

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 176

By Senator Fuller

[Reported February 4, 2026, from the Committee on
Education]

1 A BILL to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to
2 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.

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

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

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

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

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

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

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

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

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

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

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

40 (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 200
51 days, which need not be successive. The beginning and closing dates of the employment term
52 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 the
65 school level designed to improve instruction; and

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

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

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

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

78 (A) Seven paid holidays;

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

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

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

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

90 (i) Curriculum development;

91 (ii) Professional development;

92 (iii) Teacher-pupil-parent conferences;

93 (iv) Professional meetings;

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

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

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

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

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

111 (1) Holidays;

112 (2) Election day;

113 (3) Saturdays and Sundays; and

114 (4) Out-of-calendar days; and

115 ~~(4)~~ (5) The five days or equivalent portions of days planned within the school calendar
116 exclusively for activities by educators at the school level to improve instruction that are gained by
117 increasing the length of the instructional day as provided in subsection (c) of this section.

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

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

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

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

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

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

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

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

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

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

141 (m) The county board may contract with all or part of the personnel for a longer term of
142 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 a
148 waiver to a county board for its noncompliance with provisions of chapters 18, 18A, 18B, and 18C
149 of this code to maintain compliance in reaching the mandatory 180 separate instructional days
150 established in this section.

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