

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 477**

(By Senators Tucker, Beach, Cann, Edgell, Fitzsimmons, Green,  
D. Hall, Miller, Palumbo, Plymale, Snyder, Williams, Kessler  
(Mr. President), Yost, Wells, Nohe, Cookman and Stollings)

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[Originating in the Committee on Education;  
reported February 18, 2014.]

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A BILL to amend and reenact §18A-4-14 of the Code of West Virginia, 1931, as amended, relating to daily planning periods for certain school employees; providing that teachers determine the use of time of a planning period; prohibiting administrators from compelling a teacher to attend any work-related event during a planning period except for occasional specified instances; defining “meeting”; and setting forth when a planning period begins.

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

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

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

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

1 (a) Notwithstanding the provisions of section seven,  
2 article two of this chapter, every teacher who is employed for  
3 a period of time more than one half the class periods of the  
4 regular school day and every service person whose  
5 employment is for a period of more than three and one-half  
6 hours per day and whose pay is at least the amount indicated  
7 in the state minimum pay scale as set forth in section eight-a  
8 of this article shall be provided a daily lunch recess of not  
9 less than thirty consecutive minutes, and the employee shall  
10 not be assigned any responsibilities during this recess. The  
11 recess shall be included in the number of hours worked, and  
12 no county shall increase the number of hours to be worked by  
13 an employee as a result of the employee being granted a  
14 recess under the provisions of this section.

15 (b) Every teacher who is regularly employed for a period  
16 of time more than one half the class periods of the regular  
17 school day shall be provided at least one planning period  
18 within each school instructional day to be used to complete  
19 necessary preparations for the instruction of pupils. No  
20 teacher may be assigned any responsibilities during this  
21 period, and no county shall increase the number of hours to  
22 be worked by a teacher as a result of such teacher being  
23 granted a planning period subsequent to the adoption of this  
24 section (March 13, 1982). The use of the entire period of  
25 time allotted for a planning period is determined by the  
26 teacher. Administrators may not compel a teacher to attend  
27 meetings, training or any other work-related event during a  
28 planning period except for occasional instances of  
29 conferences with teachers, including team meetings and  
30 evaluation conferences. "Meeting" for the purpose of this  
31 section includes, but is not limited to, IEP meetings, 504 Plan  
32 meetings and parent-teacher conferences. A planning period

33 begins once students are physically delivered to another  
34 teacher or dismissed from a class.

35 The duration of the planning period shall be in  
36 accordance with the following:

37 (1) For grades where the majority of the student  
38 instruction is delivered by only one teacher, the planning  
39 period shall be no less than forty minutes; and

40 (2) For grades where students take separate courses  
41 during at least four separate periods of instruction, most  
42 usually delivered by different teachers for each subject, the  
43 planning period shall be the length of the usual class period  
44 taught by the teacher, but no less than forty minutes.

45 Principals, and assistant principals, where applicable, shall  
46 cooperate in carrying out the provisions of this subsection,  
47 including, but not limited to, assuming control of the class  
48 period or supervision of students during the time the teacher  
49 is engaged in the planning period. Substitute teachers may  
50 also be utilized to assist with classroom responsibilities under  
51 this subsection: *Provided*, That any substitute teacher who is

52 employed to teach a minimum of two consecutive days in the  
53 same position shall be granted a planning period pursuant to  
54 this section.

55 (c) Nothing in this section prevents any teacher from  
56 exchanging his or her lunch recess or a planning period or  
57 any service person from exchanging his or her lunch recess  
58 for any compensation or benefit mutually agreed upon by the  
59 employee and the county superintendent or his or her agent:  
60 *Provided*, That a teacher and the superintendent or his or her  
61 agent may not agree to terms which are different from those  
62 available to any other teacher granted rights under this  
63 section within the individual school or to terms which in any  
64 way discriminate among those teachers within the individual  
65 school, and a service person granted rights under this section  
66 and the superintendent or his or her agent may not agree to  
67 terms which are different from those available to any other  
68 service personnel within the same classification category  
69 granted rights under this section within the individual school  
70 or to terms which in any way discriminate among those

71 service personnel within the same classification category  
72 within the individual school.

73 ~~(d) The state board shall conduct a study on planning~~  
74 ~~periods. The study shall include, but not be limited to, the~~  
75 ~~appropriate length for planning periods at the various grade~~  
76 ~~levels and for the different types of class schedules. The~~  
77 ~~board shall report its findings and recommendations to the~~  
78 ~~Legislative Oversight Commission on Education~~  
79 ~~Accountability no later than December 31, 2013.~~