

1 **H. B. 4612**

2  
3 (By Delegates Campbell, Hartman, Walker,  
4 Eldridge, Feischauer, White, Sponaugle, Young,  
5 Fragale, Perry and Butler)  
6

7 [Introduced February 17, 2014; referred to the  
8 Committee on Education.]  
9

10 A BILL to amend and reenact §18-5-45 of the Code of West Virginia,  
11 1931, as amended, relating to providing that recess periods or  
12 other such time allocated for student physical activity during  
13 the regular class day may not be reduced when a county school  
14 board is attempting to make up lost instructional days because  
15 of snow or other emergency situations.

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

17 That §18-5-45 of the Code of West Virginia, 1931, as amended,  
18 be amended and reenacted to read as follows:

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

20 **§18-5-45. School calendar.**

21 (a) As used in this section:

22 (1) "Instructional day" means a day within the instructional  
23 term which meets the following criteria:

24 (A) Instruction is offered to students for at least the  
25 minimum amount of hours provided by state board rule;

1 (B) Instructional time is used for instruction and  
2 cocurricular activities; and

3 (C) Other criteria as the state board determines appropriate.

4 (2) "Cocurricular activities" are activities that are closely  
5 related to identifiable academic programs or areas of study that  
6 serve to complement academic curricula as further defined by the  
7 state board.

8 (b) *Findings.* -

9 (1) The primary purpose of the school system is to provide  
10 instruction for students.

11 (2) The school calendar, as defined in this section, is  
12 designed to define the school term both for employees and for  
13 instruction.

14 (3) The school calendar shall provide for one hundred eighty  
15 separate instructional days.

16 (c) The county board shall provide a school term for its  
17 schools that contains the following:

18 (1) An employment term that excludes Saturdays and Sundays and  
19 consists of at least two hundred days, which need not be  
20 successive. The beginning and closing dates of the employment term  
21 may not exceed forty-eight weeks;

22 (2) Within the employment term, an instructional term for  
23 students of no less than one hundred eighty separate instructional  
24 days, which includes an inclement weather and emergencies plan

1 designed to guarantee an instructional term for students of no less  
2 than one hundred eighty separate instructional days;

3 (3) Within the employment term, noninstructional days shall  
4 total twenty and shall be comprised of the following:

5 (A) Seven paid holidays;

6 (B) Election day as specified in section two, article five,  
7 chapter eighteen-a of this code;

8 (C) Six days to be designated by the county board to be used  
9 by the employees outside the school environment, with at least four  
10 outside the school environment days scheduled to occur after the  
11 one hundred and thirtieth instructional day of the school calendar;  
12 and

13 (D) The remaining days to be designated by the county board  
14 for purposes to include, but not be limited to:

15 (i) Curriculum development;

16 (ii) Preparation for opening and closing school;

17 (iii) Professional development;

18 (iv) Teacher-pupil-parent conferences;

19 (v) Professional meetings;

20 (vi) Making up days when instruction was scheduled but not  
21 conducted; and

22 (vii) At least four two-hour blocks of time for faculty senate  
23 meetings with each two-hour block of time scheduled once at least  
24 every forty-five instructional days; and

1 (4) Scheduled out-of-calendar days that are to be used for  
2 instructional days in the event school is canceled for any reason.

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

7 (e) If it is not possible to complete one hundred eighty  
8 separate instructional days with the current school calendar, the  
9 county board shall schedule instruction on any available  
10 noninstructional day, regardless of the purpose for which the day  
11 originally was scheduled, or an out-of-calendar day and the day  
12 will be used for instruction of students: *Provided*, That the  
13 provisions of this subsection do not apply to:

14 (A) Holidays;

15 (B) Election day;

16 (C) Saturdays and Sundays.

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

19 (g) The state board may not schedule the primary statewide  
20 assessment program more than thirty days prior to the end of the  
21 instructional year unless the state board determines that the  
22 nature of the test mandates an earlier testing date.

23 (h) The following applies to cocurricular activities:

24 (1) The state board shall determine what activities may be

1 considered cocurricular;

2       (2) The state board shall determine the amount of  
3 instructional time that may be consumed by cocurricular activities;  
4 and

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

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

9       (j) Noninstructional interruptions to the instructional day  
10 shall be minimized to allow the classroom teacher to teach:  
11 Provided, That recess periods or other such time allocated for  
12 student physical activity during the regular class day may not be  
13 reduced when a school board is attempting to make up lost  
14 instructional days.

15       (k) Prior to implementing the school calendar, the county  
16 board shall secure approval of its proposed calendar from the state  
17 board or, if so designated by the state board, from the state  
18 superintendent.

19       (l) In formulation of a school's calendar, a county school  
20 board shall hold at least two public meetings that allow parents,  
21 teachers, teacher organizations, businesses and other interested  
22 parties within the county to discuss the school calendar. The  
23 public notice of the date, time and place of the public hearing  
24 must be published in a local newspaper of general circulation in

1 the area as a Class II legal advertisement, in accordance with the  
2 provisions of article three, chapter fifty-nine of this code.

3 (m) The county board may contract with all or part of the  
4 personnel for a longer term of employment.

5 (n) The minimum instructional term may be decreased by order  
6 of the state superintendent in any county declared a federal  
7 disaster area and where the event causing the declaration is  
8 substantially related to a reduction of instructional days.

9 (o) Notwithstanding any provision of this code to the  
10 contrary, the state board may grant a waiver to a county board for  
11 its noncompliance with provisions of chapter eighteen, eighteen-a,  
12 eighteen-b and eighteen-c of this code to maintain compliance in  
13 reaching the mandatory one hundred eighty separate instructional  
14 days established in this section.

15 (p) The state board shall promulgate a rule in accordance with  
16 the provisions of article three-b, chapter twenty-nine-a of this  
17 code for the purpose of implementing the provisions of this  
18 section.

19 (q) The amendments to this section during the 2013 regular  
20 session of the Legislature shall be effective for school years  
21 beginning on or after July 1, 2014, and the provisions of this  
22 section existing immediately prior to the 2013 regular session of  
23 the Legislature remain in effect for school years beginning prior  
24 to July 1, 2014.

NOTE: The purpose of this bill is to provide that recess periods or other such time allocated for student physical activity during the regular class day may not be reduced when a county school board is attempting to make up lost instructional days because of snow or other emergency situations.

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