

H. B. 3035

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(By Delegates Paxton, Smith, Butcher, M. Poling,
Martin, Mahan, Walker, Shaver and Stowers)
[Introduced February 7, 2011; referred to the
Committee on Education then the Judiciary.]

10 A BILL to amend and reenact §18A-4-14 of the Code of West Virginia,
11 1931, as amended, relating to preventing teachers from being
12 assigned additional responsibilities during planning period
13 without teacher's consent.

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

15 That §18A-4-14 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

18 **§18A-4-14. Duty-free lunch and daily planning period for certain**
19 **employees.**

20 (1) Notwithstanding the provisions of section seven, article
21 two of this chapter, every teacher who is employed for a period of
22 time more than one-half the class periods of the regular school day
23 and every service personnel whose employment is for a period of
24 more than three and one-half hours per day and whose pay is at
25 least the amount indicated in the "state minimum pay scale" as set
26 forth in section eight-a of this article shall be provided a daily
27 lunch recess of not less than thirty consecutive minutes, and such
28 employee shall not be assigned any responsibilities during this

1 recess. Such recess shall be included in the number of hours
2 worked, and no county shall increase the number of hours to be
3 worked by an employee as a result of such employee being granted a
4 recess under the provisions of this section.

5 (2) Every teacher who is regularly employed for a period of
6 time more than one-half the class periods of the regular school day
7 shall be provided at least one planning period within each school
8 instructional day to be used to complete necessary preparations for
9 the instruction of pupils. Such planning period shall be the
10 length of the usual class period in the school to which such
11 teacher is assigned, and shall be not less than thirty minutes. No
12 teacher shall be assigned any responsibilities during this period
13 without the consent of the teacher, and no county shall increase
14 the number of hours to be worked by a teacher as a result of such
15 teacher being granted a planning period subsequent to the adoption
16 of this section (March 13, 1982).

17 Principals, and assistant principals, where applicable, shall
18 cooperate in carrying out the provisions of this subsection,
19 including, but not limited to, assuming control of the class period
20 or supervision of students during the time the teacher is engaged
21 in the planning period. Substitute teachers may also be utilized
22 to assist with classroom responsibilities under this subsection:
23 *Provided*, That any substitute teacher who is employed to teach a
24 minimum of two consecutive days in the same position shall be
25 granted a planning period pursuant to this section.

26 (3) Nothing in this section shall be construed to prevent any
27 teacher from exchanging his or her lunch recess or a planning

1 period or any service personnel from exchanging his or her lunch
2 recess for any compensation or benefit mutually agreed upon by the
3 employee and the county superintendent of schools or his or her
4 agent: *Provided*, That a teacher and the superintendent or his or
5 her agent may not agree to terms which are different from those
6 available to any other teacher granted rights under this section
7 within the individual school or to terms which in any way
8 discriminate among such teachers within the individual school, and
9 that service personnel granted rights under this section and the
10 superintendent or his or her agent may not agree to terms which are
11 different from those available to any other service personnel
12 within the same classification category granted rights under this
13 section within the individual school or to terms which in any way
14 discriminate among such service personnel within the same
15 classification category within the individual school.

NOTE: The purpose of this bill is to redefine planning periods for teachers.

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