

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 692

**FISCAL
NOTE**

BY SENATORS MULLINS, WALTERS, STOLLINGS, CLINE

AND FERNS

[Introduced February 22, 2016;

Referred to the Committee on Education; and then to the

Committee on Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5 and §18-5E-6, all relating
3 to school shared use agreements.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 article, designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5 and §18-5E-6, all to read
3 as follows:

ARTICLE 5E. SCHOOL SHARED USE AGREEMENTS.

§18-5E-1. Findings of the Legislature.

1 (a) Overweight children and adults are at greater risk for numerous adverse health
2 consequences, including type 2 diabetes, heart disease, stroke, high blood pressure, high
3 cholesterol, certain cancers, asthma, low self-esteem, depression, and other debilitating
4 diseases. In West Virginia, in the year 2013, sixty-eight and eight-tenths percent of adults ages
5 eighteen and over were considered either overweight or obese and thirty-one and one-tenth
6 percent of the children in grades nine through twelve were considered to be overweight or obese,
7 according to the state's risk behavior surveys.

8 (b) The medical costs of obesity are rising rapidly in the United States and are estimated
9 to be \$147 billion per year. Medicare and Medicaid pay for roughly half of these obesity-related
10 costs, so taxpayers foot the bill for much of obesity's medical costs. Obesity-related health-care
11 spending accounts for 8.5 percent of Medicare spending, 11.8 percent of Medicaid spending, and
12 12.9 percent of private payer spending.

13 (c) Increased physical activity and decreased sedentary behavior are associated with
14 lower rates of obesity, and physical activity reduces the risk for many of the diseases associated
15 with obesity, such as diabetes and heart disease. In addition, having access to parks and
16 recreational activities is associated with lower body mass among children and increased physical
17 activity among adults.

18 (d) Increasingly, studies demonstrate a relationship between healthy eating, regular
19 physical activity and students' academic success. The Centers for Disease Control and
20 Prevention report that students who are physically active and eat a nutritious diet receive higher
21 grades than their classmates who are physically inactive and eat foods that are less nutritious.

22 (e) Only one half of the country's youth live in neighborhoods with parks, community
23 centers, and sidewalks. In addition, families and children who live in communities with higher
24 levels of poverty and communities of color have significantly less access to parks, green spaces,
25 and bike paths than those in higher-income or predominantly white communities.

26 (f) Greater access to recreation and sports facilities is needed to reduce the impact of
27 obesity on personal health and health care expenditures. Public schools are equipped with
28 taxpayer- funded playgrounds, fields, tracks, courts, and other outdoor and indoor recreation
29 facilities that offer easily accessible opportunities for physical activity for residents of the
30 community. Opening school facilities to community recreational use is a cost-effective means of
31 increasing resident access to physical activity.

§18-5E-2. Purpose of school shared use agreements.

1 Greater access to recreation and sports facilities is needed to reduce the impact of obesity,
2 diabetes, and other chronic diseases on personal health and health care expenditures. Public
3 schools are equipped with taxpayer- funded indoor and outdoor recreation facilities that offer
4 easily accessible opportunities for physical activity for residents of the community. The
5 Legislature declares its intent to increase the number of school districts which open their facilities
6 to community use outside of school hours.

§18-5E-3. Definitions.

1 (a) "State department" means the West Virginia Department of Education.

2 (b) "High-need community" means a community where no fewer than fifty percent of
3 children are eligible to receive free and reduced priced meals at the school site(s) that will be the
4 subject of the shared use agreement.

5 (c) "Shared use" means the practice of allowing use of school facilities by community
 6 members for recreation or another purpose of importance to the community, through a shared
 7 use agreement or a school district or school policy that opens school facilities for use by
 8 government or nongovernmental entities or the public.

9 (d) "Shared use agreement" means a written agreement between a county board of
 10 education and the State Department of Education that define the roles, responsibilities, terms,
 11 and conditions for community use of a school owned facility for recreation or other purposes.

§18-5E-4. Promoting community use of school facilities through shared use.

1 (a) The Legislature declares that it is the policy of the state for county boards of education
 2 to allow the shared use of school buildings and property by adopting policies allowing for shared
 3 use and implementing shared use agreements with local governmental entities and nonprofit
 4 organizations.

5 This policy is facilitated by provisions in section nineteen, article five, chapter eighteen,
 6 and section nineteen-d, article five, chapter eighteen of this code providing certain liability
 7 protections relating to shared use of school facilities for unorganized recreation.

8 (b) The state department shall provide a program of technical assistance to county boards
 9 of education that includes, but is not limited to, individualized assistance to county school districts,
 10 creation of a state specific shared use technical assistance toolkit, and provision of a publicly
 11 accessible website database of shared use resources and existing shared use agreements.

12 (c) The state department shall convene a task force consisting of representatives from
 13 school districts, public health departments, community-based programs from high-need
 14 communities and recreational organizations to identify barriers and make recommendations to
 15 facilitate shared use, generally, and in high-need communities.

§18-5E-5. Shared Use Program Fund.

1 There is hereby established in the State Treasury a separate special interest-bearing
 2 revenue account, to be known as the Shared Use Program Fund, to make available resources for

3 the state board to provide short-term grants to help school districts to open their facilities for
4 community recreational use before or after school hours, including evenings, weekends and
5 school vacations. The special revenue account shall consist of all funds dedicated to it by the
6 state department, from gifts, grants, income from the investment of moneys held in the special
7 revenue account and all other sums available for deposit to the special revenue account from any
8 source, public or private. The state department shall annually allocate sufficient money to the
9 Shared Use Program Fund from assets made available to the department from all sources, to
10 assure that the allocations from the department, income gained from the program fund and value
11 received from other sources, such as gifts, grants or services in kind, provide a minimum of
12 \$400,000 annually for the program. Any balance remaining in the special revenue account at the
13 end of the state fiscal year may not revert to the General Revenue Fund but shall remain in the
14 special revenue account and shall be used solely in a manner consistent with this article. No
15 expenses incurred under this section shall be a charge against the General Funds of the state.

§18-5E-6. Administration of Shared Use Program Fund.

- 1 (a) The state department shall:
- 2 (1) Allocate moneys in the Shared Use Program Fund to county school districts for start-
3 up grants to establish or enhance shared use of district recreational facilities;
- 4 (2) Establish guidelines for eligibility for funding consistent with this article, promote the
5 availability of the funding statewide, provide technical assistance to applicants, evaluate
6 applicants, determine allowable expenses, and disburse funding;
- 7 (3) Establish monitoring and accountability mechanisms for programs receiving
8 assistance;
- 9 (4) Annually post on its website and report to the Legislature on the expenditure of the
10 program fund, including the total amount of funding distributed, the school districts that received
11 funding, the amount of funding each school district received, and its evaluation results.
- 12 (b) The state department shall promulgate legislative rules in accordance with the

13 provisions of article three-b, chapter twenty-nine-a of this code to establish procedures to carry
14 out the program to meet the intent of this article. No less than ten percent of the program fund
15 shall be reserved for the state board's administrative and operational costs to allocate the funding
16 and prepare the evaluation, unless those costs are provided from other budgets or in-kind
17 resources.

18 (c) The state department shall create eligibility guidelines consistent with this article and
19 with provision relating to unorganized recreational use in section nineteen and section nineteen-
20 d of article five of this code and provide funding through an application process. To qualify for
21 funding the applicant shall be a county school district. The school district must demonstrate that
22 it has an active partnership with a local governmental agency or nonprofit organization or that the
23 funds will be used to open school facilities for use to the public. The school district must agree to
24 fully implement its shared use project within the time frame of the grant period. The school district
25 must abide by the conditions for receiving assistance, provide a copy to the state department of
26 the shared use agreement and/or district shared use policy, and collect and provide data and
27 other information required by the state department for monitoring, accountability, and evaluation
28 purposes.

29 (d) Priority for funding will be given to high-needs communities. The state department, in
30 consultation with the task force, may establish additional criteria for priority of funding consistent
31 with the intent of this article.

NOTE: The purpose of this bill is to establish incentives for public schools to make their recreational facilities available for public use outside of school hours.

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