

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5152

By Delegates Brooks, Chiarelli, Kirby, and Vance

[Introduced January 25, 2024; Referred to the
Committee on Education]

1 A BILL amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to
 2 authorizing elementary and middle school students enrolled in any private, parochial or
 3 church school or school of a religious order or other nonpublic school to participate in
 4 county basketball tournaments held at the end of the basketball season, except for
 5 invitational tournaments.

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; participation by private and parochial schools and by home-schooled students and participants in the Hope Scholarship Program or in a Microschool or Learning Pod.

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 of
 10 the students in the public secondary schools in their respective counties to the commission. The
 11 West Virginia Secondary School Activities Commission may exercise the control, supervision, and
 12 regulation of interscholastic athletic events and band activities of secondary schools, delegated to
 13 it pursuant to this section. The rules of the West Virginia Secondary School Activities Commission

14 shall contain a provision for a proper review procedure and review board and be promulgated in
15 accordance with the provisions of chapter 29A of this code, but shall, in all instances, be subject to
16 the prior approval of the state board. The West Virginia Secondary School Activities Commission,
17 may, with the consent of the State Board of Education, incorporate under the name of West
18 Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock corporation under
19 the provisions of chapter 31 of this code. County boards of education may expend moneys for and
20 pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to the
21 commission, as well as moneys derived from any contest or other event sponsored by the
22 commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this code, and the funds of the
23 commission are subject to an annual audit by the State Tax Commissioner.

24 (c) The West Virginia Secondary School Activities Commission shall promulgate
25 reasonable rules providing for the control, supervision, and regulation of the interscholastic
26 athletic events and other extracurricular activities of private and parochial secondary schools as
27 elect to delegate to the commission control, supervision, and regulation, upon the same terms and
28 conditions, subject to the same rules and requirements and upon the payment of the same fees
29 and charges as those provided for public secondary schools. Any such private or parochial
30 secondary school shall receive any monetary or other benefits in the same manner and in the
31 same proportion as any public secondary school.

32 (d) Notwithstanding any other provision of this section, or the commission's rules, the
33 commission shall consider eligible for participation in interscholastic athletic events and other
34 extracurricular activities of secondary schools a student who is receiving home instruction
35 pursuant to §18-8-1(c) of this code, is a participant in the Hope Scholarship Program, pursuant to
36 §18-8-1(m) of this code and as provided for in §18-31-1, *et seq.* of this code, or participates in a
37 microschool or learning pod, pursuant to §18-8-1(n) of this code, and who:

38 (1) Has demonstrated satisfactory evidence of academic progress for each year in
39 compliance with the provisions of that subsection: *Provided*, That the student's average

40 test results are within or above the fourth stanine in all subject areas;

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

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

44 (4) Agrees to comply with all disciplinary rules of the West Virginia Secondary School
45 Activities Commission and the county board in which the student lives; and

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

49 Eligibility is limited to participation in interscholastic athletic events and other
50 extracurricular activities at the public secondary school serving the attendance zone in which the
51 student lives: *Provided*, That students who leave a school during the school year are subject to the
52 same transfer protocols that apply to member-to-member transfers. Reasonable fees may be
53 charged to the student to cover the costs of participation in interscholastic athletic events and
54 other extracurricular activities.

55 (e) Students enrolled in a private school ~~shall be~~ are eligible to participate in extracurricular
56 activities at the public secondary school serving the attendance zone in which the student lives if
57 the extracurricular activity is not offered at the student's private school: *Provided*, The student
58 meets the requirements of subsection (d)(4) and (d)(5) of this section: *Provided, however, That*
59 elementary and middle school students enrolled in any private, parochial or church school or
60 school of a religious order or other nonpublic school are eligible to participate in county basketball
61 tournaments held at the end of the basketball season, except for invitational tournaments.

62 (f) The West Virginia Secondary School Activities Commission shall recognize preparatory
63 athletic programs, whose participants attend a secondary school in West Virginia for academic
64 instruction, as nonparticipating members of the commission solely for the purpose of competing
65 on the national level: *Provided*, That the preparatory athletic program shall pay the same fees as

66 member schools. Such recognition does not entitle the preparatory athletic program to compete
67 against a member school during the regular season or in any commission state championship
68 events. The commission may promulgate an emergency rule pursuant to subsection (b) of this
69 section, if necessary, to carry out the intent of this subsection.

NOTE: The purpose of this bill is to authorize elementary and middle school students enrolled in any private, parochial or church school or school of a religious order or other nonpublic school to participate in county basketball tournaments held at the end of the basketball season, except for invitational tournaments.

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