

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4445

BY DELEGATE HORNBUCKLE

[Introduced January 31, 2022; 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 modifying the school calendar; setting the school year to 170 days of instruction;
 3 establishing limits on the start and end of the school year; and modifying the number and
 4 purposes of noninstructional 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 ~~(4)~~ "Instructional day" means a day within the instructional term which meets the following
 3 criteria:

4 ~~(A)~~ (1) Instruction is offered to students for at least the minimum number of minutes as
 5 follows:

6 ~~(i)~~ (A) For early childhood programs as provided in §18-5-44(d) of this code;

7 ~~(ii)~~ (B) For schools with grade levels kindergarten through and including grade five, 315
 8 minutes of instructional time per day;

9 ~~(iii)~~ (C) For schools with grade levels six through and including grade eight, 330 minutes
 10 of instructional time per day; and

11 ~~(iv)~~ (D) For schools with grade levels nine through and including grade 12, 345 minutes of
 12 instructional time per day.

13 ~~(B)~~ (2) Instructional time is used for instruction and cocurricular activities; and

14 ~~(C)~~ (3) Other criteria as the state board determines appropriate.

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

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

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

22 (b) *Findings.* –

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

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

26 (3) The school calendar shall provide for ~~one hundred eighty~~ 170 separate instructional
27 days or an equivalent amount of instructional time as provided in this section.

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

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

32 (2) Within the employment term, an instructional term for students of no less than ~~one~~
33 ~~hundred eighty~~ 170 separate instructional days, which includes an inclement weather and
34 emergencies plan designed to guarantee an instructional term for students of no less than ~~one~~
35 ~~hundred eighty~~ 170 separate instructional days, subject to the following:

36 (A) A county board may increase the length of the instructional day as defined in this
37 section by at least 30 minutes per day to ensure that it achieves at least an amount of instructional
38 time equivalent to ~~one hundred and eighty~~ 170 separate instructional days within its school
39 calendar and:

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

42 (ii) Plan within its school calendar and not subject to cancellation and rescheduling as
43 instructional days up to a minimum of an additional ~~five~~ 15 days or equivalent portions of days,
44 without students present to be used as determined by the county board exclusively for activities
45 by educators at the school level designed to improve instruction; and

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

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

52 (C) The use of equivalent time gained by lengthening the school day to cancel days lost,
53 and the delivery of instruction through alternative methods, both as defined in this section, shall
54 be considered instructional days for the purpose of meeting the ~~180~~ 170 separate day requirement
55 and as employment days for the purpose of meeting the 200 day employment term; and

56 (D) The instructional term for students shall begin no earlier than September 1 and end
57 no later than May 31 each school year: *Provided*, That nothing in this subdivision may apply to
58 any school operating on a balanced calendar as defined by state board policy.

59 (3) Within the employment term, noninstructional days shall total ~~twenty~~ 30 and shall be
60 comprised of the following:

61 (A) Seven paid holidays;

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

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

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

71 (E) The remaining days to be designated by the county board for purposes to include, but

72 not be limited to:

73 (i) Curriculum development;

74 (ii) ~~Professional development~~ Post-secondary education outreach;

75 (iii) Teacher-pupil-parent conferences;

76 (iv) Professional meetings and collaboration;

77 (v) Record keeping;

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

79 ~~(vii)~~ (vii) At least six two-hour blocks of time for faculty senate meetings with at least one

80 two-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) Scheduled out-of-calendar days that are to be used for instructional days in the event

84 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 ~~one hundred eighty~~ 170 separate instructional days with

89 the current school calendar and the additional five days of instructional time gained by increasing

90 the length of the instructional day as provided in subsection (c) of this section are insufficient to

91 offset the loss of separate instructional days, the county board shall schedule instruction on any

92 available noninstructional day, regardless of the purpose for which the day originally was

93 scheduled, or an out-of-calendar day and the day will be used for instruction of students: *Provided,*

94 That the 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~~ 15 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) The state board may not schedule the primary statewide assessment program more
104 than 30 days prior to the end of the instructional year unless the state board determines that the
105 nature of the test mandates an earlier testing date.

106 (h) The following applies to cocurricular activities:

107 (1) The state board shall determine what activities may be considered co-curricular;

108 (2) The state board shall determine the amount of instructional time that may be consumed
109 by co-curricular 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) Extracurricular activities may not be used for instructional time.

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

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

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

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

130 (o) 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 chapters 18, 18A, 18B, and
132 18C of this code to maintain compliance in reaching the mandatory ~~one hundred eighty~~ 170
133 separate instructional days established in this section.

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

NOTE: The purpose of this bill is to set the school calendar to 170 days of instruction and 30 noninstructional days and to change the acceptable functions during noninstructional 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.