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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
*Regular Session, 2005*

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**ENROLLED**

*Committee Substitute for*

**SENATE BILL NO.** 94

(By Senator Plymale )

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**PASSED** April 9, 2005

**In Effect** 90 days from **Passage**

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OFFICE WEST VIRGINIA  
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COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 94**

(SENATOR PLYMALE, *original sponsor*)

[Passed April 9, 2005; in effect ninety days from passage.]

AN ACT to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to the school calendar; defining terms; correcting references; providing additional flexibility for instructional support and enhancement days; and authorizing limited use of accrued instructional time for professional development and continuing education for certain purposes.

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

That §18-5-45 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-45. School calendar.**

- 1 (a) As used in this section, the following terms have the
- 2 following meanings:

3 (1) "Instructional day" means a day within the instruc-  
4 tional term which meets the following criteria:

5 (A) Instruction is offered to students for at least the  
6 minimum amounts of time provided by State Board rule;

7 (B) Instructional time is used for instruction,  
8 cocurricular activities and approved extracurricular  
9 activities and, pursuant to the provisions of subdivision  
10 (12), subsection (b), section five, article five-a of this  
11 chapter, faculty senates; and

12 (C) Such other criteria as the State Board determines  
13 appropriate.

14 (2) "Accrued instructional time" means instructional  
15 time accruing during the instructional term from time  
16 added to the instructional day beyond the time required by  
17 State Board rule for an instructional day. Accrued  
18 instructional time may be accumulated and used in larger  
19 blocks of time during the school year for instructional or  
20 noninstructional activities as further defined by the State  
21 Board.

22 (3) "Extracurricular activities" are activities under the  
23 supervision of the school such as athletics, nonin-  
24 structional assemblies, social programs, entertainment and  
25 other similar activities as further defined by the State  
26 Board.

27 (4) "Cocurricular activities" are activities that are  
28 closely related to identifiable academic programs or areas  
29 of study that serve to complement academic curricula as  
30 further defined by the State Board.

31 (b) *Findings.* -

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

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

37 (3) The school calendar traditionally has provided for  
38 one hundred eighty actual days of instruction but numer-  
39 ous circumstances have combined to cause the actual  
40 number of instructional days to be less than one hundred  
41 eighty.

42 (4) The quality and amount of instruction offered during  
43 the instructional term is affected by the extracurricular  
44 and cocurricular activities allowed to occur during sched-  
45 uled instructional time.

46 (5) Within reasonable guidelines, the school calendar  
47 should be designed at least to guarantee that one hundred  
48 eighty actual days of instruction are possible.

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

51 (1) An employment term for teachers of no less than two  
52 hundred days, exclusive of Saturdays and Sundays; and

53 (2) Within the employment term, an instructional term  
54 for students of no less than one hundred eighty separate  
55 instructional days.

56 (d) The instructional term for students shall include one  
57 instructional day in each of the months of October,  
58 December, February, April and June which is an instruc-  
59 tional support and enhancement day scheduled by the  
60 board to include both instructional activities for students  
61 and professional activities for teachers to improve student  
62 instruction. Instructional support and enhancement days  
63 are subject to the following provisions:

64 (1) Two hours of the instructional support and enhance-  
65 ment day shall be used for instructional activities for  
66 students. The instructional activities for students are  
67 subject to the following provisions:

68 (A) The instructional activities for students require the  
69 direct supervision or involvement by teachers;

70 (B) The instructional activities for students shall be  
71 limited to two hours;

72 (C) The instructional activities for students shall be  
73 determined and scheduled at the local school level;

74 (D) The instructional activities for students may include,  
75 but are not limited to, both in-school and outside of school  
76 activities such as student mentoring, tutoring, counseling,  
77 student research and other projects or activities of an  
78 instructional nature, community service, career explora-  
79 tion, parent and teacher conferences, visits to the homes of  
80 students, college and financial aid workshops and college  
81 visits;

82 (E) To ensure that the students who attend are properly  
83 supervised, the instructional activities for students shall be  
84 arranged by appointment with the individual school  
85 through the principal, a teacher or other professional  
86 personnel at the school; and

87 (F) Each school shall establish a policy relating to the  
88 use of the two-hour block scheduled for instructional  
89 activities for students;

90 (2) The instructional support and enhancement day shall  
91 include a two-hour block of time for professional activities  
92 for teachers during which the faculty senate shall have the  
93 opportunity to meet;

94 (3) All time remaining in the school day after meeting  
95 the requirements of subdivisions (1) and (2) of this subsec-  
96 tion, not including the duty-free lunch period, shall be  
97 used for other professional activities for teachers to  
98 improve student instruction which may include, but are  
99 not limited to, professional staff development, curriculum  
100 team meetings, individualized education plan meetings  
101 and other meetings between teachers, principals, aides and  
102 paraprofessionals to improve student instruction as  
103 determined and scheduled at the local school level;

104 (4) Notwithstanding any other provision of law or policy  
105 to the contrary, the presence of any specific number of  
106 students in attendance at the school for any specific period  
107 of time shall not be required on instructional support and  
108 enhancement days and the transportation of students to  
109 the school shall not be required;

110 (5) Instructional support and enhancement days are also  
111 a scheduled work day for all service personnel and shall be  
112 used for training or other tasks related to their job classifi-  
113 cation if their normal duties are not required; and

114 (6) Nothing in this section may be construed to require  
115 that the instructional activities for students, faculty senate  
116 meetings and other professional activities for teachers be  
117 scheduled in any certain order.

118 (e) The instructional term shall commence no earlier  
119 than the twenty-sixth day of August and terminate no  
120 later than the eighth day of June.

121 (f) Noninstructional days shall total twenty and shall be  
122 comprised of the following:

123 (1) Seven holidays as specified in section two, article  
124 five, chapter eighteen-a of this code;

125 (2) Election day as specified in section two, article five,  
126 chapter eighteen-a of this code;

127 (3) Six days to be designated by the county board to be  
128 used by the employees outside the school environment; and

129 (4) Six days to be designated by the county board for any  
130 of the following purposes:

131 (A) Curriculum development;

132 (B) Preparation for opening and closing school;

133 (C) Professional development;

134 (D) Teacher-pupil-parent conferences;

135 (E) Professional meetings; and

136 (F) Making up days when instruction was scheduled but  
137 not conducted.

138 (g) Three of the days described in subdivision (4),  
139 subsection (f) of this section shall be scheduled prior to the  
140 twenty-sixth day of August for the purposes of preparing  
141 for the opening of school and staff development.

142 (h) At least one of the days described in subdivision (4),  
143 subsection (f) of this section shall be scheduled after the  
144 eighth day of June for the purpose of preparing for the  
145 closing of school. If one hundred eighty separate instruc-  
146 tion days occur prior to the eighth day of June, this day  
147 may be scheduled on or before the eighth day of June.

148 (i) At least four of the days described in subdivision (3),  
149 subsection (f) of this section shall be scheduled after the  
150 first day of March.

151 (j) At least two of the days described in subdivision (4),  
152 subsection (f) of this section will be scheduled for profes-  
153 sional development. The professional development  
154 conducted on these days will be consistent with the goals  
155 established by the state board pursuant to the provisions  
156 of section twenty-three-a, article two of this chapter.

157 (k) Subject to the provisions of subsection (h) of this  
158 section, all noninstructional days will be scheduled prior  
159 to the eighth day of June.

160 (l) The State Board may not schedule the primary  
161 statewide assessment program prior to the fifteenth day of  
162 May of the instructional year unless the State Board  
163 determines that the nature of the test mandates an earlier  
164 testing date.

165 (m) If, on or after the first day of March, the county  
166 board determines that it is not possible to complete one  
167 hundred eighty separate days of instruction, the county  
168 board shall schedule instruction on any available

169 noninstructional day, regardless of the purpose for which  
170 the day originally was scheduled, and the day will be used  
171 for instruction, subject to the following:

172 (1) The noninstructional days scheduled for professional  
173 development shall be the last available noninstructional  
174 days to be rescheduled as instructional days;

175 (2) On or after the first day of March, the county board  
176 also may require additional minutes of instruction in the  
177 school day to make up for lost instructional days in excess  
178 of the days available through rescheduling and, if in its  
179 judgment it is reasonable and necessary to improve  
180 student performance, to avoid scheduling instruction on  
181 noninstructional days previously scheduled for profes-  
182 sional development; and

183 (3) The provisions of this subsection do not apply to: (1)  
184 Holidays; and (2) election day.

185 (n) The following applies to accrued instructional time:

186 (1) Except as provided in subsection (m) of this section,  
187 accrued instructional time may not be used to avoid one  
188 hundred eighty separate days of instruction;

189 (2) Accrued instructional time may not be used to  
190 lengthen the time provided in law for faculty senates;

191 (3) The use of accrued instructional time for extracurric-  
192 ular activities will be limited by the state board;

193 (4) Accrued instructional time may be used by schools  
194 and counties to provide additional time for professional  
195 staff development and continuing education as may be  
196 needed to improve student performance and meet the  
197 requirements of the federal mandates affecting elementary  
198 and secondary education. The amount of accrued instruc-  
199 tional time used for this purpose may not exceed three  
200 instructional days; and

201 (5) Other requirements or restrictions the State Board  
202 may provide in the rule required to be promulgated by this  
203 section.

204 (o) The following applies to cocurricular activities:

205 (1) The State Board shall determine what activities may  
206 be considered cocurricular;

207 (2) The State Board shall determine the amount of  
208 instructional time that may be consumed by cocurricular  
209 activities; and

210 (3) Other requirements or restrictions the State Board  
211 may provide in the rule required to be promulgated by this  
212 section.

213 (p) The following applies to extracurricular activities:

214 (1) Except as provided by subdivision (3) of this subsec-  
215 tion, extracurricular activities may not be scheduled  
216 during instructional time;

217 (2) The use of accrued instructional time for extracurric-  
218 ular activities will be limited by the State Board; and

219 (3) The State Board shall provide for the attendance by  
220 students of certain activities sanctioned by the Secondary  
221 School Activities Commission when those activities are  
222 related to statewide tournaments or playoffs or are  
223 programs required for Secondary School Activities  
224 Commission approval.

225 (q) Noninstructional interruptions to the instructional  
226 day shall be minimized to allow the classroom teacher to  
227 teach.

228 (r) Nothing in this section prohibits establishing year-  
229 round schools in accordance with rules to be established  
230 by the State Board.

231 (s) Prior to implementing the school calendar, the county  
232 board shall secure approval of its proposed calendar from

233 the State Board or, if so designated by the State Board,  
234 from the State Superintendent.

235 (t) The county board may contract with all or part of the  
236 personnel for a longer term.

237 (u) The minimum instructional term may be decreased by  
238 order of the state superintendent in any county declared a  
239 federal disaster area and where the event causing the  
240 declaration is substantially related to a reduction of  
241 instructional days.

242 (v) Where the employment term overlaps a teacher's or  
243 service personnel's participation in a summer institute or  
244 institution of higher education for the purpose of advance-  
245 ment or professional growth, the teacher or service person-  
246 nel may substitute, with the approval of the county  
247 superintendent, the participation for up to five of the  
248 noninstructional days of the employment term.

249 (w) The State Board shall promulgate a rule in accor-  
250 dance with the provisions of article three-b, chapter  
251 twenty-nine-a of this code for the purpose of implement-  
252 ing the provisions of this section.

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

*Nancy White*  
.....  
Chairman Senate Committee

*D. Luke Brown*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Narrell Elphines*  
.....  
Clerk of the Senate

*Bryce W. Burt*  
.....  
Clerk of the House of Delegates

*Carl Ray Somdell*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *2nd*  
Day of *May* ....., 2005.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 29 2005

Time 9:30am