

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2826**

BY DELEGATES CAMPBELL, PAYNTER, J. KELLY, BARRETT,

R. THOMPSON, LAVENDER-BOWE, DEAN, PACK,

CANESTRARO, EVANS AND BATES

[Introduced February 1, 2019; 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 altering the school calendar to begin the Tuesday after Labor Day and end the Friday  
 3 before Memorial Day; provide for accrued minutes to be used toward reaching the required  
 4 number of instructional days; and providing for up to 10 days of equivalent time to negate  
 5 effects of school closures.

*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) The school term will begin the Tuesday after Labor Day and end the Friday before  
29 Memorial Day. Schools will be allowed to use accrued minutes of instruction, or minutes over the  
30 required daily instruction minutes specified in paragraph (A), subdivision (1), subsection (a) of this  
31 section to meet 180 instruction days. The school term may only extend past the Friday before  
32 Memorial Day if the school has less than 180 instructional days and only the number of days  
33 necessary to reach 180 instructional days.

34 (2) An employment term that excludes Saturdays and Sundays and consists of at least  
35 200, which need not be successive. The beginning and closing dates of the employment term  
36 may not exceed 48 weeks;

37 ~~(2)~~ (3) Within the employment term, an instructional term for students of no less than 180  
38 separate instructional days, which includes an inclement weather and emergencies plan designed  
39 to guarantee an instructional term for students of no less than 180 separate instructional days,  
40 subject to the following:

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

44 (i) Apply ~~up to five~~ to 10 days of this equivalent time to cancel days lost due to necessary

45 school closures;

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

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

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

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

60 ~~(3)~~(4) Within the employment term, noninstructional days shall total 20 and shall be  
61 comprised of the following:

62 (A) Seven paid holidays;

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

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

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

71 and

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

74 (i) Curriculum development;

75 (ii) Professional development;

76 (iii) Teacher-pupil-parent conferences;

77 (iv) Professional meetings;

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

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

83 ~~(4)~~(5) Scheduled out-of-calendar days that are to be used for instructional days in the  
84 event school is canceled for any reason.

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

88 (e) If it is not possible to complete 180 separate instructional days with the current school  
89 calendar and the additional five to 10 days of instructional time gained by increasing the length of  
90 the instructional day as provided in subsection (c) of this section are insufficient to offset the loss  
91 of separate instructional days, the county board shall schedule instruction on any available  
92 noninstructional day, regardless of the purpose for which the day originally was scheduled, or an  
93 out-of-calendar day and the day will be used for instruction of students: *Provided*, That the  
94 provisions of this subsection do not apply to:

95 (1) Holidays;

96 (2) Election day;

97 (3) Saturdays and Sundays; and

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

101 ~~(f) The instructional term shall commence and terminate on a date selected by the county~~  
102 ~~board~~

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

106 ~~(h)~~(g) The following applies to cocurricular activities:

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

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

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

112 ~~(i)~~(h) Extracurricular activities may not be used for instructional time.

113 ~~(j)~~(i) Noninstructional interruptions to the instructional day shall be minimized to allow the  
114 classroom teacher to teach.

115 ~~(k)~~(j) Prior to implementing the school calendar, the county board shall secure approval of  
116 its proposed calendar from the state board or, if so designated by the state board, from the state  
117 superintendent.

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

123 of this code.

124 ~~(m)~~(l) The county board may contract with all or part of the personnel for a longer term of  
125 employment.

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

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

134 ~~(p)~~(o) The state board shall promulgate a rule in accordance with the provisions of §29A-  
135 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 alter the school calendar to begin the Tuesday after Labor Day and end the Friday before Memorial Day. Schools may use accrued minutes to reach the required number of instructional 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.