

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**Engrossed**

**Committee Substitute**

**for**

**Senate Bill 313**

BY SENATORS BOSO, MILLER, ROMANO, MULLINS,

FACEMIRE AND TAKUBO

[Originating in the Committee on Education;

reported on February 12, 2016.]



1 A BILL to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating  
2 to school calendar; allowing limited use of available accrued instructional time when not  
3 possible to complete one hundred eighty separate instructional days in certain instances;  
4 requiring emergency rule if necessary; and removing obsolete effective date provision.

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

1 That §18-5-45 of the Code of West Virginia, 1931, as amended, be amended and re-  
2 enacted to read as follows:

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

**§18-5-45. School calendar.**

1 (a) As used in this section:

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

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

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

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

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

11 (3) "Accrued instructional time" means instructional time accruing during the instructional  
12 term from time added to the instructional day beyond time required by state board rule for an  
13 instructional day.

14 (b) *Findings.* –

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

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

18 (3) The initial school calendar shall provide for one hundred eighty separate instructional  
19 days.

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

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

24 (2) Within the employment term, an instructional term for students of no less than one  
25 hundred eighty separate instructional days, ~~which includes~~ and an inclement weather and  
26 emergencies plan designed to guarantee an instructional term for students of no less than the  
27 equivalent of one hundred eighty ~~separate~~ instructional days some of which may be attained  
28 through the use of accrued instructional time pursuant to subdivision (2), subsection (e) of this  
29 section;

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

32 (A) Seven paid holidays;

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

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

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

39 (i) Curriculum development;

40 (ii) Preparation for opening and closing school;

41 (iii) Professional development;

42 (iv) Teacher-pupil-parent conferences;

43 (v) Professional meetings;

44 (vi) Making up days when instruction was scheduled but not conducted; and  
45 (vii) At least four two-hour blocks of time for faculty senate meetings with each two-hour  
46 block of time scheduled once at least every forty-five instructional days; and

47 (4) Scheduled out-of-calendar days ~~that are to~~ which may be used for instructional days  
48 in the event school is canceled for any reason.

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

52 (e) If it is not possible to complete one hundred eighty separate instructional days with the  
53 current school calendar, the county board:

54 (1) Shall schedule instruction on any available noninstructional day, regardless of the  
55 purpose for which the day originally was scheduled, or an out-of-calendar day ~~and~~ with the day  
56 ~~will to~~ be used for instruction of students. *Provided*, That the provisions of this ~~subsection~~  
57 subdivision do not apply to:

58 (A) Holidays;

59 (B) Election day;

60 (C) Saturdays and Sundays; or

61 (2) May count unused accrued instructional time toward the one hundred eighty  
62 instructional day requirement: *Provided*, That the instructional days recovered through the use of  
63 available accrued instructional time need not be separate instructional days.

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

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

69 (h) The following applies to cocurricular activities:

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

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

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

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

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

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

81 (l) In formulation of a school's calendar, a county school board shall hold at least two public  
82 meetings that allow parents, teachers, teacher organizations, businesses and other interested  
83 parties within the county to discuss the school calendar. The public notice of the date, time and  
84 place of the public hearing must be published in a local newspaper of general circulation in the  
85 area as a Class II legal advertisement, in accordance with the provisions of article three, chapter  
86 fifty-nine of this code.

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

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

92 (o) Notwithstanding any provision of this code to the contrary, the state board may grant  
93 a waiver to a county board for its noncompliance with provisions of chapters eighteen, eighteen-  
94 a, eighteen-b and eighteen-c of this code to ~~maintain compliance in reaching the mandatory~~ assist  
95 the county in attaining the one hundred eighty separate instructional days established in this  
96 section.

97           (p) The state board shall promulgate a rule, including an emergency rule if necessary, in  
98 accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the  
99 purpose of implementing the provisions of this section.

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