

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2886

FISCAL
NOTE

BY DELEGATE HIGGINBOTHAM

[Introduced March 03, 2021; Referred to the
Committee on Education then Finance]

1 A BILL to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating
 2 to replacing minimum minutes of instructional time required per day with a flexible
 3 requirement based upon the completion of classroom or other equivalent work or
 4 assessments meeting defined levels of proficiency or mastery; providing legislative
 5 findings; establishing options for meeting minimal instructional time requirements;
 6 eliminating requirement related to instructional minutes and the use of equivalent time for
 7 days lost; providing that county school boards utilizing flexible instructional options shall
 8 submit for approval plans for assessing student competency and demonstrated
 9 proficiency; and providing the state board with rule-making authority to develop any
 10 evaluation criteria or guidelines necessary for county boards to utilize flexible instruction
 11 time options.

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 subsection (d) section forty-four of this~~
 6 ~~article;~~
 7 ~~(ii) For schools with grade levels kindergarten through and including grade five, 315~~
 8 ~~minutes of instructional time per day;~~
 9 ~~(iii) For schools with grade levels six through and including grade eight, 330 minutes of~~
 10 ~~instructional time per day; and~~
 11 ~~(iv) For schools with grade levels nine through and including grade twelve, 345 minutes of~~
 12 ~~instructional time per day~~

13 (A) Instruction is offered to students in a sufficient time and manner necessary to
14 demonstrate defined levels of proficiency or mastery of identified standards. Instruction may be
15 offered to students by any one or more of the following options, none of which shall be individually
16 required to meet the definition of an “instructional day” for purposes of this section:

17 (i) An average of five hours instructional time per day throughout the instructional term;

18 (ii) Successfully completing classroom or equivalent work which meets the minimum
19 standards in the courses of study required by §18-2-7 of this code;

20 (iii) Successfully completing classroom or equivalent work designed to measure
21 proficiency in class or out of class, where hours of instruction may vary;

22 (iv) Providing a collection of work or other assessment evidence from students which
23 demonstrates proficiency or mastery of identified standards; or,

24 (v) Providing documented prior learning activities or experiences which demonstrate
25 proficiency or mastery of identified standards;

26 (B) Instructional time is used for instruction and cocurricular activities; and

27 (C) Other criteria as the state board determines appropriate.

28 (2) “Cocurricular activities” are activities that are closely related to identifiable academic
29 programs or areas of study that serve to complement academic curricula as further defined by
30 the state board; and

31 ~~(3) “Instruction delivered through alternative methods” means a plan developed by a~~
32 ~~county board and approved by the state board for teachers to assign and grade work to be~~
33 ~~completed by students on days when schools are closed due to inclement weather or other~~
34 ~~unforeseen circumstances~~

35 (b) *Findings.* --

36 (1) The primary purpose of the school system is to ~~provide instruction for students~~ facilitate
37 student learning.

38 (2) School systems must have sufficient flexibility to design the school day in a way that

39 best provides quality instruction to their students.

40 (3) School systems must also be allowed to consider different education delivery models
41 that are tailored to meet the differing needs of students.

42 (4) Because students learn in a myriad of ways and at different rates, school systems must
43 also have sufficient flexibility to vary the time that students spend in a particular course so that all
44 students can reach a level of proficiency and mastery in the required courses of study.

45 (5) Sufficient collaborative time among educators during the work day is critical to the
46 delivery of quality instruction.

47 ~~(2)~~ (6) The school calendar, as defined in this section, is designed to define the school
48 term both for employees and for instruction.

49 ~~(3)~~ (7) The school calendar shall provide for 180 separate instructional days or an
50 equivalent amount of instructional time as provided in this section.

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

52 (1) An employment term that excludes Saturdays and Sundays and consists of at least
53 200 days, which need not be successive. The beginning and closing dates of the employment
54 term may not exceed 48 weeks;

55 (2) Within the employment term, an instructional term for students of no less than 180
56 separate instructional days, which shall include instruction in a sufficient time and manner as
57 necessary to meet the requirements of §18-5-45(a)(1) of this code and which includes an
58 inclement weather and emergencies plan designed to guarantee an instructional term for students
59 of no less than 180 separate instructional days, subject to the following:

60 ~~(A) A county board may increase the length of the instructional day as defined in this~~
61 ~~section by at least thirty minutes per day to ensure that it achieves at least an amount of~~
62 ~~instructional time equivalent to one hundred and eighty separate instructional days within its~~
63 ~~school calendar and:~~

64 ~~(i) Apply up to five days of this equivalent time to cancel days lost due to necessary school~~
65 ~~closures;~~

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

70 ~~(iii) Apply any additional equivalent time to recover time lost due to late arrivals and early~~
71 ~~dismissals~~

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

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

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

82 (A) Seven paid holidays;

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

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

87 (D) One day to be designated by the county board to be used by the employees for
88 preparation for opening school and one day to be designated by the county board to be used by
89 the employees for preparation for closing school: *Provided*, That the school preparation days may

90 be used for the purposes set forth in paragraph (E) of this subdivision at the teacher's discretion;
91 and

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

94 (i) Curriculum development;

95 (ii) Professional development;

96 (iii) Teacher-pupil-parent conferences;

97 (iv) Professional meetings;

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

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

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

105 ~~(d) A county board of education shall develop a policy that requires additional minutes of~~
106 ~~instruction in the school day or additional days of instruction to recover time lost due to late arrivals~~
107 ~~and early dismissals~~ School calendars shall be designed in a sufficient time and manner as
108 necessary to meet the requirements of §18-5-45(a)(1) of this code.

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

116 (1) Holidays;
117 (2) Election day; and
118 (3) Saturdays and Sundays. ~~and~~
119 ~~(4) The five days or equivalent portions of days planned within the school calendar~~
120 ~~exclusively for activities by educators at the school level to improve instruction that are gained by~~
121 ~~increasing the length of the instructional day as provided in subsection (c) of this section~~

122 (f) If it is not possible to complete 180 separate instructional days with the current school
123 calendar, and if scheduling instruction on any available noninstructional day pursuant to
124 subsection (e) of this section is not sufficient to accomplish 180 separate instructional days, the
125 county board still shall ensure that sufficient instruction as is necessary to meet the requirements
126 of §18-5-45(a)(1) of this code over 180 days during the school year is maintained.

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

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

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

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

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

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

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

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

141 ~~(k)~~ (l) Prior to implementing the school calendar, the county board shall secure approval

142 of its proposed calendar from the state board or, if so designated by the state board, from the
143 state superintendent. Any county board utilizing available instructional methods based upon
144 demonstrated subject area competency, as provided for in §18-5-45(a)(1)(A) of this code, shall
145 include with its proposed school calendar a plan detailing the mechanisms to be used for
146 assessing student competency and for recording demonstrated proficiency on student transcripts.

147 ~~(t)~~ (m) In formulation of a school's calendar, a county school board shall hold at least two
148 public meetings that allow parents, teachers, teacher organizations, businesses, and other
149 interested parties within the county to discuss the school calendar. The public notice of the date,
150 time, and place of the public hearing must be published in a local newspaper of general circulation
151 in the area as a Class II legal advertisement, in accordance with the provisions of §59-3-1 *et seq.*
152 of this code and published prominently on the county board of education's website.

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

155 ~~(n)~~ (o) The minimum instructional term may be decreased by order of the State
156 Superintendent in any county declared a federal disaster area and in any county subject to an
157 emergency or disaster declaration by the Governor when the event causing the declaration is
158 substantially related to the loss of instructional days in the county.

159 ~~(o)~~ (p) Notwithstanding any provision of this code to the contrary, the state board may
160 grant a waiver to a county board for its noncompliance with provisions of this chapter and chapters
161 18A, 18B, and 18C of this code to maintain compliance in reaching the mandatory 180 separate
162 instructional days established in this section.

163 ~~(p)~~ (q) The state board shall promulgate a rule in accordance with the provisions of §29A-
164 3B-1 *et seq.* of this code for the purpose of implementing the provisions of this section, including,
165 but not be limited to, any evaluation criteria or guidelines necessary for a county board to utilize
166 all of the options for instructional time provided for in §18-5-45(a)(1)(A) of this code.

NOTE: The purpose of this bill is to replace minimum minutes of instructional time required

per day with flexible standards of instruction that maintain defined levels of proficiency or mastery of recognized standards throughout the instructional term.

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