

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

Senate Bill 146

BY SENATORS PLYMALE AND UNGER

[Originating in the Committee on Education; reported
on January 25, 2016]

1 A BILL to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating
2 to replacing days per week requirement for early childhood education programs with
3 instructional minutes per week and instructional minutes per year requirements.

Be it enacted by the Legislature of West Virginia:

1 That §18-5-44 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-44. Early childhood education programs.

1 (a) For the purposes of this section, an “early childhood education program” means
2 ~~programs~~ a program created under this section for children who have attained the age of four
3 prior to September 1 of the school year in which ~~the pupil enters~~ the children enter the program.
4 ~~created in this section~~

5 (b) *Findings.* –

6 (1) Among other positive outcomes, early childhood education programs have been
7 determined to:

8 (A) Improve overall readiness when children enter school;

9 (B) Decrease behavioral problems;

10 (C) Improve student attendance;

11 (D) Increase scores on achievement tests;

12 (E) Decrease the percentage of students repeating a grade; and

13 (F) Decrease the number of students placed in special education programs;

14 (2) Quality early childhood education programs improve school performance and low-
15 quality early childhood education programs may have negative effects, especially for at-risk
16 children;

17 (3) West Virginia has the lowest percentage of its adult population twenty-five years of age
18 or older with a bachelor’s degree and the education level of parents is a strong indicator of how
19 their children will perform in school;

20 (4) During the 2006-2007 school year, West Virginia ranked thirty-ninth among the fifty
21 states in the percentage of school children eligible for free and reduced lunches and this
22 percentage is a strong indicator of how the children will perform in school;

23 (5) For the school year 2008-2009, 13,135 students were enrolled in prekindergarten, a
24 number equal to approximately sixty-three percent of the number of students enrolled in
25 kindergarten;

26 (6) Excluding projected increases due to increases in enrollment in the early childhood
27 education program, projections indicate that total student enrollment in West Virginia will decline
28 by one percent, or by approximately 2,704 students, by the school year 2012-2013;

29 (7) In part, because of the dynamics of the state aid formula, county boards will continue
30 to enroll four-year-old students to offset the declining enrollments;

31 (8) West Virginia has a comprehensive kindergarten program for five-year-olds, but the
32 program was established in a manner that resulted in unequal implementation among the
33 counties, which helped create deficit financial situations for several county boards;

34 (9) Expansion of current efforts to implement a comprehensive early childhood education
35 program should avoid the problems encountered in kindergarten implementation;

36 (10) Because of the dynamics of the state aid formula, counties experiencing growth are
37 at a disadvantage in implementing comprehensive early childhood education programs; and

38 (11) West Virginia citizens will benefit from the establishment of quality comprehensive
39 early childhood education programs.

40 (c) Beginning no later than the school year 2012-2013, and continuing thereafter, county
41 boards shall provide early childhood education programs for all children who have attained the
42 age of four prior to September 1 of the school year in which the ~~pupil enters~~ children enter
43 early childhood education program. Beginning no later than the school year 2016-2017, and
44 continuing thereafter, these early childhood education programs ~~that are full day and five days~~
45 ~~per week shall be available to all children meeting the age requirement set forth in the subsection~~

46 shall provide at least forty-eight thousand minutes annually and no less than fifteen hundred
47 minutes of instruction per week.

48 (d) The program shall meet the following criteria:

49 (1) It shall be voluntary, except that, upon enrollment, the provisions of section ~~one~~ one-
50 a, article eight of this chapter apply to an enrolled student, subject to subdivision ~~(3)~~ (4) of this
51 subsection;

52 (2) It shall be open to all children meeting the age requirement set forth in this section;
53 ~~shall have the opportunity to enroll in a program that is full day and five~~

54 (3) It shall provide no less days than fifteen hundred minutes of instruction per week, in a
55 full day program with at least forty-eight thousand minutes of instruction annually; ~~The program~~
56 ~~may be for fewer than five days per week and may be less than full day based on family need if~~
57 ~~a sufficient number of families request such programs and the county board finds that such~~
58 ~~programs are in the best interest of the requesting families and students: *Provided*, That the ability~~
59 ~~of families to request programs that are fewer than five days a week or less than a full day does~~
60 ~~not relieve the county of the obligation to provide all resident children with the opportunity to enroll~~
61 ~~in a full day program and~~

62 ~~(3)~~ (4) It shall permit a parent of a an enrolled child enrolled in an early education program
63 may to withdraw a the child from that program for good cause by notifying the district. Good
64 cause includes, but is not limited to, enrollment of the child in another program or the immaturity
65 of the child. A child withdrawn under this section is not subject to the attendance provisions of
66 this chapter until that child again enrolls in a public school in this state.

67 (e) Enrollment of students in Head Start, or in any other program approved by the state
68 superintendent as provided in ~~subsection (k)~~ of this section, may be counted toward satisfying the
69 requirement of subsection (c) of this section.

70 (f) For the purposes of implementation financing, all counties are encouraged to make use
71 of funds from existing sources, including:

72 (1) Federal funds provided under the Elementary and Secondary Education Act pursuant
73 to 20 U. S. C. §6301, *et seq.*;

74 (2) Federal funds provided for Head Start pursuant to 42 U. S. C. §9831, *et seq.*;

75 (3) Federal funds for temporary assistance to needy families pursuant to 42 U. S. C. §601,
76 *et seq.*;

77 (4) Funds provided by the School Building Authority pursuant to article nine-d of this
78 chapter;

79 (5) In the case of counties with declining enrollments, funds from the state aid formula
80 above the amount indicated for the number of students actually enrolled in any school year; and

81 (6) Any other public or private funds.

82 (g) Each county board shall develop a plan for implementing the program required by this
83 section. The plan shall include the following elements:

84 (1) An analysis of the demographics of the county related to early childhood education
85 program implementation;

86 (2) An analysis of facility and personnel needs;

87 (3) Financial requirements for implementation and potential sources of funding to assist
88 implementation;

89 (4) Details of how the county board will cooperate and collaborate with other early
90 childhood education programs including, but not limited to, Head Start, to maximize federal and
91 other sources of revenue;

92 (5) Specific time lines for implementation; and

93 (6) Any other items the state board may require by policy.

94 (h) A county board shall submit its plan to the Secretary of the Department of Health and
95 Human Resources. The secretary shall approve the plan if the following conditions are met:

96 (1) The county board has maximized the use of federal and other available funds for early
97 childhood programs; and

98 (2) The county board has provided for the maximum implementation of Head Start
99 programs and other public and private programs approved by the state superintendent pursuant
100 to the terms of ~~subsection (k)~~ of this section; ~~and~~ or

101 (3) ~~If the~~ The ~~Secretary of the Department of Health and Human Resources~~ secretary
102 finds that, if the county board has not met one or more of the requirements of this subsection, ~~but~~
103 ~~that~~ the county board has acted in good faith and the failure to comply was not the primary fault
104 of the county board. ~~then the secretary shall approve the plan.~~ Any denial by the secretary may
105 be appealed to the circuit court of the county in which the county board is located.

106 (i) The county board shall submit its plan for approval to the state board. The state board
107 shall approve the plan if the county board has complied substantially with the requirements of
108 subsection (g) of this section and has obtained the approval required in subsection (h) of this
109 section.

110 (j) Every county board shall submit its plan for reapproval by the Secretary of the
111 Department of Health and Human Resources and by the state board at least every two years after
112 the initial approval of the plan and until full implementation of the early childhood education
113 program in the county. As part of the submission, the county board shall provide a detailed
114 statement of the progress made in implementing its plan. The standards and procedures provided
115 for the original approval of the plan apply to any reapproval.

116 (k) A county board may not increase the total number of students enrolled in the county in
117 an early childhood program until its program is approved by the Secretary of the Department of
118 Health and Human Resources and the state board.

119 (l) The state board annually may grant a county board a waiver for total or partial
120 implementation if the state board finds that all of the following conditions exist:

121 (1) The county board is unable to comply either because:

122 (A) It does not have sufficient facilities available; or

123 (B) It does not and has not had available funds sufficient to implement the program;

124 (2) The county has not experienced a decline in enrollment at least equal to the total
125 number of students to be enrolled; and

126 (3) Other agencies of government have not made sufficient funds or facilities available to
127 assist in implementation.

128 Any county board seeking a waiver shall apply with the supporting data to meet the criteria
129 for which they are eligible on or before March 25 for the following school year. The state
130 superintendent shall grant or deny the requested waiver on or before April 15 of that same year.

131 (m) The provisions of subsections (b), (c) and (d), section eighteen of this article relating
132 to kindergarten apply to early childhood education programs in the same manner in which they
133 apply to kindergarten programs.

134 (n) Annually, the state board shall report to the Legislative Oversight Commission on
135 Education Accountability on the progress of implementation of this section.

136 (o) Except as required by federal law or regulation, no county board may enroll students
137 who will be less than four years of age prior to September 1 for the year they enter school.

138 (p) Neither the state board nor the state department may provide any funds to any county
139 board for the purpose of implementing this section unless the county board has a plan approved
140 pursuant to subsections (h), (i) and (j) of this section.

141 (q) The state board shall promulgate a rule in accordance with the provisions of article
142 three-b, chapter twenty-nine-a of this code for the purposes of implementing the provisions of this
143 section. The state board shall consult with the Secretary of the Department of Health and Human
144 Resources in the preparation of the rule. The rule shall contain the following:

145 (1) Standards for curriculum;

146 (2) Standards for preparing students;

147 (3) Attendance requirements;

148 (4) Standards for personnel; and

149 (5) Any other terms necessary to implement the provisions of this section.

150 (r) The rule shall include the following elements relating to curriculum standards:

151 (1) A requirement that the curriculum be designed to address the developmental needs of
152 four-year-old children consistent with prevailing research on how children learn;

153 (2) A requirement that the curriculum be designed to achieve long-range goals for the
154 social, emotional, physical and academic development of young children;

155 (3) A method for including a broad range of content that is relevant, engaging and
156 meaningful to young children;

157 (4) A requirement that the curriculum incorporate a wide variety of learning experiences,
158 materials and equipment, and instructional strategies to respond to differences in prior
159 experience, maturation rates and learning styles that young children bring to the classroom;

160 (5) A requirement that the curriculum be designed to build on what children already know
161 in order to consolidate their learning and foster their acquisition of new concepts and skills;

162 (6) A requirement that the curriculum meet the recognized standards of the relevant
163 subject matter disciplines;

164 (7) A requirement that the curriculum engage children actively in the learning process and
165 provide them with opportunities to make meaningful choices;

166 (8) A requirement that the curriculum emphasize the development of thinking, reasoning,
167 decision-making and problem-solving skills;

168 (9) A set of clear guidelines for communicating with parents and involving them in
169 decisions about the instructional needs of their children; and

170 (10) A systematic plan for evaluating program success in meeting the needs of young
171 children and for helping them to be ready to succeed in school.

172 (s) The secretary and the state superintendent shall submit a report to the Legislative
173 Oversight Commission on Education Accountability and the Joint Committee on Government and
174 Finance which addresses, at a minimum, the following issues:

175 (1) A summary of the approved county plans for providing the early childhood education
176 programs pursuant to this section;

177 (2) An analysis of the total cost to the state and county boards of implementing the plans;

178 (3) A separate analysis of the impact of the plans on counties with increasing enrollment;

179 and

180 (4) An analysis of the effect of the programs on the maximization of the use of federal
181 funds for early childhood programs.

182 The intent of this subsection is to enable the Legislature to proceed in a fiscally responsible
183 manner and make any necessary program improvements based on reported information prior to
184 implementation of the early childhood education programs.

185 (t) After the school year 2012-2013, on or before July 1 of each year, each county board
186 shall report the following information to the Secretary of the Department of Health and Human
187 Resources and the state superintendent:

188 (1) Documentation indicating the extent to which county boards are maximizing resources
189 by using the existing capacity of community-based programs, including, but not limited to, Head
190 Start and child care; and

191 (2) For those county boards that are including eligible children attending approved,
192 contracted community-based programs in their net enrollment for the purposes of calculating state
193 aid pursuant to article nine-a of this chapter, documentation that the county board is equitably
194 distributing funding for all children regardless of setting.