

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

## **House Bill 2712**

BY DELEGATE J. KELLY

[Introduced February 23, 2021; 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, all  
 2 relating to modifying the school calendar to begin not earlier than Labor Day and end prior  
 3 to Memorial Day.

*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 twelve, 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 (D) The instructional term for students shall begin no earlier than the Labor Day holiday  
55 and end no later than the Memorial Day holiday each calendar school year: *Provided*, That nothing  
56 in this subdivision may apply to any school operating on a balanced calendar as defined by state  
57 board policy.

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

60 (A) Seven paid holidays;

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

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

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

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

72 (i) Curriculum development;

73 (ii) Professional development;  
74 (iii) Teacher-pupil-parent conferences;  
75 (iv) Professional meetings;  
76 (v) Making up days when instruction was scheduled but not conducted; and  
77 (vi) At least six two-hour blocks of time for faculty senate meetings with at least one two-  
78 hour block of time scheduled in the first month of the employment term, at least one two-hour  
79 block of time scheduled in the last month of the employment term and at least one two-hour block  
80 of time scheduled in each of the months of October, December, February and April; and

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

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

86 (e) If it is not possible to complete 180 separate instructional days with the current school  
87 calendar and the additional five days of instructional time gained by increasing the length of the  
88 instructional day as provided in §18A-5-45(c) of this code are insufficient to offset the loss of  
89 separate instructional days, the county board shall schedule instruction on any available  
90 noninstructional day, regardless of the purpose for which the day originally was scheduled, or an  
91 out-of-calendar day and the day will be used for instruction of students: *Provided*, That the  
92 provisions of this subsection do not apply to:

93 (1) Holidays;

94 (2) Election day;

95 (3) Saturdays and Sundays; and

96 (4) The five days or equivalent portions of days planned within the school calendar  
97 exclusively for activities by educators at the school level to improve instruction that are gained by  
98 increasing the length of the instructional day as provided in §18A-5-45(c) of this code.

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

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

104 (h) The following applies to cocurricular activities:

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

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

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

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

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

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

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

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

124 (n) The minimum instructional term may be decreased by order of the state superintendent

125 in any county declared a federal disaster area and in any county subject to an emergency or  
126 disaster declaration by the Governor when the event causing the declaration is substantially  
127 related to the loss of instructional days in the county.

128 (o) Notwithstanding any provision of this code to the contrary, the state board may grant  
129 a waiver to a county board for its noncompliance with ~~provisions of~~ §18-1-1 *et seq.*, §18A-1-1 *et*  
130 *seq.*, §18B-1-1 *et seq.*, and §18C-1-1 *et seq.* of this code to maintain compliance in reaching the  
131 mandatory 180 separate instructional days established in this section.

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

NOTE: The purpose of this bill is to modify the school instructional calendar to begin not earlier than Labor Day and end prior to Memorial Day.

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