

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

Introduced

### House Bill 2403

FISCAL  
NOTE

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WAGNER, FAST AND BALDWIN

[Introduced February 13, 2017; 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 permitting county boards of education to accumulate instructional days and use them  
 3 when needed in a later instructional term when inclement weather and emergencies  
 4 prevent the otherwise full instructional term from being completed; and establishing an  
 5 instructional day to be three hundred thirty minutes.

*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) A county board may develop a policy that permits it to accrue instructional days during  
47 years of good weather and use those excess accrued instructional days in later school years  
48 when inclement weather and emergencies would otherwise prevent a full instructional term from  
49 being completed. For the purposes of this section an instructional day is comprised of three  
50 hundred thirty minutes and proportional days based on minutes accrued may be included in the  
51 accrual process.

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

57 (A) Holidays;

58 (B) Election day;

59 (C) Saturdays and Sundays.

60 ~~(f)~~ (g) The instructional term shall commence and terminate on a date selected by the  
61 county board.

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

65 ~~(h)~~ (i) The following applies to cocurricular activities:

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

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

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

71 ~~(j)~~ (i) Extracurricular activities may not be used for instructional time.

72 ~~(j)~~ (k) Noninstructional interruptions to the instructional day shall be minimized to allow the  
73 classroom teacher to teach.

74 ~~(k)~~ (l) Prior to implementing the school calendar, the county board shall secure approval  
75 of its proposed calendar from the state board or, if so designated by the state board, from the  
76 state superintendent.

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

83 ~~(m)~~ (n) The county board may contract with all or part of the personnel for a longer term  
84 of employment.

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

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

92 ~~(p)~~ (q) The state board shall promulgate a rule in accordance with the provisions of article  
93 three-b, chapter twenty-nine-a of this code for the purpose of implementing the provisions of this  
94 section.

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

NOTE: The purpose of this bill is to permit county boards of education to accumulate instructional days and use them when needed in a later instructional term when inclement weather and emergencies prevent the otherwise full instructional term from being completed. The bill establishes an instructional day to be three hundred thirty minutes.

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