

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 2451**

**2015 Carryover**

(BY DELEGATES CAMPBELL, PERRY, BUTLER, AMBLER,  
RODIGHERO, REYNOLDS, ELDRIDGE, HOUSEHOLDER,  
MARCUM, ASHLEY AND ELLINGTON)

[Introduced January 13, 2016; referred to the  
Committee on Education.]

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

*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  
 2 reenacted 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 (b) *Findings.* –

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

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

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

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

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

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

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

26 (A) Seven paid holidays;

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

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

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

33 (i) Curriculum development;

34 (ii) Preparation for opening and closing school;

35 (iii) Professional development;

36 (iv) Teacher-pupil-parent conferences;

37 (v) Professional meetings;

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

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

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

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

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

51 (A) Holidays;

52 (B) Election day;

53 (C) Saturdays and Sundays.

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

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

59 (h) The following applies to cocurricular activities:

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

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

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

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

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

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

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

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

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

84 (o) Notwithstanding any provision of this code to the contrary, the state board may grant  
85 a waiver to a county board for its noncompliance with provisions of chapter eighteen, eighteen-a,  
86 eighteen-b and eighteen-c of this code to maintain compliance in reaching the mandatory one

87 hundred eighty separate instructional days established in this section.

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

91 (q) The amendments to this section during the 2013 regular session of the Legislature  
92 shall be effective for school years beginning on or after July 1, 2014, and the provisions of this  
93 section existing immediately prior to the 2013 regular session of the Legislature remain in effect  
94 for school years beginning prior to July 1, 2014. The amendments to this section during the 2015  
95 regular session of the Legislature shall be effective for school years beginning on or after July 1,  
96 2015.

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.