

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 529

BY SENATOR WELD

[Reported March 25, 2025, from the Committee on
Education]

1 A BILL to amend and reenact §18-5-19d of the Code of West Virginia, 1931, as amended, relating
2 to changing the minimum amount of insurance that county boards of education must
3 maintain in order for the specified limitation of liability to apply; and requiring that the
4 insurance purchased be obtained from a company licensed to do business in this state.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-19d. Conditional immunity from liability for community activities; liability insurance; authority of State Board of Risk and Insurance Management.

1 (a)(1) If the requirements of this subsection are met, the board of education is not liable
2 under any theory of vicarious or imputed liability for the acts or omissions of:

3 (A) Any person, organization, or association using school property for a community activity
4 described in §18-5-19 of this code;

5 (B) Any member, employee, or agent of such person, organization, or association; or

6 (C) Any person attending or participating in the community activity other than an employee
7 of the board while acting within the scope of employment.

8 (2) The limitation of liability extended the board of education pursuant to this subsection
9 does not apply unless:

10 (A) The person, organization, or association using school property for a community activity
11 has in effect, at the time of the act or omission described in subdivision (1) of this subsection, a
12 contract of insurance which provides general comprehensive liability coverage of any claim,
13 demand, action, suit, or judgment by reason of alleged negligence or other acts resulting in bodily
14 injury or property damage to any person arising out of the use of school property for a community
15 activity described in subdivision (1) of this subsection;

16 (B) The contract of insurance provides for the payment of any attorney fees, court costs,
17 and other litigation expenses incurred by the board in connection with any claim, demand, action,
18 suit, or judgment arising from such alleged negligence or other act; and

19 (C) ~~The insurance coverage is in the amounts specified in the provisions of section five-a,~~
20 ~~article twelve, chapter twenty-nine of this code.~~ Liability insurance coverage in an amount of not
21 less than \$1 million for each occurrence as well as excess coverage of at least \$5 million for each
22 occurrence. Any insurance purchased under this section shall be obtained from a company
23 licensed to do business in this state.

24 (3)(A) The insurance described in subdivision (2) of this subsection may be obtained
25 privately or may be obtained pursuant to the provisions of this subdivision. If requested by any
26 person, organization, or association seeking such insurance coverage, the State Board of Risk
27 and Insurance Management is authorized to provide such insurance and to enter into any
28 necessary contract of insurance to further the intent of this subdivision.

29 (B) Where provided by the State Board of Risk and Insurance Management, the cost of
30 the insurance, as determined by the such board, shall be paid by the person, organization, or
31 association and may include administrative expenses. All funds received by such board shall be
32 deposited with the West Virginia Board of Investments for investment purposes.

33 (C) The State Board of Risk and Insurance Management is hereby authorized and
34 empowered to negotiate and effect settlement of any and all claims covered by the insurance
35 provided by such board pursuant to this subdivision to the extent the board is authorized and
36 empowered to negotiate and effect settlement of claims described in §29-12-5 of this code.

37 (4) As used in this subsection, "organization" or "association" means a bona fide, not for
38 profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, eleemosynary,
39 incorporated or unincorporated association or organization or a rescue unit or other similar
40 volunteer community service organization or association, but does not include any nonprofit
41 association or organization, whether incorporated or not, which is organized primarily for the
42 purposes of influencing legislation or advocating or opposing the nomination, election, or defeat
43 of any candidate, or the passage or defeat of any issue, thing, or item to be voted upon.

44 (b) In addition to the liability protection for organized use outlined in this section, county
45 boards are not liable for any loss or injury arising from the use of school property made available
46 for unorganized recreation. County boards are liable for their acts or omissions which constitute
47 gross negligence or willful and wanton conduct which is the proximate cause of injury or property
48 damage.

49 (c) Nothing in this section shall affect the rights, duties, defenses, immunities, or causes
50 of action under other statutes or the common law of this state which may be applicable to boards
51 of education.