

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

Senate Bill 601

BY SENATORS RUCKER, DEEDS, AND ROBERTS

[Originating in the Committee on School Choice;

reported on February 16, 2023]

1 A BILL to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating
2 to providing that the West Virginia Secondary School Activities Commission promulgate
3 legislative rules; and modifying eligibility requirements for participation in interscholastic
4 athletic events and other extracurricular activities of secondary schools for students
5 receiving home instruction.

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) The county boards of education shall exercise the control, supervision, and regulation
2 of all interscholastic athletic events, and other extracurricular activities of the students in public
3 secondary schools, and of those schools of their respective counties. The county board of
4 education may delegate control, supervision, and regulation of interscholastic athletic events and
5 band activities to the West Virginia Secondary School Activities Commission.

6 (b) The West Virginia Secondary School Activities Commission is composed of the
7 principals, or their representatives, of those secondary schools whose county boards of education
8 have certified in writing to the State Superintendent of Schools that they have elected to delegate
9 the control, supervision, and regulation of their interscholastic athletic events and band activities
10 of the students in the public secondary schools in their respective counties to the commission.
11 The West Virginia Secondary School Activities Commission may exercise the control, supervision,
12 and regulation of interscholastic athletic events and band activities of secondary schools,
13 delegated to it pursuant to this section. The rules of the West Virginia Secondary School Activities
14 Commission shall contain a provision for a proper review procedure and review board and be

15 promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all
16 instances, be subject to the prior approval of the state board. The West Virginia Secondary School
17 Activities Commission, may, with the consent of the State Board of Education, incorporate under
18 the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock
19 corporation under the provisions of chapter 31 of this code. County boards of education may
20 expend moneys for and pay dues to the West Virginia Secondary School Activities Commission,
21 and all moneys paid to the commission, as well as moneys derived from any contest or other
22 event sponsored by the commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this
23 code, and the funds of the commission are subject to an annual audit by the State Tax
24 Commissioner.

25 (c) The West Virginia Secondary School Activities Commission shall promulgate
26 reasonable legislative rules, in accordance with the provisions of §29A-3-1 *et seq.* of this code,
27 providing for the control, supervision, and regulation of the interscholastic athletic events and
28 other extracurricular activities of private and parochial secondary schools as elect to delegate to
29 the commission control, supervision, and regulation, upon the same terms and conditions, subject
30 to the same rules and requirements and upon the payment of the same fees and charges as those
31 provided for public secondary schools. Any such private or parochial secondary school shall
32 receive any monetary or other benefits in the same manner and in the same proportion as any
33 public secondary school: Provided, That each rule promulgated on or before December 1, 2022,
34 is deemed to have been validly promulgated, notwithstanding any failure to comply with any
35 requirement of §29A-3-1 *et seq.* of this code.

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

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

43 ~~(2) Is enrolled in at least one virtual instructional course per semester, consistent with the~~
44 ~~applicable virtual instruction policy of the county board in which the home-schooled student lives~~
45 ~~and the State Board;~~

46 ~~(3)~~ (2) Has not reached the age of 19 by August 1 of the current school year;

47 ~~(4)~~ (3) Is an amateur who receives no compensation but participates solely for the
48 educational, physical, mental and social benefits of the activity;

49 ~~(5)~~ (4) Agrees to comply with all disciplinary rules of the West Virginia Secondary School
50 Activities Commission and the county board in which the home-schooled student lives; and

51 ~~(6)~~ (5) Agrees to obey all rules of the West Virginia Secondary School Activities
52 Commission governing awards, all-star games, parental consents, physical examinations, and
53 vaccinations applicable to all high school athletes.

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

60 (e) The West Virginia Secondary School Activities Commission shall recognize
61 preparatory athletic programs, whose participants attend a secondary school in West Virginia for
62 academic instruction, as nonparticipating members of the commission solely for the purpose of
63 competing on the national level: *Provided*, That the preparatory athletic program shall pay the
64 same fees as member schools. Such recognition does not entitle the preparatory athletic program
65 to compete against a member school during the regular season or in any commission state

66 championship events. The commission may promulgate an emergency rule pursuant to
67 subsection (b) of this section, if necessary, to carry out the intent of this subsection.