision (3) of this subsection, continues to the sixteenth birthday or for as long as the  
5 student continues to be enrolled in a school system after the sixteenth birthday.

6 (1) A child may be removed from such kindergarten program when the principal, teacher  
7 and parent or guardian concur that the best interest of the child would not be served by requiring

8 further attendance: *Provided*, That the principal shall make the final determination with regard to  
9 compulsory school attendance in a publicly supported kindergarten program.

10 (2) The compulsory school attendance provision of this article shall be enforced against a  
11 person eighteen years of age or older for as long as the person continues to be enrolled in a  
12 school system, and may not be enforced against the parent, guardian, or custodian of the person.

13 (3) Beginning with the 2011-2012 high school freshman cohort class of students, and  
14 notwithstanding the provisions of section one of this article, compulsory school attendance begins  
15 with the school year in which the sixth birthday is reached prior to ~~September 4~~ July 1 of such  
16 year or upon enrolling in a publicly supported kindergarten program and continues to the  
17 seventeenth birthday or for as long as the student continues to be enrolled in a school system  
18 after the seventeenth birthday.

19 (b) Attendance at a state-approved or Montessori kindergarten, as provided in section  
20 eighteen, article five of this chapter, is deemed school attendance for purposes of this section.  
21 Prior to entrance into the first grade in accordance with section five, article two of this chapter,  
22 each child must have either:

23 (1) Successfully completed such publicly or privately supported, state-approved  
24 kindergarten program or Montessori kindergarten program; or

25 (2) Successfully completed an entrance test of basic readiness skills approved by the  
26 county in which the school is located. The test may be administered in lieu of kindergarten  
27 attendance only under extraordinary circumstances to be determined by the county board.

28 (c) Notwithstanding the provisions of this section and of section five, article two of this  
29 chapter and section eighteen, article five of this chapter, a county board may provide for advanced  
30 entrance or placement under policies adopted by said board for any child who has demonstrated  
31 sufficient mental and physical competency for such entrance or placement.

32 (d) This section does not prevent a student from another state from enrolling in the same

- 33 grade in a public school in West Virginia as the student was enrolled at the school from which the  
34 student transferred.

NOTE: The purpose of this bill is to .change the age date of attending school and early childhood education programs from September 1 to July 1. The bill eliminates the legislative findings portion of the section relating to early childhood programs.

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