

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 4818**

By Delegate Crouse

[Introduced January 26, 2026; referred to the  
Committee on Education then Finance]

A BILL to amend and reenact §18-5G-12 of the Code of West Virginia, 1931, as amended, relating to providing greater access to unused public buildings for public charter schools, providing definitions; authorizing rulemaking; requiring reporting of underused and unused school properties by the of each county superintendent of schools to the department of education; providing that these underused and unused school properties be offered to public charter schools for use; creating plans for purchase or lease; providing right of first refusal for the school board should the public charter school later seek to sell the property; and permitting a public charter school to petition the State Auditor for lists of all underused and unused school properties in the state.

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

**ARTICLE                    5G.                    PUBLIC                    CHARTER                    SCHOOLS.**  
**§18-5G-12.                    Access                    to                    public                    facilities.**

~~(a) A public charter school may request usage of public facilities from the county board or other public entity in the county where the charter school is located or proposes to locate. A county board or other public entity shall make facilities available to the charter school that are either not used, in whole or in part, for classroom instruction at the time the charter school seeks to use or lease the public facility.~~

~~(b) If a charter school seeks to lease the whole or part of a public facility, the cost of the lease must be at or under current market value.~~

~~(c) During the term of the lease, the charter school is solely responsible for the direct expenses related to the public facility lease, including utilities, insurance, maintenance, repairs, and remodeling. The county school board is responsible for any debt incurred or liens that are attached to the school building before the charter school leases the public facility.~~

(a) In this subdivision,

(1) "Unused school facility" means a school building owned by a county school district that:

(A) Is not used for academic purposes, extracurricular activities, administrative school

15 functions, or sports; and

16 (B) Has no school board approved written plan for future use that includes academic  
17 purposes, extracurricular activities, administrative functions, or sports scheduled to occur within 2  
18 years of the plan's approval.

19 (2) "Underutilized property" means a building or portion of a building, with or without  
20 improvements that is not used, or is used irregularly or intermittently, for instructional or academic  
21 program purposes, including but not limited to spaces that are potentially suitable for classroom  
22 use but are currently being used for storage of any kind. The term does not include vacant property  
23 or real property on which a building or permanent structure has not been erected.

24 (3) "School building" shall include any structure purpose built to provide academic  
25 instruction to any number of students in pre-kindergarten through grade twelve (pre-K-12), or any  
26 combination thereof.

27 (b) The state board shall promulgate a rule pursuant to the provisions of §29A-3B-1 et seq.  
28 of this code setting forth standards used to determine if a property is underutilized. For any facility  
29 that was originally built as a public school facility, it shall be deemed to be underutilized if actual  
30 student enrollment is less than or equal to seventy percent of the rated student capacity of the  
31 facility.

32 (c) On January 1, 2027, and on July 1 every year thereafter, the superintendent of each  
33 county school district shall report to the department of education each unused school facility,  
34 underutilized property, and vacant property owned by the county school district. The department  
35 shall establish and maintain a list of unused facilities and underutilized facilities owned by each  
36 school district and make such list available on the department's website. Each report submitted by  
37 a county school district shall include the following information:

38 (1) The address or location of each building and the total square footage of, and the  
39 number of classrooms in, each school building;

40 (2) For each building, the portion of the total square footage that is used by the LEA for

41 direct instruction to students in pre-kindergarten through grade twelve (pre-K-12), or any  
42 combination thereof;

43 (3) For each building, the enrollment capacity and the number of students in pre-  
44 kindergarten through grade twelve (pre-K-12), or any combination thereof, receiving academic  
45 instruction in the building; and

46 (4) If a building is not used by the LEA for direct academic instruction for students in pre-  
47 kindergarten through grade twelve (pre-K-12), or any combination thereof, the manner in which  
48 the school building is used, including whether the building is vacant or is being used for  
49 administration, storage, or professional development.

50 (d) A county school district shall offer an unused school facility or vacant property to a  
51 public charter school for purchase or lease at or below fair market value, and shall offer an  
52 underutilized property with less than 50% utilization to a public charter school for lease at or below  
53 fair market value, as follows:

54 (1) If a county school district extends an offer to purchase or lease an unused school facility  
55 or underutilized property to any party other than an approved public charter school operating in  
56 this state, the contract shall include a provision which makes the purchase or lease subject to the  
57 right of first refusal by an approved public charter school operating in this state.

58 (2) If the offer to purchase or lease is accepted, the entity selling or leasing the unused  
59 school facility or underutilized property shall notify the department of education who shall notify all  
60 approved public charter schools in this state, as listed on the department of education's website, of  
61 the contract to purchase or lease such facility. The notice provided to the public charter school  
62 shall contain clear language that such facility is available to any approved public charter school in  
63 this state only, and shall list the offering entity's name and location, the square footage of such  
64 facility, the contact information of the offering entity's representative, and the expiration date of the  
65 right of first refusal which shall be no earlier than 60 days after the date of the notification to the  
66 public charter school.

67           (3) A public charter school that fails to exercise its right of first refusal shall forfeit such right  
68 as it pertains to the specific unused school facility or underutilized property and any future right or  
69 interest in the specific facility.

70           (4) If the offering entity has not received an offer to purchase or lease an unused school  
71 facility or underutilized property from a party, other than an approved public charter school  
72 operating in this state, a public charter school may initiate, and the offering entity shall, within 60  
73 days of receiving the offer, engage in, substantive good faith negotiations for the purchase or lease  
74 of such unused school facility or underutilized property. The negotiation period shall continue for  
75 30 days, or less if an agreement is reached. If no agreement is reached, the department of  
76 education shall engage an independent mediator who shall gather independent appraisals of the  
77 value of the property when the public charter school made an offer to purchase. The appraised  
78 value shall determine a fair market price for the offering public charter school. In situations when  
79 the public charter school made an offer to lease the property, the appraisals gathered by the  
80 mediator shall determine a fair market lease price for the offering public charter school.

81           (5) If two or more public charter schools notify the offering entity indicating an interest in the  
82 unused facility to lease or purchase, the offering entity shall make the final selection of the  
83 purchaser or lessee.

84           (e) In right of first refusal negotiations with a public charter school, it shall be the option of  
85 the offering entity whether to sell or lease the property under consideration, at fair market value or  
86 less, for a term to be agreed upon by the parties. A lease shall include ingress to and egress from  
87 the facility, and where a part of a facility is leased, the right to access and use of the common area  
88 shared by all tenants and users of the facility. If a public charter school leases the entire facility, the  
89 public charter school may incur debt to make improvements to the facility, and the offering entity  
90 shall subordinate its interest in the lease to such debt.

91           (f) A public charter school shall have six months after the date of making a written offer to  
92 complete the purchase or lease of the unused school facility or underutilized property for a price

93 negotiated with the offering entity.

94 (g) During the term of a lease, a public charter school shall be solely responsible for the  
95 direct expenses related to the public facility lease, including utilities, insurance, maintenance,  
96 repairs, and remodeling. The offering entity is responsible for any deferred maintenance, debt  
97 incurred, or liens that are attached to the building before the charter school leases the public  
98 facility.

99 (h) If a public charter school plans to sell a facility which it has purchased pursuant to this  
100 section, it shall first offer the facility to the entity from which it was purchased. Such offer shall be  
101 governed by the procedures set forth in paragraphs (d), (e), and (f) of this subdivision.

102 (i) A public charter school may petition the State Auditor for an audit of the list of all  
103 underutilized property or vacant property submitted pursuant to this part in which the public charter  
104 school is, or will be, geographically located. The State Auditor is authorized to promulgate rules,  
105 for the administration of this subdivision (i).

NOTE: The purpose of this bill is to provide greater access to unused public buildings for public charter schools.

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