

# WEST VIRGINIA LEGISLATURE

## 2026 REGULAR SESSION

Introduced

### House Bill 5363

FISCAL  
NOTE

By Delegates Hornbuckle, Lewis, Hansen, and

Williams

[Introduced February 09, 2026; referred to the  
Committee on Health and Human Resources then  
Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article  
 2 designated §7-28-1, §7-28-2, §7-28-3, §7-28-4, §7-28-5, §7-28-6 and §7-28-7, relating to  
 3 authorizing counties to establish a county daycare; providing for a petition process to  
 4 instigate the creation of a county daycare; allowing a county commission to propose a fee,  
 5 tax or levy to pay for creating and maintaining the county daycare; allowing a county  
 6 commission to establish a county daycare authority; providing for a county vote on creating  
 7 and funding a daycare; to establish and manage a county daycare; and allowing a county  
 8 commission to fund or alternatively propose a tax, fee, or levy to fund the daycare for voter  
 9 approval; and providing guidelines for establishing and managing the daycare.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 25. ESTABLISHMENT OF A COUNTY DAYCARE.**

### **§7-28-1. Establishment of a County Daycare.**

1 Upon the passage of a county referendum, each county commission may establish a  
 2 public agency to be known as the "County Daycare Authority" to carry out the powers and duties  
 3 herein conferred by law upon the county relating to establishment and management of available  
 4 and affordable daycare for all citizens of the county.

### **§7-28-2. Establishment of a County Daycare Authority; authorization to assess a local levy, tax, or fee; and determining cost of operation and maintenance.**

1 (a) Legislative finding and authorization to create a county daycare- The Legislature finds  
 2 that the establishment of county run daycare is in the public interest, a component of economic  
 3 development, provides educational enhancement to the children of the county, promotes  
 4 workforce availability of parents, and is a public service that improves the quality of life of the  
 5 residents of a county. Therefore, each county may establish a county daycare pursuant to this  
 6 section. The county daycare shall be for the benefit of the citizens of the county. If two or more  
 7 adjoining counties meet the requirements of this article, they may enter a memorandum of  
 8 understanding and combine resources to create a joint daycare authority upon adoption of

9 referendums by each county.

10 (1) *Petition by the citizens*- County resident voters may petition the county commission to  
11 establish a county daycare. The county commission, shall upon receipt and verification of a  
12 petition received signed in their own handwriting by at least 10 percent of the registered voters of  
13 the county voting in the last gubernatorial election, as verified by the county clerk, make a petition  
14 for the imposition of a levy, tax, or fee for the purpose of creating and maintaining within the county  
15 a daycare facility for use by citizens of the county, shall be submitted to the voters in a county-wide  
16 referendum at the next general election held in the county.

17 (2) *County Commission initiative*- A county commission may initiate a referendum to  
18 decide the issue of establishment of a county daycare.

19 (3) *County Commission to develop daycare proposal*- Prior to a county commission  
20 presenting the question to the voters of the establishment of a county daycare, it shall fulfill the  
21 requirements of §7-25-3 of this code providing a description of the design and methodology for  
22 funding the county daycare, all to be included and reasonably described in the ballot measure  
23 presented to voters.

24 (b) *Assessment of a tax, fee, or levy*- Upon enactment by majority vote by referendum, a  
25 county may establish a county daycare authority for the purpose of establishing and managing a  
26 county daycare and fund its creation an operation by the funding source. Each county commission  
27 so authorized to assess a tax, levy, or fee, upon directive by passage of ballot initiative in the  
28 county may initiate the tax, levy, or fee to be utilized for the purpose of construction and operation  
29 of a county daycare facility or facilities: *Provided*, That notwithstanding the provisions of this article  
30 to the contrary, if a county commission can fund the creation and management of a county daycare  
31 without the assessment of any fee, tax, or levy, the county commission may establish a daycare  
32 authority and authorize a daycare by its own initiative without any requirement to present the issue  
33 by referendum to the voters.

**§7-28-3. Petition for a county daycare.**

1           (a) Referendums shall be held in conjunction with a general election which the  
2 requirements of this article relating to planning and determining the levy amount have been met  
3 and allows the referendum to meet all election notice and filing deadlines.

4           (b) The county commission shall, if the petition directs the assessment of the levy, tax, or  
5 fee for creation of a daycare authority, provide an analysis of the amount that the fee, tax, or levy  
6 must generate to pay for the county daycare operations and to the extent practical, the average  
7 cost to individual taxpayers. If the petition fails to provide a funding mechanism, and the county  
8 commission determines the county does not have adequate funds to establish a daycare, the  
9 county commission shall determine what levy, tax, or fee is best to be used for this purpose. If a  
10 levy is selected as the funding source, the levy shall be initiated pursuant to the provisions of §11-  
11 8-6b of this code. If the petition for creating of a county daycare does specify how the funding of  
12 the daycare shall occur, and if the fee, tax, or levy in the county commission's judgement will not  
13 adequately fund a daycare facility, the commission may alter the ballot question to presented to  
14 voters to assure it will be sufficiently funded, then the county commission shall select any funding  
15 method and include that language in the county referendum.

16           (c) Upon a vote of a county commission to establish a county daycare or the receipt of a  
17 verified petition, the county commission shall undertake a study to determine the most economical  
18 and timely plans to establish a county daycare facility or facilities sufficient to meet the needs of  
19 county residents. The county commission shall determine the proposed levy rate assessment on  
20 real property or the assessment of a county tax or fee to cover the cost of establishing and  
21 maintaining a daycare facility or facilities, including sufficient monies needed to provide daycare  
22 services at an affordable rate for residents based on the ability to pay of residents needing the  
23 service. Upon completion of the plan, the county commission shall cause a public hearing and  
24 receive public comment on the proposal, providing a Class I notice published in the county 10 days  
25 prior to the hearing. After receipt of public comment, the county commission may revise the plan  
26 but if the county commission revises the plan and the cost will vary more or less than 10 percent of

27 the original estimate, the commission shall conduct another hearing and receive comment on the  
28 new plan.

**§7-28-4. County daycare levy placed upon ballot; notices; form of ballot.**

1 (a) Upon receipt of a valid petition pursuant to §7-28-2 of this code, and the development of  
2 a plan, the county commission shall publish a notice, announcing the levy being on the ballot at the  
3 next scheduled election, as a Class II-0 legal advertisement in compliance with the provisions of  
4 §59-3-1 et seq. of this code, and the publication area for the publication shall be the county. The  
5 notice shall be so published within 14 consecutive days next preceding the election.

6 (b) The question on the special levy shall be placed on the ballot in accordance with the  
7 ballot placement order prescribed by §3-5-13a(a) of this code. The question heading shall be  
8 entitled: "Special Levy Election" and the question shall be significantly in the following form:  
9 "Special election to authorize an \_\_\_\_\_ (a levy, fee, or tax) for the year(s) \_\_\_\_\_ and for the  
10 purpose of establishing/continuing a county daycare."

11 (c) The additional levy, tax, or fee shall be collected from \_\_\_\_\_ (describe  
12 the type of tax, levy, or fee and how and from whom it will be collected.)

13 (d) If a majority of the votes cast upon a question submitted pursuant to this section at any  
14 election be against the question, the question may again be submitted to the voters at the next  
15 succeeding election.

**§7-28-5. Management and oversight vested in authority; appointment and terms of**  
**members; vacancies; removal of members; meetings; quorum; compensation.**

1 (a) Upon approval of the voters of a county daycare proposal, the county of this state may  
2 establish a public agency to be known as the "County Daycare Authority" to carry out the powers  
3 and duties conferred by this article relating to establishment and management of available and  
4 affordable daycare for all citizens of the county. The management and control of the authority, its  
5 property, operations, business and affairs shall be lodged in an authority of five persons who shall  
6 be known as "members of the authority," each of whom shall be appointed by the county

7 commission for a term of three years, except that as to the first seven appointed to the first  
 8 authority appointed, the term of two members shall expire on July 1, next ensuing, the terms of the  
 9 next two members shall expire on July 1, two years thereafter, and the term of three members shall  
 10 expire on July 1, three years thereafter. Each member shall hold office until the expiration of the  
 11 term for which the member is appointed or until a successor shall have been duly appointed and  
 12 shall have qualified. Vacancies on the authority shall be filled by appointment of the county  
 13 commission for the unexpired term of the member whose office shall be vacant. One member shall  
 14 be a member of the county commission or the commission's designee, two members shall be  
 15 parents of children that will in the future, currently or in the past had children attending the county  
 16 daycare; one member shall be an expert in finance and budgeting; and one member who has  
 17 expertise in child development or education.

18 (b) Each of the authority members shall be reimbursed for all reasonable and necessary  
 19 expenses actually incurred in the performance of the member's duties as a member of the  
 20 authority, and receive per diem pay the same as received as members of the legislature pursuant  
 21 to §4-2A-1 et seq. of this code. All such compensation and expenses incurred by authority  
 22 members shall be payable solely from funds of the authority.

**§7-28-6. Authority to be a public corporation; name; power to contract and sue; seal.**

1 The authority and the members thereof, shall constitute and be a public corporation and as  
 2 such shall have perpetual succession until discontinued by expiration or non-renewal of levy, tax,  
 3 or fee, may contract and be contracted with, sue and be sued, plead and be impleaded and have  
 4 and use a common seal.

**§7-28-7. Powers, duties and responsibilities of authority generally.**

1 The authority may exercise all powers necessary or appropriate to carry out and effectuate  
 2 its corporate purpose. The authority may:

3           (1) Adopt, and from time to time, amend and repeal bylaws necessary and proper for the  
4 regulation of its affairs and the conduct of its business and rules and regulations to implement and  
5 make effective its powers and duties.

6           (2) Acquire, construct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or  
7 rent to, or contract for operation by a governmental agency or person, one or more facilities, and  
8 adopt rules and regulations for operation of these facilities.

9           (3) Acquire by gift or purchase, hold and dispose of real and personal property in the  
10 exercise of its powers and the performance of its duties.

11           (4) Make and enter into all contracts and agreements and execute all instruments  
12 necessary or incidental to the performance of its duties and the execution of its powers.

13           (5) Employ an executive director and authorize the hiring of other employees, and retain or  
14 contract with consulting engineers, financial consultants, accounting experts, architects, attorneys  
15 and such other consultants and independent contractors as are necessary in its judgment to carry  
16 out the provisions of this article and fix the compensation or fees thereof.

17           (6) Receive and accept from any federal or state agency grants for or in aid of the  
18 construction and operation of any daycare facility or and receive and accept aid or contributions  
19 from any source of money, property, labor or other things of value, to be held, used and applied  
20 only for the purposes for which the grants and contributions are made.

21           (7) Purchase insurance protecting the authority and its officers and employees to protect  
22 authority assets and protect lawful actions undertaken by the authority and its employees fulfilling  
23 their lawful duties.

24           (8) Establish fees for daycare services that are scaled on the child or children's parents or  
25 guardians' ability to pay.

26           (9) Do all acts necessary and proper to carry out the powers expressly granted to the  
27 authority by this article.

NOTE: The purpose of this bill is to allow for the creation of a county daycare by any county commission, allowing a petition process to cause an election relating to the establishment of a county daycare; requiring a county commission, when petitioned by voters or by its own directive, develop a plan for the daycare and propose a fee, tax, or levy to pay for it; allowing counties to establish a county daycare authority to manage the operation; and granting a county daycare general authority to do what is necessary to establish and manage a daycare.

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