

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 573

BY SENATORS MANN, BALDWIN, AND BOSO

[Originating in the Committee on Education; Reported
on February 21, 2018]

1 A BILL to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating
2 generally to allowing, after the primary statewide assessment program is administered,
3 county superintendents of schools to reduce the instructional term for students by up to
4 five 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) Instructional time is used for instruction and cocurricular activities; and

13 (C) Other criteria as the state board determines appropriate;

14 (2) "Cocurricular activities" are activities that are closely related to identifiable academic
15 programs or areas of study that serve to complement academic curricula as further defined by
16 the state board; and

17 (3) "Instruction delivered through alternative methods" means a plan developed by a
18 county board and approved by the state board for teachers to assign and grade work to be

19 completed by students on days when schools are closed due to inclement weather or other
20 unforeseen circumstances.

21 (b) *Findings.* –

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

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

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

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

28 (1) An employment term that excludes Saturdays and Sundays and consists of at least
29 200 days, which need not be successive. The beginning and closing dates of the employment
30 term may not exceed 48 weeks;

31 (2) Within the employment term, an instructional term for students of no less than 180
32 separate instructional days, which includes an inclement weather and emergencies plan designed
33 to guarantee an instructional term for students of no less than 180 separate instructional days,
34 subject to the following:

35 (A) A county board may increase the length of the instructional day as defined in this
36 section by at least 30 minutes per day to ensure that it achieves at least an amount of instructional
37 time equivalent to 180 separate instructional days within its school calendar and:

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

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

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

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

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

54 (3) Within the employment term, noninstructional days shall total 20 and shall be
55 comprised of the following:

56 (A) Seven paid holidays;

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

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

61 (D) One day to be designated by the county board to be used by the employees for
62 preparation for opening school and one day to be designated by the county board to be used by
63 the employees for preparation for closing school: *Provided*, That the school preparation days may
64 be used for the purposes set forth in §18-5-45(c)(3)(E) of this code at the teacher's discretion;
65 and

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

68 (i) Curriculum development;

69 (ii) Professional development;

70 (iii) Teacher-pupil-parent conferences;

71 (iv) Professional meetings;

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

73 (vi) At least six two-hour blocks of time for faculty senate meetings with at least one two-

74 hour block of time scheduled in the first month of the employment term, at least one two-hour

75 block of time scheduled in the last month of the employment term and at least one two-hour block

76 of time scheduled in each of the months of October, December, February, and April; and

77 (4) Scheduled out-of-calendar days that are to be used for instructional days in the event

78 school is canceled for any reason.

79 (d) A county board of education shall develop a policy that requires additional minutes of

80 instruction in the school day or additional days of instruction to recover time lost due to late arrivals

81 and early dismissals.

82 (e) If it is not possible to complete 180 separate instructional days with the current school

83 calendar and the additional five days of instructional time gained by increasing the length of the

84 instructional day as provided in §18-5-45(c) of this code are insufficient to offset the loss of

85 separate instructional days, the county board shall schedule instruction on any available

86 noninstructional day, regardless of the purpose for which the day originally was scheduled, or an

87 out-of-calendar day and the day will be used for instruction of students: *Provided*, That the

88 provisions of this subsection do not apply to:

89 (1) Holidays;

90 (2) Election day;

91 (3) Saturdays and Sundays; and

92 (4) The five days or equivalent portions of days planned within the school calendar

93 exclusively for activities by educators at the school level to improve instruction that are gained by

94 increasing the length of the instructional day as provided in §18-5-45(c) of this code.

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

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

100 (h) Notwithstanding any other provision of this section to the contrary, after the primary
101 statewide assessment program is administered, the county superintendent may reduce the 180
102 instructional day requirement by up to five days, and from that point forward during the
103 instructional term:

104 (1) The instructional term shall be considered reduced for the purposes of this section;

105 (2) The noninstructional days shall be increased by the same number of days that the
106 county superintendent reduces the instructional term; and

107 (3) The additional noninstructional days may be used for the purposes designated by the
108 superintendent which may include, but are not limited to, the purposes set forth in §18-5-
109 45(c)(3)(E) of this code.

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

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

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

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

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

117 ~~(k)~~ (k) Noninstructional interruptions to the instructional day shall be minimized to allow the
118 classroom teacher to teach.

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

122 ~~(l)~~ (m) In formulation of a school's calendar, a county school board shall hold at least two
123 public meetings that allow parents, teachers, teacher organizations, businesses, and other
124 interested parties within the county to discuss the school calendar. The public notice of the date,
125 time, and place of the public hearing must be published in a local newspaper of general circulation
126 in the area as a Class II legal advertisement in accordance with the provisions of §59-3-1 *et seq.*
127 of this code.

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

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

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

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