

COMMITTEE SUBSTITUTE

FOR

**H. B. 4554**

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(BY DELEGATES SHAVER, PERRY, WILLIAMS AND PETHTEL)

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(Originating in the Committee on Finance)  
[February 23, 2012]

A BILL to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to early childhood education programs offered by county boards of education; allowing counties with a fully implemented early childhood education program to accept additional students; and clarifying reporting requirements.

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

That §18-5-44 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-44. Early childhood education programs.**

1 (a) For the purposes of this section, “early childhood  
2 education” means programs for children who have attained  
3 the age of four prior to September 1 of the school year in  
4 which the pupil enters the program created in this section.

5 (b) *Findings.* --

6 (1) Among other positive outcomes, early childhood  
7 education programs have been determined to:

8 (A) Improve overall readiness when children enter school;

9 (B) Decrease behavioral problems;

10 (C) Improve student attendance;

11 (D) Increase scores on achievement tests;

12 (E) Decrease the percentage of students repeating a  
13 grade; and

14 (F) Decrease the number of students placed in special  
15 education programs;

16 (2) Quality early childhood education programs improve  
17 school performance and low-quality early childhood

18 education programs may have negative effects, especially for  
19 at-risk children;

20 (3) West Virginia has the lowest percentage of its adult  
21 population twenty-five years of age or older with a bachelor's  
22 degree and the education level of parents is a strong indicator  
23 of how their children will perform in school;

24 (4) During the 2006-2007 school year, West Virginia  
25 ranked thirty-ninth among the fifty states in the percentage of  
26 school children eligible for free and reduced lunches and this  
27 percentage is a strong indicator of how the children will  
28 perform in school;

29 (5) For the school year 2008-2009, thirteen thousand one  
30 hundred thirty-five students were enrolled in prekindergarten,  
31 a number equal to approximately sixty-three percent of the  
32 number of students enrolled in kindergarten;

33 (6) Excluding projected increases due to increases in  
34 enrollment in the early childhood education program,  
35 projections indicate that total student enrollment in West  
36 Virginia will decline by one percent, or by approximately two

37 thousand seven hundred four students, by the school year  
38 2012-2013;

39 (7) In part, because of the dynamics of the state aid  
40 formula, county boards will continue to enroll four-year old  
41 students to offset the declining enrollments;

42 (8) West Virginia has a comprehensive kindergarten  
43 program for five-year olds, but the program was established  
44 in a manner that resulted in unequal implementation among  
45 the counties which helped create deficit financial situations  
46 for several county boards;

47 (9) Expansion of current efforts to implement a  
48 comprehensive early childhood education program should  
49 avoid the problems encountered in kindergarten  
50 implementation;

51 (10) Because of the dynamics of the state aid formula,  
52 counties experiencing growth are at a disadvantage in  
53 implementing comprehensive early childhood education  
54 programs; and

55 (11) West Virginia citizens will benefit from the  
56 establishment of quality comprehensive early childhood  
57 education programs.

58 (c) Beginning no later than the school year 2012-2013,  
59 and continuing thereafter, county boards shall provide early  
60 childhood education programs for all children who have  
61 attained the age of four prior to September 1 of the school  
62 year in which the pupil enters the early childhood education  
63 program.

64 (d) The program shall meet the following criteria:

65 (1) It shall be voluntary, except, upon enrollment, the  
66 provisions of section one, article eight of this chapter apply  
67 to an enrolled student; and

68 (2) It may be for fewer than five days per week and may  
69 be less than full day.

70 (e) Enrollment of students in Head Start, in any other  
71 program approved by the state superintendent as provided in  
72 subsection (k) of this section shall be counted toward  
73 satisfying the requirement of subsection (c) of this section.

74 (f) For the purposes of implementation financing, all  
75 counties are encouraged to make use of funds from existing  
76 sources, including:

77 (1) Federal funds provided under the Elementary and  
78 Secondary Education Act pursuant to 20 U.S.C. §6301, *et seq.*;

79 (2) Federal funds provided for Head Start pursuant to 42  
80 U.S.C. §9831, *et seq.*;

81 (3) Federal funds for temporary assistance to needy  
82 families pursuant to 42 U.S.C. §601, *et seq.*;

83 (4) Funds provided by the School Building Authority  
84 pursuant to article nine-d of this chapter;

85 (5) In the case of counties with declining enrollments,  
86 funds from the state aid formula above the amount indicated  
87 for the number of students actually enrolled in any school  
88 year; and

89 (6) Any other public or private funds.

90 (g) Each county board shall develop a plan for  
91 implementing the program required by this section. The plan  
92 shall include the following elements:

93 (1) An analysis of the demographics of the county related  
94 to early childhood education program implementation;

95 (2) An analysis of facility and personnel needs;

96 (3) Financial requirements for implementation and  
97 potential sources of funding to assist implementation;

98 (4) Details of how the county board will cooperate and  
99 collaborate with other early childhood education programs  
100 including, but not limited to, Head Start, to maximize federal  
101 and other sources of revenue;

102 (5) Specific time lines for implementation; and

103 (6) Any other items the state board may require by policy.

104 (h) A county board shall submit its plan to the Secretary  
105 of the Department of Health and Human Resources. The  
106 secretary shall approve the plan if the following conditions  
107 are met:

108 (1) The county board has maximized the use of federal  
109 and other available funds for early childhood programs;

110 (2) The county board has provided for the maximum  
111 implementation of Head Start programs and other public and

112 private programs approved by the state superintendent  
113 pursuant to the terms of ~~subsection (k)~~ of this section; and

114 (3) If the Secretary of the Department of Health and  
115 Human Resources finds that the county board has not met one  
116 or more of the requirements of this subsection, but that the  
117 county board has acted in good faith and the failure to  
118 comply was not the primary fault of the county board, then  
119 the secretary shall approve the plan. Any denial by the  
120 secretary may be appealed to the circuit court of the county  
121 in which the county board is located.

122 (i) The county board shall submit its plan for approval to the  
123 state board. The state board shall approve the plan if the county  
124 board has complied substantially with the requirements of  
125 subsection (g) of this section and has obtained the approval  
126 required in subsection (h) of this section.

127 (j) Every county board shall submit its plan for  
128 reapproval by the Secretary of the Department of Health and  
129 Human Resources and by the state board at least every two  
130 years after the initial approval of the plan and until full

131 implementation of the early childhood education program in  
132 the county. As part of the submission, the county board shall  
133 provide a detailed statement of the progress made in  
134 implementing its plan. The standards and procedures  
135 provided for the original approval of the plan apply to any  
136 reapproval.

137 (k) A county board may not increase the total number of  
138 students enrolled in the county in an early childhood program  
139 until its program is approved by the Secretary of the Department  
140 of Health and Human Resources and the state board.

141 (l) After full implementation of the early childhood  
142 education program in the county, nothing in this section or in  
143 any previous plan approved under this section prohibits a  
144 county board at its sole discretion from accepting additional  
145 students for enrollment in its early childhood education  
146 program subject to space available.

147 (†)(m) The state board annually may grant a county board  
148 a waiver for total or partial implementation if the state board  
149 finds that all of the following conditions exist:

150 (1) The county board is unable to comply either because:

151 (A) It does not have sufficient facilities available; or

152 (B) It does not and has not had available funds sufficient  
153 to implement the program;

154 (2) The county has not experienced a decline in  
155 enrollment at least equal to the total number of students to be  
156 enrolled; and

157 (3) Other agencies of government have not made  
158 sufficient funds or facilities available to assist in  
159 implementation.

160 Any county board seeking a waiver shall apply with the  
161 supporting data to meet the criteria for which they are eligible  
162 on or before March 25 for the following school year. The  
163 state superintendent shall grant or deny the requested waiver  
164 on or before April 15 of that same year.

165 ~~(m)~~ (n) The provisions of subsections (b), (c) and (d),  
166 section eighteen of this article relating to kindergarten apply  
167 to early childhood education programs in the same manner in  
168 which they apply to kindergarten programs.

169       ~~(n)~~ (o) Annually, the state board shall report to the  
170 Legislative Oversight Commission on Education  
171 Accountability on the progress of implementation of this  
172 section.

173       ~~(o)~~ (p) Except as required by federal law or regulation, no  
174 county board may enroll students who will be less than four  
175 years of age prior to September 1 for the year they enter  
176 school.

177       ~~(p)~~ (q) Neither the state board nor the state department may  
178 provide any funds to any county board for the purpose of  
179 implementing this section unless the county board has a plan  
180 approved pursuant to subsections (h), (i) and (j) of this section.

181       ~~(q)~~ (r) The state board shall promulgate a rule in  
182 accordance with the provisions of article three-b, chapter  
183 twenty-nine-a of this code for the purposes of implementing  
184 the provisions of this section. The state board shall consult  
185 with the Secretary of the Department of Health and Human  
186 Resources in the preparation of the rule. The rule shall  
187 contain the following:

- 188 (1) Standards for curriculum;  
189 (2) Standards for preparing students;  
190 (3) Attendance requirements;  
191 (4) Standards for personnel; and  
192 (5) Any other terms necessary to implement the  
193 provisions of this section.

194 ~~(1)~~ (s) The rule shall include the following elements  
195 relating to curriculum standards:

196 (1) A requirement that the curriculum be designed to  
197 address the developmental needs of four-year old children,  
198 consistent with prevailing research on how children learn;

199 (2) A requirement that the curriculum be designed to  
200 achieve long-range goals for the social, emotional, physical  
201 and academic development of young children;

202 (3) A method for including a broad range of content that  
203 is relevant, engaging and meaningful to young children;

204 (4) A requirement that the curriculum incorporate a wide  
205 variety of learning experiences, materials and equipment, and  
206 instructional strategies to respond to differences in prior

207 experience, maturation rates and learning styles that young  
208 children bring to the classroom;

209 (5) A requirement that the curriculum be designed to  
210 build on what children already know in order to consolidate  
211 their learning and foster their acquisition of new concepts and  
212 skills;

213 (6) A requirement that the curriculum meet the  
214 recognized standards of the relevant subject matter  
215 disciplines;

216 (7) A requirement that the curriculum engage children  
217 actively in the learning process and provide them with  
218 opportunities to make meaningful choices;

219 (8) A requirement that the curriculum emphasize the  
220 development of thinking, reasoning, decision making and  
221 problem-solving skills;

222 (9) A set of clear guidelines for communicating with  
223 parents and involving them in decisions about the  
224 instructional needs of their children; and

225 (10) A systematic plan for evaluating program success in  
226 meeting the needs of young children and for helping them to  
227 be ready to succeed in school.

228 ~~(s)~~ (t) The secretary and the state superintendent shall  
229 submit a report to the Legislative Oversight Commission on  
230 Education Accountability and the Joint Committee on  
231 Government and Finance which addresses, at a minimum, the  
232 following issues:

233 (1) A summary of the approved county plans for  
234 providing the early childhood education programs pursuant  
235 to this section;

236 (2) An analysis of the total cost to the state and county  
237 boards of implementing the plans;

238 (3) A separate analysis of the impact of the plans on  
239 counties with increasing enrollment; and

240 (4) An analysis of the effect of the programs on the  
241 maximization of the use of federal funds for early childhood  
242 programs.

243 The intent of this subsection is to enable the Legislature  
244 to proceed in a fiscally responsible manner, make any  
245 necessary program improvements based on reported  
246 information prior to implementation of the early childhood  
247 education programs.

248 (t) (u) After the school year 2012-2013, on or before July  
249 1 of each year, each county board shall report the following  
250 information to the Secretary of the Department of Health and  
251 Human Resources and the state superintendent:

252 (1) Documentation indicating the extent to which ~~county~~  
253 ~~boards are maximizing resources by using the existing~~  
254 ~~capacity of community-based programs~~ of eligible early  
255 childhood programs within the county is being utilized,  
256 including, but not limited to, programs operated by the  
257 county board, Head Start and other community-based child  
258 care providers in the county; and

259 (2) For those county boards that are including eligible  
260 children attending approved, contracted community-based  
261 programs in their net enrollment for the purposes of

262 calculating state aid pursuant to article nine-a of this chapter,  
263 documentation that the county board is equitably distributing  
264 funding for all children regardless of setting.