

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 36**

BY SENATOR TARR

[Originating in the Committee on Education; reported  
on March 17, 2021]



1 A BILL to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating  
2 to the West Virginia Secondary School Activities Commission; prohibiting any rule of the  
3 commission from being enforced without the approval of the rule by the State Board of  
4 Education; requiring the commission to make the results of the annual audit of its funds  
5 available to the public; authorizing the Legislative Auditor, at reasonable and prudent  
6 intervals, to conduct performance audits of the commission to determine how well it is  
7 accomplishing its mission; and requiring an initial performance audit of the commission by  
8 December 1, 2022.

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

**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities  
of secondary schools; delegation of authority to West Virginia Secondary School  
Activities Commission; authority of commission; approval of rules by state board;  
incorporation; funds; audit of funds; performance audit; participation by private  
and parochial schools and by home-schooled students.**

1 (a) The county boards of education shall exercise the control, supervision, and regulation  
2 of all interscholastic athletic events, and other extracurricular activities of the students in public  
3 secondary schools, and of those schools of their respective counties. The county board of  
4 education may delegate control, supervision, and regulation of interscholastic athletic events and  
5 band activities to the West Virginia Secondary School Activities Commission.

6 (b) The West Virginia Secondary School Activities Commission is composed of the  
7 principals, or their representatives, of those secondary schools whose county boards of education  
8 have certified in writing to the State Superintendent of Schools that they have elected to delegate  
9 the control, supervision, and regulation of their interscholastic athletic events and band activities  
10 of the students in the public secondary schools in their respective counties to the commission.

11 The West Virginia Secondary School Activities Commission may exercise the control, supervision,

12 and regulation of interscholastic athletic events and band activities of secondary schools,  
13 delegated to it pursuant to this section. The rules of the West Virginia Secondary School Activities  
14 Commission shall contain a provision for a proper review procedure and review board and be  
15 promulgated in accordance with the provisions of chapter 29A of this code but shall, in all  
16 instances, be subject to the prior approval of the state board. No rule of the commission may be  
17 enforced without the approval of the rule by the state board. The West Virginia Secondary School  
18 Activities Commission may, with the consent of the State Board of Education, incorporate under  
19 the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock  
20 corporation under the provisions of chapter 31 of this code.

21 (c) County boards of education may expend moneys for and pay dues to the West Virginia  
22 Secondary School Activities Commission, and all moneys paid to the commission, as well as  
23 moneys derived from any contest or other event sponsored by the commission, are quasi-public  
24 funds as defined in §18-5-1 et seq. of this code, and the funds of the commission are subject to  
25 an annual audit by the State Tax Commissioner. The commission shall make the results of the  
26 audit available to the public by posting the results on its website where it shall remain posted at  
27 least until it posts the results of its next annual audit.

28 (d) The Legislative Auditor may, at reasonable and prudent intervals, conduct performance  
29 audits of the commission to determine how well it is accomplishing its mission. The Legislative  
30 Auditor may examine whichever records of the commission he or she considers necessary to  
31 complete the performance audit. For any legally protected information provided or disclosed to  
32 the Legislative Auditor pursuant to this subsection, the Legislative Auditor shall protect the  
33 confidentiality, privacy, or security of the protected information in like manner and with the same  
34 duty as is required of the commission. The Legislative Auditor shall complete an initial  
35 performance audit of the commission by December 1, 2022, and, by that date, deliver a report  
36 thereof to the Joint Committee on Government and Finance and to the Legislative Oversight  
37 Commission on Education Accountability.

38           ~~(e)~~ (e) The West Virginia Secondary School Activities Commission shall promulgate  
39 reasonable rules providing for the control, supervision, and regulation of the interscholastic  
40 athletic events and other extracurricular activities of private and parochial secondary schools ~~as~~  
41 that elect to delegate to the commission control, supervision, and regulation, upon the same terms  
42 and conditions, subject to the same rules and requirements and upon the payment of the same  
43 fees and charges as those provided for public secondary schools. Any such private or parochial  
44 secondary school shall receive any monetary or other benefits in the same manner and in the  
45 same proportion as any public secondary school.

46           ~~(d)~~ (f) Notwithstanding any other provision of this section or the commission's rules, the  
47 commission shall consider eligible for participation in interscholastic athletic events and other  
48 extracurricular activities of secondary schools a student who is receiving home instruction  
49 pursuant to §18-8-1(c) of this code and who:

50           (1) Has demonstrated satisfactory evidence of academic progress for one year in  
51 compliance with the provisions of that subsection: *Provided*, That the student's average test  
52 results are within or above the fourth stanine in all subject areas;

53           (2) Is enrolled in at least one virtual instructional course per semester, consistent with the  
54 applicable virtual instruction policy of the county board in which the home-schooled student lives  
55 and the state board;

56           (3) Has not reached the age of 19 by August 1 of the current school year;

57           (4) Is an amateur who receives no compensation, but participates solely for the  
58 educational, physical, mental, and social benefits of the activity;

59           (5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School  
60 Activities Commission and the county board in which the home-schooled student lives; and

61           (6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission  
62 governing awards, all-star games, parental consents, physical examinations, and vaccinations  
63 applicable to all high school athletes.

64 Eligibility is limited to participation in interscholastic athletic events and other  
65 extracurricular activities at the public secondary school serving the attendance zone in which the  
66 student lives: *Provided*, That home-schooled students who leave a member school during the  
67 school year are subject to the same transfer protocols that apply to member-to-member transfers.  
68 Reasonable fees may be charged to the student to cover the costs of participation in  
69 interscholastic athletic events and other extracurricular activities.

70 ~~(e)~~ (g) The West Virginia Secondary School Activities Commission shall recognize  
71 preparatory athletic programs, whose participants attend a secondary school in West Virginia for  
72 academic instruction, as nonparticipating members of the commission solely for the purpose of  
73 competing on the national level: *Provided*, That the preparatory athletic program shall pay the  
74 same fees as member schools. Such recognition does not entitle the preparatory athletic program  
75 to compete against a member school during the regular season or in any commission state  
76 championship events. The commission may promulgate an emergency rule pursuant to  
77 subsection (b) of this section, if necessary, to carry out the intent of this subsection.