

# WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENGROSSED

Committee Substitute

for

FISCAL  
NOTE

**House Bill 4171**

BY Delegates COOPER, D. EVANS, AMBLER,  
PERRY, MOYE, LYNCH, KELLY, WAGNER,  
ROWAN AND SMITH

[Originating in the Committee on Education]

February 15, 2016

1 A BILL to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating  
2 to providing that school instructional terms for students begin no earlier than August 15  
3 and end no later than June 15 except for schools operating on a balanced calendar;  
4 removing requirement that school instructional terms for students begin the day after  
5 Labor Day and end no later than the second Friday in June; designating one  
6 noninstructional day for teachers as a preparation day; allowing teacher preparation day  
7 to be used for any other purpose only at teacher's discretion; increasing faculty senate  
8 time; designating time frames within which faculty senate meetings may take place;  
9 removing authority to plan ten technology days in school calendar for lost instructional  
10 days; removing the word "separate" throughout the section; requiring county boards to first  
11 use accrued minutes for early dismissals and late arrivals, and requiring that any  
12 reimagining student instructional days be exhausted prior to using accrued minutes for  
13 lost instructional days; limiting use of accrued minutes for lost instructional days to eight  
14 days.

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

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

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

**§18-5-45. School calendar.**

17 (a) As used in this section:

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

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

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

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

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

27 (b) Findings. -

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

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

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

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

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

36 (2) Within the employment term, an instructional term for students of no less than one  
37 hundred eighty ~~separate~~ instructional days, which includes an inclement weather and  
38 emergencies plan designed to guarantee an instructional term for students of no less than one  
39 hundred eighty ~~separate~~ instructional days;

40 (3) The instructional term for students shall begin no earlier than August 10<sup>th</sup> and end no  
41 later than June 10<sup>th</sup> of each calendar school year. *Provided*, That nothing in this subdivision shall  
42 apply to any school operating on a balanced calendar as defined by state board policy.

43 ~~(3)~~(4) Within the employment term, noninstructional days shall total twenty and shall be  
44 comprised of the following:

45 (A) Seven paid holidays;

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

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

50           (D) One to be designated by the county board to be used by the employees for preparation  
51 for opening and closing school: *Provided*, That the school preparation day at the beginning of the  
52 instructional term may be used for the purposes set forth in paragraph e, at the teacher's  
53 discretion.

54           (E) The remaining days to be designated by the county board for purposes to include, but  
55 not be limited to:

56           (i) Curriculum development;

57           (ii) ~~Preparation for opening and closing school;~~

58           ~~(iii)~~(ii) Professional development;

59           ~~(iv)~~(iii) Teacher-pupil-parent conferences;

60           ~~(v)~~(iv) Professional meetings;

61           ~~(vi)~~(v) Making up days when instruction was scheduled but not conducted; and

62           ~~(vii)~~(vi) At least ~~four~~ six two-hour blocks of time for faculty senate meetings with ~~each~~ a  
63 two-hour block of time scheduled in the first month and last month of school and ~~once at least~~  
64 ~~every forty-five instructional days~~ once in October, December, February, and April; and

65           ~~(4)~~(5) Scheduled out-of-calendar days that are to be used for instructional days in the  
66 event school is canceled for any reason.

67           (d) A county board of education shall develop a policy that requires additional minutes of  
68 instruction in the school day or additional days of instruction to recover time lost due to late arrivals  
69 and early dismissals first. Any remaining minutes accrued may be used for instructional minutes  
70 or days lost, due to inclement weather or emergencies: *Provided*, That any reimagining student  
71 instructional days that are awarded to the county by the state board must be exhausted prior to  
72 using accrued minutes to cover lost instructional days.

73           (e) If it is not possible to complete one hundred eighty ~~separate~~ instructional days with the  
74 current school calendar, the county board shall schedule instruction on any available  
75 noninstructional day, regardless of the purpose for which the day originally was scheduled, or an

76 out-of-calendar day and the day will be used for instruction of students: Provided, That the  
77 provisions of this subsection do not apply to:

78 (A) Holidays;

79 (B) Election day;

80 (C) Saturdays and Sundays.

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

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

86 (h) The following applies to cocurricular activities:

87 (1) The state board shall determine what activities may be considered cocurricular;

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

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

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

93 (j) Noninstructional interruptions to the instructional day shall be minimized to allow the  
94 classroom teacher to teach.

95 (k) Prior to implementing the school calendar, the county board shall secure approval of  
96 its proposed calendar from the state board or, if so designated by the state board, from the state  
97 superintendent.

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

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

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

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

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

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

116 (q) The amendments to this section during the 2013 regular session of the Legislature  
117 shall be effective for school years beginning on or after July 1, 2014, and the provisions of this  
118 section existing immediately prior to the 2013 regular session of the Legislature remain in effect  
119 for school years beginning prior to July 1, 2014.

NOTE: The purpose of this bill is to provide that school instructional terms for students begin no earlier than the day after Labor Day and end no later than the second Friday in June. The bill provides that in the event instructional days need to be cancelled the county boards of education must provide for ten technology days whereby assigned classwork may be completed. The bill also provides for homework packets be provided to students who do not have the necessary computer access at home.

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