

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 592

FISCAL
NOTE

BY SENATORS WOELFEL, BALDWIN, ROBERTS, AND

LINDSAY

[Introduced March 8, 2021; referred
to the Committee on Education; and then to the
Committee on Finance]

1 A BILL to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating
 2 to permitting member private and parochial schools to enter into an agreement with
 3 member public schools to permit students of private and parochial schools to participate
 4 in athletic and other extracurricular activities as a participant of the public school; defining
 5 terms; and providing eligibility criteria for students from member private and parochial
 6 schools.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules by state board; incorporation; funds; participation by private and parochial schools and by home-schooled students.

1 (a) For purposes of this section, the term “member public school” means a public school
 2 which is a member of the West Virginia Secondary School Activities Commission and the term
 3 “member private, parochial, or church school or school operated by a religious order” means a
 4 private, parochial, or church school or school operated by a religious order which is a member of
 5 the West Virginia Secondary School Activities Commission.

6 ~~(a)~~ (b) The county boards of education shall exercise the control, supervision, and
 7 regulation of all interscholastic athletic events, and other extracurricular activities of the students
 8 in public secondary schools, and of those schools of their respective counties. The county board
 9 of education may delegate control, supervision, and regulation of interscholastic athletic events
 10 and band activities to the West Virginia Secondary School Activities Commission.

11 ~~(b)~~ (c) The West Virginia Secondary School Activities Commission is composed of the
 12 principals, or their representatives, of those secondary schools whose county boards of education
 13 have certified in writing to the State Superintendent of Schools that they have elected to delegate

14 the control, supervision, and regulation of their interscholastic athletic events and band activities
15 of the students in the public secondary schools in their respective counties to the commission.
16 The West Virginia Secondary School Activities Commission may exercise the control, supervision,
17 and regulation of interscholastic athletic events and band activities of secondary schools,
18 delegated to it pursuant to this section. The rules of the West Virginia Secondary School Activities
19 Commission shall contain a provision for a proper review procedure and review board and be
20 promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all
21 instances, be subject to the prior approval of the state board. The West Virginia Secondary School
22 Activities Commission, may, with the consent of the State Board of Education, incorporate under
23 the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock
24 corporation under the provisions of chapter 31 of this code. County boards of education may
25 expend moneys for and pay dues to the West Virginia Secondary School Activities Commission,
26 and all moneys paid to the commission, as well as moneys derived from any contest or other
27 event sponsored by the commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this
28 code, and the funds of the commission are subject to an annual audit by the State Tax
29 Commissioner.

30 ~~(c)~~ (d) The West Virginia Secondary School Activities Commission shall promulgate
31 reasonable rules providing for the control, supervision, and regulation of the interscholastic
32 athletic events and other extracurricular activities of private and parochial secondary schools as
33 elect to delegate to the commission control, supervision, and regulation, upon the same terms
34 and conditions, subject to the same rules and requirements and upon the payment of the same
35 fees and charges as those provided for public secondary schools. Any such private or parochial
36 secondary school shall receive any monetary or other benefits in the same manner and in the
37 same proportion as any public secondary school.

38 (e) Notwithstanding any other provision in law or the commission's rules, a member
39 private, parochial, or church school or school operated by a religious order may enter into a

40 cooperative sponsorship interscholastic athletic events and extracurricular activities agreement
41 with a member public school to permit students enrolled and attending a member private,
42 parochial, or church school or school operated by a religious order to otherwise participate in
43 interscholastic athletic events and other extracurricular activities as a participant of the member
44 public school subject to the provisions of subsection (f) of this section: *Provided, That the*
45 interscholastic athletic event or other extracurricular activity is not offered at the private, parochial,
46 or church school or school operated by a religious order where the student is enrolled and
47 attending.

48 (f) In accordance with subsection (e) of this article, the commission shall consider eligible
49 for participation in interscholastic athletic events and other extracurricular activities of secondary
50 schools a student who:

51 (1) Attends a member private, parochial, or church school or school operated by a religious
52 order which has entered into a cooperative sponsorship interscholastic athletic events and
53 extracurricular activities agreement with a member public school for that student;

54 (2) Satisfies the same residency requirements as other students in the school at which the
55 student participates such as participating at the member public school serving the attendance
56 zone in which the student lives;

57 (3) Has not reached the age of 19 by August 1 of the current school year;

58 (4) Pays any participation or activity fee in an amount equal to the fee charged to other
59 participants of the team or activity;

60 (5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School
61 Activities Commission and the county board in which he or she lives;

62 (6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission
63 governing awards, all-star games, parental consents, physical examinations, and vaccinations
64 applicable to other participants of the team or activity;

65 (7) Adheres to the same academic standards as other participants of the team or activity,

66 with those standards confirmed by appropriate documentation provided to the member school
67 providing the activity in which the student is to participate: *Provided*, That the responsibility of
68 ensuring academic eligibility of any student participant is shared by both the member public school
69 as well as the member private, parochial, or church school or school operated by a religious order:
70 *Provided, however*, That both the member public school as well as the member private, parochial,
71 or church school or school operated by a religious order may be sanctioned or otherwise punished
72 according to the West Virginia Secondary School Activities Commission rules and regulations for
73 the participation of an academic ineligible student;

74 (8) Adheres to the same standards of behavior, responsibility, performance, disciplinary
75 procedures and penalties, and code of conduct as other participants of the team of activity:
76 *Provided*, That the responsibility of ensuring behavioral and code of conduct eligibility of any
77 student participant is shared by both the member public school as well as the member private,
78 parochial, or church school or school operated by a religious order: *Provided, however*, That both
79 the member public school as well as the member private, parochial, or church school or school
80 operated by a religious order may be sanctioned or otherwise punished according to the West
81 Virginia Secondary School Activities Commission rules and regulations for the participation of a
82 behaviorally ineligible student; and

83 (9) Pays reasonable fees charged to the student to cover the costs of participation in
84 interscholastic athletic events and other extracurricular activities.

85 ~~(d)~~ (g) Notwithstanding any other provision of this section, or the commission's rules, the
86 commission shall consider eligible for participation in interscholastic athletic events and other
87 extracurricular activities of secondary schools a student who is receiving home instruction
88 pursuant to §18-8-1(c) of this code and who:

89 (1) Has demonstrated satisfactory evidence of academic progress for one year in
90 compliance with the provisions of that subsection: *Provided*, That the student's average test
91 results are within or above the fourth stanine in all subject areas;

92 (2) Is enrolled in at least one virtual instructional course per semester, consistent with the
93 applicable virtual instruction policy of the county board in which the home-schooled
94 student lives and the state board;

95 (3) Has not reached the age of 19 by August 1 of the current school year;

96 (4) Is an amateur who receives no compensation but participates solely for the
97 educational, physical, mental and social benefits of the activity;

98 (5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School
99 Activities Commission and the county board in which the home-schooled student lives; and

100 (6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission
101 governing awards, all-star games, parental consents, physical examinations, and vaccinations
102 applicable to all high school athletes.

103 Eligibility is limited to participation in interscholastic athletic events and other
104 extracurricular activities at the public secondary school serving the attendance zone in which the
105 student lives: *Provided*, That home-schooled students who leave a member school during the
106 school year are subject to the same transfer protocols that apply to member-to-member transfers.
107 Reasonable fees may be charged to the student to cover the costs of participation in
108 interscholastic athletic events and other extracurricular activities.

109 ~~(e)~~ (h) The West Virginia Secondary School Activities Commission shall recognize
110 preparatory athletic programs, whose participants attend a secondary school in West Virginia for
111 academic instruction, as nonparticipating members of the commission solely for the purpose of
112 competing on the national level: *Provided*, That the preparatory athletic program shall pay the
113 same fees as member schools. Such recognition does not entitle the preparatory athletic program
114 to compete against a member school during the regular season or in any commission state
115 championship events. The commission may promulgate an emergency rule pursuant to
116 ~~subsection (b)~~ subsections (c) and (d) of this section, if necessary, to carry out the intent of this
117 subsection.

NOTE: The purpose of this bill is to provide for the ability for a member private, parochial, or church school or school operated by a religious order to enter into an agreement with a member public school to permit a student enrolled and attending the private school to participate in athletic event or other extracurricular activities as a participant of the member public school.

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