

1 COMMITTEE SUBSTITUTE

2 FOR

3 H. B. 2377

4 (By Delegates Pasdon, Statler, Duke, Wagner, Romine, Ambler
5 Espinosa and Campbell)

6
7 (Originating in the Committee on the Judiciary.)

8 (February 2, 2015)

9
10 A BILL to amend and reenact §18-2-5 of the Code of West Virginia, 1931, as amended, relating to
11 authorizing State Board of Education to approve certain alternatives with respect to
12 instructional time proposed by a county board or school that meet the spirit and intent of
13 affected statutes and are intended to optimize student learning; removing outdated and
14 conflicting provisions related to school entrance and kindergarten; stating the purpose of
15 subsection and providing context; providing limitations on alternatives; and making findings
16 on learning time for consideration by state board.

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

18 That §18-2-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted
19 to read as follows:

20 **ARTICLE 2. STATE BOARD OF EDUCATION.**

21 **§18-2-5. Powers and duties generally; specific powers and duties for alternatives that improve**
22 **student learning. public school entrance age; "public schools" not to include**
23 **kindergartens.**

1 (a) Subject to and in conformity with the Constitution and laws of this state, the State Board
2 of Education shall exercise general supervision of the public schools of the state, and shall ~~make~~
3 promulgate rules in accordance with the provisions of article three-b, chapter twenty-nine-a of this
4 code for carrying into effect the laws and policies of the state relating to education. ~~including~~ The
5 rules ~~relating to~~ shall relate to the following:

6 (1) Standards for performance and measures of accountability; ~~the~~

7 (2) Physical welfare of ~~pupils, the~~ students;

8 (3) Education of all children of school age;

9 (4) School attendance;

10 (5) Evening and continuation or part-time day schools;

11 (6) School extension work; ~~the~~

12 (7) Classification of schools; ~~the~~

13 (8) Issuing ~~of~~ certificates based upon credentials; ~~the~~

14 (9) Distribution and care of ~~free textbooks by the~~ instructional resources by county boards;
15 ~~of education, the~~

16 (10) General powers and duties of county boards, ~~of education, and of~~ teachers, principals,
17 supervisors and superintendents; and

18 (11) Such other matters pertaining to the public schools of the state as ~~may seem to~~ the state
19 board ~~to be~~ considers necessary and expedient.

20 ~~Notwithstanding any other provision of law which may be to the contrary, and~~
21 ~~notwithstanding the rule-making powers given to the state Board of Education by this section, a child~~
22 ~~shall not be permitted to enter the public schools of this state in any school year, beginning with the~~

1 ~~school year 1983-1984, unless such child be six years of age prior to September 1, of such school~~
2 ~~year or is attending public school in accordance with article twenty of this chapter. Provided, That~~
3 ~~children who have successfully completed a kindergarten program in the school year 1982-1983,~~
4 ~~may enter the public schools notwithstanding the provisions of this section. The term "public~~
5 ~~schools" as used in the preceding sentence shall not be deemed to include public kindergartens, but~~
6 ~~nothing herein shall prevent a county board from permitting a child enrolled in kindergarten from~~
7 ~~entering public schools for attendance in particular curriculum areas.~~

8 The state board shall develop a three-year plan to provide for the transition to developmental
9 programming and instruction to be provided to the students in kindergarten through fourth grade and
10 further shall, include the method of information dissemination in order to provide for parental
11 preparation, and further shall, in conjunction with the professional development center, develop an
12 ongoing program for training of principals and classroom teachers in methods of instruction to
13 implement the developmental program. The existing developmental programs throughout the state
14 shall be involved in this process and shall be provided an opportunity to assist in pilot programs to
15 begin no later than September 1, 1991. The plan shall be fully implemented by September 1, 1993.

16 (b) The state board, in exercising its constitutional responsibility for the general supervision
17 of public schools, must do so as provided by general law. Included within the general law is the
18 process for improving education which has been recognized by the court as the method chosen by
19 the Legislature to measure whether a thorough and efficient education is being provided. The court
20 further recognized that the resulting student learning is the ultimate measure of a thorough education
21 and that it must be achieved in an efficient manner. To achieve this result, the state board must have
22 reasonable discretion to balance the local autonomy and flexibility needed by schools to deliver a

1 thorough and efficient education with the letter of the laws as enacted for school operations.

2 (c) The purpose of this subsection is to authorize the state board to approve alternatives to
3 the letter of the laws enacted for school operations in the areas enumerated in this subsection. The
4 state board may approve such alternatives as proposed by a county board or school if, in the sole
5 judgment of the state board, the alternatives meet the spirit and intent of the applicable statutes and
6 are intended solely to optimize student learning.

7 (1) The Legislature finds that alternatives are warranted and may be approved by the state
8 board on a case-by-case basis when a county board submits to the state board a comprehensive plan
9 for optimizing student learning that:

10 (A) Achieves the spirit and intent of the laws for an instructional term that provide the
11 instructional time necessary for students to meet or exceed the high quality standards for student
12 performance adopted by the state board;

13 (B) Ensures sufficient time within the instructional term to promote the improvement of
14 instruction and instructional practices;

15 (C) Incorporates a school calendar approved in accordance with the approval process required
16 by section forty-five, article five of this chapter;

17 (D) Allows for school-level determination of alternatives affecting time within the school day
18 that preserve the spirit and intent of providing teachers with: (i) Sufficient planning time to develop
19 engaging, differentiated instruction for all students in all classes, which includes at least forty
20 minutes in length for the elementary level and as required by section fourteen, article four, chapter
21 eighteen-a of this code for the secondary level; and (ii) Collaborative time for teachers to undertake
22 and sustain instructional improvement. This determination may be made only in the form of a school

1 policy that is part of the school's strategic improvement plan and is approved by a vote of the faculty
2 senate; and

3 (E) Has the sole purpose of improving student learning and that improvement is evident
4 within a reasonable period.

5 (2) The Legislature makes the following findings for consideration by the state board with
6 respect to optimizing student learning:

7 (A) Maximizing learning time is a critical factor needed to improve student learning and
8 requires multiple strategies and policies that support great teaching and learning;

9 (B) Learning time is that portion of instructional time in the school day during which a
10 student is paying attention and receiving instruction that is appropriately leveled, and learning is
11 taking place. Learning time must not be assumed to be the time that a student is seated at a desk, but
12 may be achieved through a variety of methods that actively engage students in learning;

13 (C) A student's time engaged in learning is maximized when the student is allowed to
14 progress and acquire competency at a pace which challenges his or her interest and intellect while
15 receiving guidance and assistance when needed. Instructional strategies to help personalize student
16 learning in this manner are frequently assisted by technology;

17 (D) Providing teachers with the resources and support needed to engage students in
18 meaningful, appropriately leveled learning for as much time as is possible during the school day may
19 be as important as facilities, equipment and staff development for maximizing learning time and
20 improving student learning;

21 (E) Successful schools are distinguishable from unsuccessful schools by the frequency and
22 extent to which teachers discuss professional practices, collectively design materials and inform and

1 critique one another;

2 (F) Even successful schools must be self-renewing systems and learning organizations
3 marked by deliberate effort to identify helpful knowledge and spread its use within the organization;

4 (G) Unless teachers are collectively involved in planning and implementing school
5 improvement, it is unlikely to be sustained; and

6 (H) Given sufficient control over their own programs and supportive district leadership and
7 policies, schools themselves may best be suited to determine the variety of methods through which
8 time during the school day is allocated for teachers to plan individually and collectively to maximize
9 learning time. Examples of methods used by successful schools include, but are not limited to,
10 scheduling, using special subject teachers and guest presenters, dedicating time set aside for staff
11 development, implementing alternative staff utilization patterns, providing opportunities for
12 administrators to teach, and utilizing accrued instructional time.