

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

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for

House Bill 2973

By Delegates Campbell, Gearhart, Ferrell, Stephens,

T. Clark, Eldridge, McCormick, Moore, Pritt, and

Heckert

[Reported March 28, 2025, from the Committee on

the Judiciary]

1 A BILL to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to
2 legal actions involving the West Virginia Secondary School Activities Commission;
3 requiring 30 days' notice of claims; establishing procedures for providing 30 days' notice of
4 claims; providing for tolling of claims; providing exceptions for certain claims involving
5 injunctive relief; and requiring actions to be brought and prosecuted only in Kanawha
6 County.

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 and participants in the Hope Scholarship Program or in a Microschool or Learning Pod.

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 of
10 the students in the public secondary schools in their respective counties to the commission. The
11 West Virginia Secondary School Activities Commission may exercise the control, supervision, and
12 regulation of interscholastic athletic events and band activities of secondary schools, delegated to

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

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

(d) Notwithstanding any other provision of this section, or the commission's rules, the commission shall consider eligible for participation in interscholastic athletic events and other extracurricular activities of secondary schools a student who is receiving home instruction pursuant to §18-8-1(c) of this code, is a participant in the Hope Scholarship Program, pursuant to §18-8-1(m) of this code and as provided for in §18-31-1, *et seq.* of this code, or participates in a microschool or learning pod, pursuant to §18-8-1(n) of this code, and who:

(1) Has demonstrated satisfactory evidence of academic progress for each year in

compliance with the provisions of that subsection: *Provided*, That the student's average test results are within or above the fourth stanine in all subject areas;

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

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

(4) Agrees to comply with all disciplinary rules of the West Virginia Secondary School Activities Commission and the county board in which the student lives; and

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

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

(e) Students enrolled in a private school shall be eligible to participate in extracurricular activities at the public secondary school serving the attendance zone in which the student lives if the extracurricular activity is not offered at the student's private school: *Provided*, The student meets the requirements of subsection (d)(4) and (d)(5) of this section.

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

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

67 (g)(1) At least 30 days prior to the institution of an action against the West Virginia
68 Secondary School Activities Commission, the complaining party or parties shall provide the West
69 Virginia Secondary School Activities Commission, the State School Board, and the Attorney
70 General written notice, by certified mail, return receipt requested, of the alleged claim and the relief
71 desired.

72 (2) The written notice to the West Virginia Secondary School Activities Commission, the
73 State School Board, and the Attorney General required by subdivision (1) of this subsection is
74 considered to be provided on the date of mailing of the notice by certified mail, return receipt
75 requested. If the written notice is provided as required by subdivision (1) of this subsection, any
76 applicable statute of limitations is tolled for 30 days from the date the notice is provided and, if
77 received by the West Virginia Secondary School Activities Commission as evidenced by the return
78 receipt of the certified mail, for 30 days from the date of the returned receipt

79 (3) The notice provisions of this subsection do not apply in actions seeking injunctive relief
80 where the court finds that irreparable harm would have occurred if the institution of the action was
81 delayed by the provisions of this subdivision (1) of this subsection.

82 (4) Any suit in which the West Virginia Secondary School Activities Commission is made a
83 party defendant shall be brought and prosecuted only in the Circuit Court of Kanawha County.