

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### Senate Bill 573

FISCAL  
NOTE

BY SENATORS MANN, BALDWIN, AND BOSO

[Introduced February 16, 2018; Referred  
to the Committee on Education; and then to the  
Committee on Finance]

1 A BILL to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating  
 2 generally to school calendars; providing that the instructional term for students begins on  
 3 the Tuesday after Labor Day and ends the Friday before Memorial Day; providing an  
 4 exception; permitting additional instructional minutes per day; and eliminating reimagined  
 5 days.

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

## **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 number of minutes as follows:

5 (i) For early childhood programs as provided in §18-5-44(d) of this code;

6 (ii) For schools with grade levels kindergarten through and including grade five, 315  
 7 minutes of instructional time per day;

8 (iii) For schools with grade levels six through and including grade eight, 330 minutes of  
 9 instructional time per day; and

10 (iv) For schools with grade levels nine through and including grade 12, 345 minutes of  
 11 instructional time per day.

12 (B) Instruction may be provided in excess of the minutes set forth in paragraph (A) of this  
 13 subdivision for use in accomplishing the total minutes required in a calendar school year pursuant  
 14 to subsection (d) of this section.

15 ~~(B)~~ (C) Instructional time is used for instruction and cocurricular activities; and

16 ~~(C)~~ (D) Other criteria as the state board determines appropriate.

17 (2) "Cocurricular activities" are activities that are closely related to identifiable academic  
 18 programs or areas of study that serve to complement academic curricula as further defined by

19 the state board; and

20 (3) "Instruction delivered through alternative methods" means a plan developed by a  
21 county board and approved by the state board for teachers to assign and grade work to be  
22 completed by students on days when schools are closed due to inclement weather or other  
23 unforeseen circumstances.

24 (b) *Findings.* –

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

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

28 (3) The school calendar shall provide for 180 separate instructional days or an equivalent  
29 amount of instructional time as provided in this section.

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

31 (1) An employment term that excludes Saturdays and Sundays and consists of at least  
32 200 days, which need not be successive. The beginning and closing dates of the employment  
33 term may not exceed 48 weeks;

34 (2) The instructional term for students shall begin the Tuesday after Labor Day and end  
35 the Friday before Memorial Day of each calendar school year: *Provided*, That the instructional  
36 term may only be extended beyond the Friday before Memorial Day if the total minutes required  
37 in a calendar school year have not by that date been met: *Provided, however*, That nothing in this  
38 subdivision applies to any school operating on a balanced calendar as defined by state board  
39 policy.

40 ~~(2)~~ (3) Within the employment term, an instructional term for students of no less than 180  
41 separate instructional days, which includes an inclement weather and emergencies plan designed  
42 to guarantee an instructional term for students of no less than one hundred eighty separate  
43 instructional days, subject to the following:

44 (A) A county board may increase the length of the instructional day as defined in this

45 section by at least 30 minutes per day to ensure that it achieves at least an amount of instructional  
46 time equivalent to 180 separate instructional days within its school calendar and:

47 (i) Apply up to five days of this equivalent time to cancel days lost due to necessary school  
48 closures;

49 (ii) Plan within its school calendar and not subject to cancellation and rescheduling as  
50 instructional days up to an additional five days or equivalent portions of days, without students  
51 present, to be used as determined by the county board exclusively for activities by educators at  
52 the school level designed to improve instruction; and

53 (iii) Apply any additional equivalent time to recover time lost due to late arrivals and early  
54 dismissals;

55 (B) Subject to approval of its plan by the state board, a county board may deliver  
56 instruction through alternative methods on up to five days when schools are closed due to  
57 inclement weather or other unforeseen circumstances and these days are instructional days  
58 notwithstanding the closure of schools; and

59 (C) The use of equivalent time gained by lengthening the school day to cancel days lost,  
60 and the delivery of instruction through alternative methods, both as defined in this section, shall  
61 be considered instructional days for the purpose of meeting the 180 separate day requirement  
62 and as employment days for the purpose of meeting the 200 day employment term.

63 ~~(3)~~ (4) Within the employment term, noninstructional days shall total 20 and shall be  
64 comprised of the following:

65 (A) Seven paid holidays;

66 (B) Election day as specified in §18A-5-2 of this code;

67 (C) Six days to be designated by the county board to be used by the employees outside  
68 the school environment, with at least four outside the school environment days scheduled to occur  
69 after the 130th instructional day of the school calendar;

70 (D) One day to be designated by the county board to be used by the employees for

71 preparation for opening school and one day to be designated by the county board to be used by  
72 the employees for preparation for closing school: *Provided*, That the school preparation days may  
73 be used for the purposes set forth in paragraph (E) of this subdivision at the teacher's discretion;  
74 and

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

77 (i) Curriculum development;

78 (ii) Professional development;

79 (iii) Teacher-pupil-parent conferences;

80 (iv) Professional meetings;

81 (v) Making up days when instruction was scheduled but not conducted; and

82 (vi) At least six two-hour blocks of time for faculty senate meetings with at least one two-  
83 hour block of time scheduled in the first month of the employment term, at least one two-hour  
84 block of time scheduled in the last month of the employment term and at least one two-hour block  
85 of time scheduled in each of the months of October, December, February and April; and

86 ~~(4)~~ (5) Scheduled out-of-calendar days that are to be used for instructional days in the  
87 event school is canceled for any reason.

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

91 (e) If it is not possible to complete 180 separate instructional days with the current school  
92 calendar and the additional five days of instructional time gained by increasing the length of the  
93 instructional day as provided in subsection (c) of this section are insufficient to offset the loss of  
94 separate instructional days, the county board shall schedule instruction on any available  
95 noninstructional day, regardless of the purpose for which the day originally was scheduled, or an  
96 out-of-calendar day and the day will be used for instruction of students: *Provided*, That the

97 provisions of this subsection do not apply to:

98 (1) Holidays;

99 (2) Election day;

100 (3) Saturdays and Sundays; and

101 (4) The five days or equivalent portions of days planned within the school calendar  
102 exclusively for activities by educators at the school level to improve instruction that are gained by  
103 increasing the length of the instructional day as provided in subsection (c) of this section.

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

106 (g) The state board may not schedule the primary statewide assessment program more  
107 than 30 days prior to the end of the instructional year unless the state board determines that the  
108 nature of the test mandates an earlier testing date.

109 (h) The following applies to cocurricular activities:

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

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

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

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

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

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

121 (l) In formulation of a school's calendar, a county school board shall hold at least two public  
122 meetings that allow parents, teachers, teacher organizations, businesses and other interested

123 parties within the county to discuss the school calendar. The public notice of the date, time and  
124 place of the public hearing must be published in a local newspaper of general circulation in the  
125 area as a Class II legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this  
126 code.

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

129 (n) The minimum instructional term may be decreased by order of the state superintendent  
130 in any county declared a federal disaster area and in any county subject to an emergency or  
131 disaster declaration by the Governor when the event causing the declaration is substantially  
132 related to the loss of instructional days in the county.

133 (o) Notwithstanding any provision of this code to the contrary, the state board may grant  
134 a waiver to a county board for its noncompliance with provisions of chapters 18, 18A, 18B and  
135 18C of this code to maintain compliance in reaching the mandatory 180 separate instructional  
136 days established in this section.

137 (p) Notwithstanding any provision of this code to the contrary, reimagined days are  
138 eliminated.

139 ~~(p)~~ (q) The state board shall promulgate a rule in accordance with the provisions of §29A-  
140 3B-1 *et seq.* of this code for the purpose of implementing the provisions of this section.

NOTE: The purpose of this bill is to provide that the instructional term for students begins on the Tuesday after Labor Day and ends the Friday before Memorial Day. The bill provides an exception. The bill permits additional instruction minutes per day. The bill eliminates reimagined days.

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