

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

SENATE BILL NO. 193

(By Senators Sullivan and Blahnik)



PASSED March 10, 1990

In Effect 90 days from Passage

ENROLLED
Senate Bill No. 193

(BY SENATORS HOLLIDAY AND BLATNIK)

[Passed March 10, 1990; in effect ninety days from passage.]

AN ACT to repeal section one-a, article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section fifteen, article five, chapter eighteen of said code; and to amend and reenact section two, article five, chapter eighteen-a of said code, all relating to reducing the number of out of school environment days from seven to six; designating Martin Luther King's birthday as a legal school holiday; removing an obsolete term from the code; and repealing an obsolete code section to comport with the bill.

Be it enacted by the Legislature of West Virginia:

That section one-a, article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section fifteen, article five, chapter eighteen of said code be amended and reenacted; and that section two, article five, chapter eighteen-a of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-15. School term; exception; levies; ages of persons to whom schools are open.

1 (a) The board shall provide a school term for its

2 schools which shall be comprised of (1) an employment
3 term for teachers, and (2) an instructional term for
4 pupils. Nothing in this section shall prohibit the
5 establishment of year-round schools in accordance
6 with rules to be established by the state board.

7 The employment term for teachers shall be no less
8 than ten months, a month to be defined as twenty
9 employment days exclusive of Saturdays and Sundays:
10 *Provided*, That the board may contract with all or part
11 of the personnel for a longer term. The employment
12 term shall be fixed within such beginning and closing
13 dates as established by the state board: *Provided*,
14 *however*, That the time between the beginning and
15 closing dates does not exceed forty-three weeks.

16 Within the employment term there shall be an
17 instructional term for pupils of not less than one
18 hundred eighty nor more than one hundred eighty-
19 five instructional days: *Provided*, That the minimum
20 instructional term may be decreased, by order of the
21 state superintendent of schools, in any West Virginia
22 county declared to be a federal disaster area by the
23 federal emergency management agency. Instructional
24 and noninstructional activities may be scheduled
25 during the same employment day. Noninstructional
26 interruptions to the instructional day shall be minim-
27 ized to allow the classroom teacher to teach. The
28 instructional term shall commence no earlier than the
29 first day of September and shall terminate no later
30 than the eighth day of June.

31 Noninstructional days in the employment term may
32 be used for making up canceled instructional days,
33 curriculum development, preparation for opening and
34 closing of the instructional term, in-service and
35 professional training of teachers, teacher-pupil-parent
36 conferences, professional meetings and other related
37 activities. In addition, each board shall designate and
38 schedule for teachers and service personnel six days to
39 be used by the employee outside the school environ-
40 ment. However, no more than eight noninstructional
41 days, except holidays, may be scheduled prior to the
42 first day of January in a school term.

43 Notwithstanding any other provisions of the law to
44 the contrary, if the board has canceled instructional
45 days equal to the difference between the total instruc-
46 tional days scheduled and one hundred seventy-eight,
47 each succeeding instructional day canceled shall be
48 rescheduled, utilizing only the remaining noninstruc-
49 tional days, except holidays, following such cancella-
50 tion, which are available prior to the second day
51 before the end of the employment term established by
52 such county board.

53 Where the employment term overlaps a teacher's or
54 service personnel's participation in a summer institute
55 or institution of higher education for the purpose of
56 advancement or professional growth, the teacher or
57 service personnel may substitute, with the approval of
58 the county superintendent, such participation for not
59 more than five of the noninstructional days of the
60 employment term.

61 The board may extend the instructional term
62 beyond one hundred eighty-five instructional days
63 provided the employment term is extended an equal
64 number of days. If the state revenues and regular
65 levies, as provided by law, are insufficient to enable
66 the board of education to provide for the school term,
67 the board may at any general or special election, if
68 petitioned by at least five percent of the qualified
69 voters in the district, submit the question of additional
70 levies to the voters. If at the election a majority of the
71 qualified voters cast their ballots in favor of the
72 additional levy, the board shall fix the term and lay a
73 levy necessary to pay the cost of the additional term.
74 The additional levy fixed by the election shall not
75 continue longer than five years without submission to
76 the voters. The additional rate shall not exceed by
77 more than one hundred percent the maximum school
78 rate prescribed by article eight, chapter eleven of the
79 code, as amended.

80 (b) The Legislature finds and declares that excess
81 levies as they currently exist create unequal educa-
82 tional opportunities from county to county based on
83 the difference in the will of the voters and also based

84 on the differences in property wealth among the
85 counties; that prior to the first day of July, one
86 thousand nine hundred ninety-four, the Legislature
87 shall proceed to equalize educational opportunities
88 over and above the opportunities afforded by each
89 county's property values by considering the existence
90 or nonexistence of excess levies as a factor in the
91 distribution of equity moneys; and that on and after
92 the first day of July, one thousand nine hundred
93 ninety-four, the Legislature shall implement a plan for
94 the equitable distribution of funds so as to eliminate
95 the inequities resulting from county excess levies.

96 (c) The public schools shall be open for the full
97 instructional term to all persons who have attained the
98 entrance age as stated in section five, article two and
99 section eighteen, article five, chapter eighteen of this
100 code: *Provided*, That persons over the age of twenty-
101 one may enter only those programs or classes autho-
102 rized by the state board of education and deemed
103 appropriate by the county board of education conduct-
104 ing any such program or class: *Provided, however*,
105 That authorization for such programs or classes shall
106 in no way serve to affect or eliminate programs or
107 classes offered by county boards of education at the
108 adult level for which fees are charged to support such
109 programs or classes.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-2. Holidays; closing of schools; time lost because of such; special Saturday classes.

1 Schools shall not be kept open on any Saturday nor
2 on the following days which are designated as legal
3 school holidays, namely: Independence Day, Labor
4 Day, Veterans Day, Thanksgiving Day, Christmas Day,
5 New Year's Day, Martin Luther King's birthday,
6 Memorial Day and any day on which a primary
7 election, general election or special election is held
8 throughout the state or school district and any day
9 appointed and set apart by the president or the
10 governor as a holiday of special observance by the

11 people of the state.

12 When any such holiday falls within the employment
13 term, it shall be considered as a day of the employ-
14 ment term and the full-time school personnel shall
15 receive his or her pay for same. When any of the
16 above designated holidays, except a special election,
17 falls on Saturday, the schools shall be closed on the
18 preceding Friday; when any such falls on Sunday, the
19 schools shall be closed on the following Monday.

20 Special classes may be conducted on Saturdays,
21 provided they are conducted on a voluntary basis, for
22 pupils and by teachers and service personnel, and that
23 such teachers and service personnel shall be remuner-
24 ated in ratio to the regularly contracted pay.

25 Any school or schools may be closed by proper
26 authorities on account of the prevalence of contagious
27 disease, conditions of weather or any other calamitous
28 cause over which the board has no control. Under any
29 or all of the above provisions, the time lost by the
30 closing of schools are counted as days of employment
31 and as meeting a part of the requirements of the
32 minimum term of one hundred eighty days of instruc-
33 tion. On such day or days, county boards of education
34 may provide appropriate alternate work schedules for
35 professional and service personnel affected by the
36 closing of any school or schools under any or all of the
37 above provisions. Professional and service personnel
38 shall receive pay the same as if school were in session.
39 Insofar as funds are available or can be made available
40 during the school year, the board may extend the
41 employment term for the purpose of making up time
42 that might affect the instructional term.

43 In addition to any other provisions of this chapter,
44 the board is further authorized to provide in its annual
45 budget for meetings, workshops, vacation time or
46 other holidays through extended employment of
47 personnel at the same rate of pay.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick L. Heck
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Harrell Estlin
.....
Clerk of the Senate

Donald G. Kepp
.....
Clerk of the House of Delegates

Keth Bunette
.....
President of the Senate

Bob C. ...
.....
Speaker House of Delegates

The (within *is approved* this the *26th*
day of *March*, 1990.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/90

Time 10:16 am

RECEIVED

1930 MAR 28 PM 3-02

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE