

2010 FEB -4 PM 2: 55

WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010

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ENROLLED

House Bill No. 4040

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)
[By Request of the Executive]

—●—
Passed January 26, 2010

In Effect July 1, 2010

HB 4040

E N R O L L E D

FILED
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H. B. 4040

OFFICE OF THE CLERK
WEST VIRGINIA
SECRETARY OF STATE

(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)
[BY REQUEST OF THE EXECUTIVE]

[Passed January 26, 2010; in effect July 1, 2010.]

AN ACT to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, relating to requiring county boards to adopt contingency plans designed to guarantee one hundred eighty separate days of instruction for students; authorizing county boards of education to select the beginning date and ending date of the instructional term of the school calendar; and making technical corrections.

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
4 instructional 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, cocurricular
8 activities and approved extracurricular activities and, pursuant
9 to the provisions of subdivision twelve, subsection (b), section
10 five, article five-a of this chapter, faculty senates; and

11 (C) Such other criteria as the state board determines
12 appropriate.

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

20 (3) “Extracurricular activities” are activities under the
21 supervision of the school such as athletics, noninstructional
22 assemblies, social programs, entertainment and other similar
23 activities as further defined by the state board.

24 (4) “Cocurricular activities” are activities that are closely
25 related to identifiable academic programs or areas of study
26 that serve to complement academic curricula as further
27 defined by the state board.

28 (b) *Findings.* --

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

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

34 (3) The school calendar traditionally has provided for one
35 hundred eighty actual days of instruction but numerous
36 circumstances have combined to cause the actual number of
37 instructional days to be less than one hundred eighty.

38 (4) The quality and amount of instruction offered during
39 the instructional term is affected by the extracurricular and
40 cocurricular activities allowed to occur during scheduled
41 instructional time.

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

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

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

49 (2) Within the employment term, an instructional term for
50 students of no less than one hundred eighty separate
51 instructional days, which shall include an icy conditions and
52 emergencies plan designed to guarantee an instructional term
53 for students of no less than one hundred eighty separate
54 instructional days.

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

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

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

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

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

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

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

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

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

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

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

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

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

117 (e) The instructional term shall commence on a date
118 selected by the county board and terminate on a date selected
119 by the county board.

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

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

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

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

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

130 (A) Curriculum development;

131 (B) Preparation for opening and closing school;

132 (C) Professional development;

133 (D) Teacher-pupil-parent conferences;

134 (E) Professional meetings; and

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

137 (g) Three of the days described in subdivision (4),
138 subsection (f) of this section shall be scheduled prior to the
139 commencement of the instructional term for the purposes of
140 preparing for the opening of school and staff development.

141 (h) At least one of the days described in subdivision (4),
142 subsection (f) of this section shall be scheduled after the
143 termination of the instructional term for the purpose of
144 preparing for the closing of school.

145 (i) At least four of the days described in subdivision
146 (3), subsection (f) of this section shall be scheduled after
147 March 1.

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

154 (k) Subject to the provisions of subsection (h) of this
155 section, all noninstructional days will be scheduled prior to
156 the termination of the instructional term.

157 (l) The state board may not schedule the primary
158 statewide assessment program prior to May 15 of the
159 instructional year unless the state board determines that the
160 nature of the test mandates an earlier testing date.

161 (m) If, on or after March 1, the county board determines
162 that it is not possible to complete one hundred eighty separate
163 days of instruction, the county board shall schedule
164 instruction on any available noninstructional day, regardless
165 of the purpose for which the day originally was scheduled,
166 and the day will be used for instruction, subject to the
167 following:

168 (1) The noninstructional days scheduled for professional
169 development shall be the last available noninstructional days
170 to be rescheduled as instructional days;

171 (2) On or after March 1, the county board also may
172 require additional minutes of instruction in the school day to
173 make up for lost instructional days in excess of the days
174 available through rescheduling and, if in its judgment it is
175 reasonable and necessary to improve student performance, to
176 avoid scheduling instruction on noninstructional days
177 previously scheduled for professional development; and

178 (3) The provisions of this subsection do not apply to:

179 (1) Holidays; and

180 (2) Election day.

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

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

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

187 (3) The use of accrued instructional time for
188 extracurricular activities will be limited by the state board;

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

196 (5) Other requirements or restrictions the state board may
197 provide in the rule required to be promulgated by this section.

198 (o) The following applies to cocurricular activities:

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

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

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

206 (p) The following applies to extracurricular activities:

207 (1) Except as provided by subdivision (3) of this
208 subsection, extracurricular activities may not be scheduled
209 during instructional time;

210 (2) The use of accrued instructional time for
211 extracurricular activities will be limited by the state board;
212 and

213 (3) The state board shall provide for the attendance by
214 students of certain activities sanctioned by the Secondary
215 School Activities Commission when those activities are
216 related to statewide tournaments or playoffs or are programs
217 required for Secondary School Activities Commission
218 approval.

219 (q) Noninstructional interruptions to the instructional day
220 shall be minimized to allow the classroom teacher to teach.

221 (r) Nothing in this section prohibits establishing year-
222 round schools in accordance with rules to be established by
223 the state board.

224 (s) Prior to implementing the school calendar, the county
225 board shall secure approval of its proposed calendar from the
226 state board or, if so designated by the state board, from the
227 state superintendent.

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

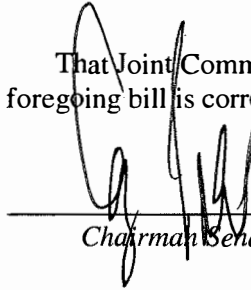
230 (u) The minimum instructional term may be decreased by
231 order of the state superintendent in any county declared a

232 federal disaster area and where the event causing the
233 declaration is substantially related to a reduction of
234 instructional days.

235 (v) Where the employment term overlaps a teacher's or
236 service personnel's participation in a summer institute or
237 institution of higher education for the purpose of
238 advancement or professional growth, the teacher or service
239 personnel may substitute, with the approval of the county
240 superintendent, the participation for up to five of the
241 noninstructional days of the employment term.

242 (w) The state board shall promulgate a rule in accordance
243 with the provisions of article three-b, chapter twenty-nine-a
244 of this code for the purpose of implementing the provisions
245 of this section.

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



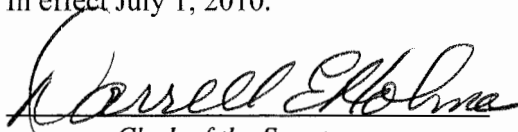
Chairman Senate Committee



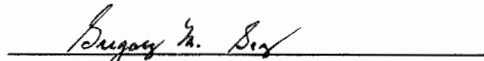
Chairman House Committee

Originating in the House.

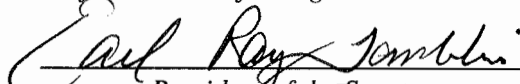
In effect July 1, 2010.



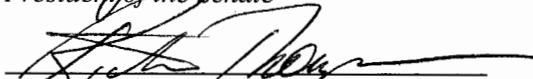
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 4th
day of December, 2010.



Governor

PRESENTED TO THE
GOVERNOR

FEB 2 2010

Time 9:15 hr