

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

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for

Senate Bill 646

BY SENATORS FULLER AND ROSE

[Reported March 24, 2025, from the Committee on
Finance]

1 A BILL to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating
2 to increasing from five to 10 the number of days, commonly referred to as non-traditional
3 instruction days, a county board can deliver instruction through alternative methods when
4 schools are closed due to inclement weather or other unforeseen circumstances and those
5 days be considered instructional days, subject to approval of its plan by the state board;
6 defining terms; making technical corrections; and prohibiting out-of-calendar days from
7 being used to offset the loss of separate instructional days.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-45. School calendar.

1 (a) As used in this section:
2 ~~(1) "Instructional day" means a day within the instructional term which meets the following~~
3 ~~criteria:~~
4 ~~(A) Instruction is offered to students for at least the minimum number of minutes as follows:~~
5 ~~(i) For early childhood programs as provided in subsection (d) section forty-four of this~~
6 ~~article;~~
7 ~~(ii) For schools with grade levels kindergarten through and including grade five, 315~~
8 ~~minutes of instructional time per day;~~
9 ~~(iii) For schools with grade levels six through and including grade eight, 330 minutes of~~
10 ~~instructional time per day; and~~
11 ~~(iv) For schools with grade levels nine through and including grade twelve, 345 minutes of~~
12 ~~instructional time per day.~~
13 ~~(B) Instructional time is used for instruction and cocurricular activities; and~~
14 ~~(C) Other criteria as the state board determines appropriate.~~

~~(2) "Cocurricular activities" are activities that are closely related to identifiable academic programs or areas of study that serve to complement academic curricula as further defined by the state board; and~~

~~(3) "Instruction delivered through alternative methods" means a plan developed by a county board and approved by the state board for teachers to assign and grade work to be completed by students on days when schools are closed due to inclement weather or other unforeseen circumstances.~~

"Co-curricular activities" are activities that are closely related to identifiable academic programs or areas of study that serve to complement academic curricula as further defined by the state board;

"Instruction delivered through alternative methods" means a plan developed by a county board and approved by the state board for teachers to assign and grade work to be completed by students on days when schools are closed due to inclement weather or other unforeseen circumstances;

"Instructional day" means a day within the instructional term which meets the following criteria:

(A) Instruction is offered to students for at least the minimum number of minutes as follows:

(i) For early childhood programs as provided in §18-5-44(d) of this code;

(ii) For schools with grade levels kindergarten through and including grade five, 315 minutes of instructional time per day;

(iii) For schools with grade levels six through and including grade eight, 330 minutes of instructional time per day; and

(iv) For schools with grade levels nine through and including grade 12, 345 minutes of instructional time per day.

(B) Instructional time is used for instruction and co-curricular activities; and

(C) Other criteria as the state board determines appropriate.

41 “Out-of-calendar day” means a nonpaid day that is not included as a part of the
42 minimum employment term.

43 (b) *Findings.* –

44 (1) The primary purpose of the school system is to provide instruction for students.

45 (2) The school calendar, as defined in this section, is designed to define the school term
46 both for employees and for instruction.

47 (3) The school calendar shall provide for 180 separate instructional days or an equivalent
48 amount of instructional time as provided in this section.

49 (c) The county board shall provide a school term for its schools that contains the following:

50 (1) An employment term that excludes Saturdays and Sundays and consists of at least
51 200 days, which need not be successive. The beginning and closing dates of the employment
52 term may not exceed 48 weeks;

53 (2) Within the employment term, an instructional term for students of no less than 180
54 separate instructional days, which includes an inclement weather and emergencies plan designed
55 to guarantee an instructional term for students of no less than 180 separate instructional days,
56 subject to the following:

57 (A) A county board may increase the length of the instructional day as defined in this
58 section by at least 30 minutes per day to ensure that it achieves at least an amount of instructional
59 time equivalent to 180 separate instructional days within its school calendar and:

60 (i) Apply up to five days of this equivalent time to cancel days lost due to necessary school
61 closures;

62 (ii) Plan within its school calendar and not subject to cancellation and rescheduling as
63 instructional days up to an additional five days or equivalent portions of days, without students
64 present, to be used as determined by the county board exclusively for activities by educators at
65 the school level designed to improve instruction; and

(iii) Apply any additional equivalent time to recover time lost due to late arrivals and early dismissals;

(B) Subject to approval of its plan by the state board, a county board may deliver instruction through alternative methods on up to ~~five~~ 10 days when schools are closed due to inclement weather or other unforeseen circumstances and these days are instructional days notwithstanding the closure of schools; and

(C) The use of equivalent time gained by lengthening the school day to cancel days lost, and the delivery of instruction through alternative methods, both as defined in this section, shall be considered instructional days for the purpose of meeting the 180 separate day requirement and as employment days for the purpose of meeting the 200-day employment term; and

(3) Within the employment term, noninstructional days shall total 20 and shall be comprised of the following:

(A) Seven paid holidays;

(B) Election day as specified in §18A-5-2 of this code;

(C) Six days to be designated by the county board to be used by the employees outside the school environment, with at least four outside the school environment days scheduled to occur after the 130th instructional day of the school calendar;

(D) One day to be designated by the county board to be used by the employees for preparation for opening school and one day to be designated by the county board to be used by the employees for preparation for closing school: *Provided*, That the school preparation days may be used for the purposes set forth in paragraph (E) of this subdivision at the teacher's discretion; and

(E) The remaining days to be designated by the county board for purposes to include, but not be limited to:

(i) Curriculum development;

(ii) Professional development;

(iii) Teacher-pupil-parent conferences;

(iv) Professional meetings;

(v) Making up days when instruction was scheduled but not conducted; and

(vi) At least six two-hour blocks of time for faculty senate meetings with at least one two-hour block of time scheduled in the first month of the employment term, at least one two-hour block of time scheduled in the last month of the employment term and at least one two-hour block of time scheduled in each of the months of October, December, February, and April. ~~and~~

(4) Scheduled out-of-calendar days ~~that are to be used for~~ which may not be rescheduled ~~as instructional days in the event school is canceled~~ for any reason.

(d) A county board of education shall develop a policy that requires additional minutes of instruction in the school day or additional days of instruction to recover time lost due to late arrivals and early dismissals.

(e) If it is not possible to complete 180 separate instructional days with the current school calendar and the additional five days of instructional time gained by increasing the length of the instructional day as provided in subsection (c) of this section are insufficient to offset the loss of separate instructional days, the county board shall schedule instruction on any available noninstructional day, regardless of the purpose for which the day originally was scheduled, ~~or an out-of-calendar day~~ and the day will be used for instruction of students: *Provided*, That the provisions of this subsection do not apply to:

(1) Holidays;

(2) Election day;

(3) Saturdays and Sundays; ~~and~~

(4) Out-of-calendar days; and

~~(4)~~ (5) The five days or equivalent portions of days planned within the school calendar exclusively for activities by educators at the school level to improve instruction that are gained by increasing the length of the instructional day as provided in subsection (c) of this section.

(f) The instructional term shall commence and terminate on a date selected by the county board.

(g) The state board may not schedule the primary statewide assessment program more than 30 days prior to the end of the instructional year unless the state board determines that the nature of the test mandates an earlier testing date.

(h) The following applies to co-curricular activities:

(1) The state board shall determine what activities may be considered co-curricular;

(2) The state board shall determine the amount of instructional time that may be consumed by co-curricular activities; and

(3) Other requirements or restrictions the state board may provide in the rule required to be promulgated by this section.

(i) Extracurricular activities may not be used for instructional time.

(j) Noninstructional interruptions to the instructional day shall be minimized to allow the classroom teacher to teach.

(k) Prior to implementing the school calendar, the county board shall secure approval of its proposed calendar from the state board or, if so designated by the state board, from the state superintendent.

(l) In formulation of a school's calendar, a county school board shall hold at least two public meetings that allow parents, teachers, teacher organizations, businesses, and other interested parties within the county to discuss the school calendar. The public notice of the date, time, and place of the public hearing must be published in a local newspaper of general circulation in the area as a Class II legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code.

(m) The county board may contract with all or part of the personnel for a longer term of employment.

143 (n) The minimum instructional term may be decreased by order of the state superintendent
144 in any county declared a federal disaster area and in any county subject to an emergency or
145 disaster declaration by the Governor when the event causing the declaration is substantially
146 related to the loss of instructional days in the county.

147 (o) Notwithstanding any provision of this code to the contrary, the state board may grant
148 a waiver to a county board for its noncompliance with provisions of chapters 18, 18A, 18B, and
149 18C of this code to maintain compliance in reaching the mandatory 180 separate instructional
150 days established in this section.

151 (p) The state board shall promulgate a rule in accordance with the provisions of §29A-3B-
152 1 *et seq.* of this code for the purpose of implementing the provisions of this section.