

HB 3157

FILED

2013 MAY -3 PM 4:31

CLERK OF COURSE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 3157

(By Delegate(s) M. Poling, Stowers, Lawrence, Williams, Perry,
Pethel, Tomblin, Young, Pasdon, Evans and Westfall)



Passed April 13, 2013

In effect July 1, 2013.

FILED
2013 MAY -3 PM 4:32

E N R O L L E D

LEGISLATIVE COUNCIL
WEST VIRGINIA
DEPT. OF STATE

COMMITTEE SUBSTITUTE

FOR

H. B. 3157

(BY DELEGATE(S) M. POLING, STOWERS, LAWRENCE,
WILLIAMS, PERRY, PETHTEL, TOMBLIN, YOUNG, PASDON,
EVANS AND WESTFALL)

[Passed April 13, 2013; in effect July 1, 2013.]

AN ACT to repeal §18-2-15, §18-2-15a, §18-2-18, §18-2-23, §18-2-30, §18-2-31, §18-2-36, §18-2-37 and §18-2-38 of the code of West Virginia, 1931, as amended; to repeal §18-2E-3c and §18-2E-3d of said code; to repeal §18-5-40 of said code; to repeal §18-9-2b, §18-9-5, §18-9-7 and §18-9-8 of said code; to repeal §18-9A-3a, §18-9A-3b, §18-9A-13, §18-9A-13a, §18-9A-13b, §18-9A-25 and §18-9A-26 of said code; to repeal §18-9B-11 and §18-9B-16 of said code; to repeal §18A-3-2b of said code; to amend and reenact §18-2-5g of said code; to amend and reenact §18-5-45 of said code; to amend said code by adding thereto a new section, designated §18-8-6a; to amend and reenact §18-9A-10 of said code; and to amend and reenact §18-17-8 of said code, all relating to restoring the authority, flexibility and capacity of schools and school systems to improve student

learning; eliminating requirement for biennial report on public schools and institutions; eliminating expired provisions for RESA study; eliminating expired provisions for study on staff fluctuations at certain schools; eliminating outdated provisions on comprehensive education program plans; eliminating requirement for statewide curriculum technology resource center; eliminating outdated provisions for automatic cost of living adjustment plan; eliminating outdated provisions for student learning abilities grant program; eliminating expired provisions on flood and property insurance study; eliminating expired provisions on study of school teams and committees; eliminating prescriptive summer reading and math grant program provisions; eliminating provisions pilot program for operation on schools on semester basis; eliminating outdated provisions for transferring school funds from magisterial and independent school districts; eliminating outdated provisions related to the board of the school fund; eliminating outdated provisions related to supplemental aid for districts with institutional home for orphans and homeless children; eliminating expired provisions for transition to new provisions on school finance; eliminating expired provisions for school finance in certain fiscal year; eliminating expired provisions for one-year transitional allocation appropriation for certain rural districts; eliminating expired provisions related to levies subsequent to passage of statewide uniform excess levy; eliminating inoperable provisions for legislative reserve fund; eliminating requirement for appropriation for teacher of the year salary; eliminating allowance for workers' compensation for unpaid work-based learning; eliminating outdated provisions related to board of school finance; eliminating provisions pertaining to proceeds of the permanent improvement fund; eliminating provisions related to beginning teacher internship; replacing requirement for annual summary and submission of certain county board policies with requirement for state board to review and evaluate certain reports and report to legislative oversight commission; modifying effective date for certain school calendar amendments; providing reimbursement in certain circumstances for county board costs

of probation officers for truant juveniles; reducing percent of increase in local share added to allowance to improve instructional programs; requiring certain funds available for use for personnel to be used for only certain personnel subject to certain condition; increasing percent of increase in local share added for instructional technology purposes; changing purpose to county and school strategic improvement plans; changing method of allocation to counties; expanding provisions pertaining to suspension or dismissal of West Virginia Schools for the Deaf and the Blind teachers to include auxiliary and service personnel; and allowing the state board to employ a hearing examiner to preside at the taking of evidence.

Be it enacted by the Legislature of West Virginia:

That §18-2-15, §18-2-15a, §18-2-18, §18-2-23, §18-2-30, §18-2-31, §18-2-36, §18-2-37 and §18-2-38 of the code of West Virginia, 1931, as amended, be repealed; that §18-2E-3c and §18-2E-3d of said code be repealed; that §18-5-40 of said code be repealed; that §18-9-2b, §18-9-5, §18-9-7 and §18-9-8 of said code be repealed; that §18-9A-3a, §18-9A-3b, §18-9A-13, §18-9A-13a, §18-9A-13b, §18-9A-25 and §18-9A-26 of said code be repealed; that §18-9B-11 and §18-9B-16 of said code be repealed; that §18A-3-2b of said code be repealed; that §18-2-5g of said code be amended and reenacted; that §18-5-45 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-8-6a; that §18-9A-10 of said code be amended and reenacted; and that §18-17-8 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5g. Review and determination of principal and teacher reports; identify reports with recommendations to Legislative Oversight Commission on Education Accountability.

- 1 (a) The state board annually shall review and evaluate the
- 2 list of reports required to be written by principals and teachers in

3 order to determine which reports are repetitive, unnecessary,
4 counterproductive or outdated so that the administrative burden
5 on principals and teachers may be lessened.

6 (b) The state board shall submit a report to the Legislative
7 Oversight Commission on Education Accountability no later
8 than December 31 of each year identifying those unnecessary
9 reports, together with any comments and recommendations on
10 how to reduce or consolidate principal and teacher reports.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-45. School calendar.

1 (a) As used in this section:

2 (1) "Instructional day" means a day within the instructional
3 term which meets the following criteria:

4 (A) Instruction is offered to students for at least the mini-
5 mum amount of hours provided by state board rule;

6 (B) Instructional time is used for instruction and cocurricular
7 activities; and

8 (C) Other criteria as the state board determines appropriate.

9 (2) "Cocurricular activities" are activities that are closely
10 related to identifiable academic programs or areas of study that
11 serve to complement academic curricula as further defined by
12 the state board.

13 (b) *Findings.* –

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

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

19 (3) The school calendar shall provide for one hundred eighty
20 separate instructional days.

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

23 (1) An employment term that excludes Saturdays and
24 Sundays and consists of at least two hundred days, which need
25 not be successive. The beginning and closing dates of the
26 employment term may not exceed forty-eight weeks;

27 (2) Within the employment term, an instructional term for
28 students of no less than one hundred eighty separate instructional
29 days, which includes an inclement weather and emergencies plan
30 designed to guarantee an instructional term for students of no
31 less than one hundred eighty separate instructional days;

32 (3) Within the employment term, noninstructional days shall
33 total twenty and shall be comprised of the following:

34 (A) Seven paid holidays;

35 (B) Election day as specified in section two, article five,
36 chapter eighteen-a of this code;

37 (C) Six days to be designated by the county board to be used
38 by the employees outside the school environment, with at least
39 four outside the school environment days scheduled to occur
40 after the one hundred and thirtieth instructional day of the school
41 calendar; and

42 (D) The remaining days to be designated by the county board
43 for purposes to include, but not be limited to:

44 (i) Curriculum development;

45 (ii) Preparation for opening and closing school;

46 (iii) Professional development;

47 (iv) Teacher-pupil-parent conferences;

48 (v) Professional meetings;

49 (vi) Making up days when instruction was scheduled but not
50 conducted; and

51 (vii) At least four two-hour blocks of time for faculty senate
52 meetings with each two-hour block of time scheduled once at
53 least every forty-five instructional days; and

54 (4) Scheduled out-of-calendar days that are to be used for
55 instructional days in the event school is canceled for any reason.

56 (d) A county board of education shall develop a policy that
57 requires additional minutes of instruction in the school day or
58 additional days of instruction to recover time lost due to late
59 arrivals and early dismissals.

60 (e) If it is not possible to complete one hundred eighty
61 separate instructional days with the current school calendar, the
62 county board shall schedule instruction on any available
63 noninstructional day, regardless of the purpose for which the day
64 originally was scheduled, or an out-of-calendar day and the day
65 will be used for instruction of students: *Provided*, That the
66 provisions of this subsection do not apply to:

67 (A) Holidays;

68 (B) Election day;

69 (C) Saturdays and Sundays.

70 (f) The instructional term shall commence and terminate on
71 a date selected by the county board.

72 (g) The state board may not schedule the primary statewide
73 assessment program more than thirty days prior to the end of the
74 instructional year unless the state board determines that the
75 nature of the test mandates an earlier testing date.

76 (h) The following applies to cocurricular activities:

77 (1) The state board shall determine what activities may be
78 considered cocurricular;

79 (2) The state board shall determine the amount of instruc-
80 tional time that may be consumed by cocurricular activities; and

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

83 (i) Extracurricular activities may not be used for instruc-
84 tional time.

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

87 (k) Prior to implementing the school calendar, the county
88 board shall secure approval of its proposed calendar from the
89 state board or, if so designated by the state board, from the state
90 superintendent.

91 (l) In formulation of a school's calendar, a county school
92 board shall hold at least two public meetings that allow parents,
93 teachers, teacher organizations, businesses and other interested
94 parties within the county to discuss the school calendar. The
95 public notice of the date, time and place of the public hearing
96 must be published in a local newspaper of general circulation in
97 the area as a Class II legal advertisement, in accordance with the
98 provisions of article three, chapter fifty-nine of this code.

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

101 (n) The minimum instructional term may be decreased by
102 order of the state superintendent in any county declared a federal
103 disaster area and where the event causing the declaration is
104 substantially related to a reduction of instructional days.

105 (o) Notwithstanding any provision of this code to the
106 contrary, the state board may grant a waiver to a county board
107 for its noncompliance with provisions of chapter eighteen,
108 eighteen-a, eighteen-b and eighteen-c of this code to maintain

109 compliance in reaching the mandatory one hundred eighty
110 separate instructional days established in this section.

111 (p) The state board shall promulgate a rule in accordance
112 with the provisions of article three-b, chapter twenty-nine-a of
113 this code for the purpose of implementing the provisions of this
114 section.

115 (q) The amendments to this section during the 2013 regular
116 session of the Legislature shall be effective for school years
117 beginning on or after July 1, 2014, and the provisions of this
118 section existing immediately prior to the 2013 regular session of
119 the Legislature remain in effect for school years beginning prior
120 to July 1, 2014.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

**§18-8-6a. Incentive for county board participation in circuit court
juvenile probation truancy programs.**

1 A county board that enters into a truancy program agreement
2 with the circuit court of the county that (1) provides for the
3 referral of truant juveniles for supervision by the court's
4 probation office pursuant to section eleven, article five, chapter
5 forty-nine of this code and (2) requires the county board to pay
6 for the costs of the probation officer or officers assigned to
7 supervise truant juveniles, shall be reimbursed for one-half of the
8 costs of the probation officer or officers, subject to appropriation
9 of the Legislature for this purpose to the West Virginia Depart-
10 ment of Education. For any year in which the funds appropriated
11 are insufficient to cover the reimbursement costs, the county's
12 costs shall be reimbursed pro rata.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

**§18-9A-10. Foundation allowance to improve instructional
programs.**

1 (a) The total allowance to improve instructional programs
2 shall be the sum of the following:

3 (1) For instructional improvement, in accordance with
4 county and school electronic strategic improvement plans
5 required by section five, article two-e of this chapter, an amount
6 equal to fifteen percent of the increase in the local share amount
7 for the next school year above any required allocation pursuant
8 to section six-b of this article shall be added to the amount of the
9 appropriation for this purpose for the immediately preceding
10 school year: *Provided*, That effective July 1, 2014, an amount
11 equal to ten percent of the increase in the local share amount for
12 the next school year above any required allocation pursuant to
13 section six-b of this article shall be added to the amount of the
14 appropriation for this purpose for the immediately preceding
15 school year. The sum of these amounts shall be distributed to the
16 counties as follows:

17 (A) One hundred fifty thousand dollars shall be allocated to
18 each county; and

19 (B) Distribution to the counties of the remainder of these
20 funds shall be made proportional to the average of each county's
21 average daily attendance for the preceding year and the county's
22 second month net enrollment.

23 Moneys allocated by provision of this subdivision shall be
24 used to improve instructional programs according to the county
25 and school strategic improvement plans required by section five,
26 article two-e of this chapter and approved by the state board:
27 *Provided*, That notwithstanding any other provision of this code
28 to the contrary, moneys allocated by provision of this section
29 also may be used in the implementation and maintenance of the
30 uniform integrated regional computer information system.

31 Up to twenty-five percent of this allocation may be used to
32 employ professional educators and service personnel in counties
33 after all applicable provisions of sections four and five of this
34 article have been fully utilized.

35 Prior to the use of any funds from this subdivision for
36 personnel costs, the county board must receive authorization

37 from the state superintendent. The state superintendent shall
38 require the county board to demonstrate: (1) The need for the
39 allocation; (2) efficiency and fiscal responsibility in staffing; (3)
40 sharing of services with adjoining counties and the regional
41 educational service agency for that county in the use of the total
42 local district board budget; and (4) employment of technology
43 integration specialists to meet the needs for implementation of
44 the West Virginia 21st Century Strategic Technology Learning
45 Plan. County boards shall make application for the use of funds
46 for personnel for the next fiscal year by May 1 of each year. On
47 or before June 1, the state superintendent shall review all
48 applications and notify applying county boards of the approval
49 or disapproval of the use of funds for personnel during the fiscal
50 year appropriate. The state superintendent shall require the
51 county board to demonstrate the need for an allocation for
52 personnel based upon the county's inability to meet the require-
53 ments of state law or state board policy.

54 The provisions relating to the use of any funds from this
55 subdivision for personnel costs are subject to the following: (1)
56 The funds available for personnel under this subsection may not
57 be used to increase the total number of professional
58 noninstructional personnel in the central office beyond four; and
59 (2) For the school year beginning July 1, 2013, and thereafter,
60 any funds available to a county for use for personnel above the
61 amount available for the 2012-2013 school year, only may be
62 used for technology systems specialists until the state superinten-
63 dent determines that the county has sufficient technology
64 systems specialists to serve the needs of the county.

65 The plan shall be made available for distribution to the
66 public at the office of each affected county board; plus

67 (2) For the purposes of improving instructional technology,
68 an amount equal to fifteen percent of the increase in the local
69 share amount for the next school year above any required
70 allocation pursuant to section six-b of this article shall be added
71 to the amount of the appropriation for this purpose for the

72 immediately preceding school year: *Provided*, That effective
73 July 1, 2014, an amount equal to twenty percent of the increase
74 in the local share amount for the next school year above any
75 required allocation pursuant to section six-b of this article shall
76 be added to the amount of the appropriation for this purpose for
77 the immediately preceding school year. The sum of these
78 amounts shall be allocated to the counties as provided in section
79 seven, article two-e of this chapter to meet the objectives of the
80 West Virginia 21st Century Strategic Technology Learning Plan:
81 *Provided*, That effective July 1, 2014, the sum of these amounts
82 shall be distributed to the counties as follows:

83 (A) Thirty thousand dollars shall be allocated to each county;
84 and

85 (B) Distribution to the counties of the remainder of these
86 funds shall be made proportional to the average of each county's
87 average daily attendance for the preceding year and the county's
88 second month net enrollment.

89 Effective July 1, 2014, moneys allocated by provision of this
90 subdivision shall be used to improve instructional technology
91 programs according to the county and school strategic improve-
92 ment plans; plus .

93 (3) One percent of the state average per pupil state aid
94 multiplied by the number of students enrolled in dual credit,
95 advanced placement and international baccalaureate courses, as
96 defined by the state board, distributed to the counties proportion-
97 ate to enrollment in these courses in each county; plus

98 (4) An amount not less than the amount required to meet
99 debt service requirements on any revenue bonds issued prior to
100 January 1, 1994, and the debt service requirements on any
101 revenue bonds issued for the purpose of refunding revenue bonds
102 issued prior to January 1, 1994, shall be paid into the School
103 Building Capital Improvements Fund created by section six,
104 article nine-d of this chapter and shall be used solely for the

105 purposes of that article. The School Building Capital Improve-
106 ments Fund shall not be utilized to meet the debt services
107 requirement on any revenue bonds or revenue refunding bonds
108 for which moneys contained within the School Building Debt
109 Service Fund have been pledged for repayment pursuant to that
110 section.

111 (b) When the school improvement bonds secured by funds
112 from the School Building Capital Improvements Fund mature,
113 the state Board of Education shall annually deposit an amount
114 equal to \$24,000,000 from the funds allocated in this section into
115 the School Construction Fund created pursuant to the provisions
116 of section six, article nine-d of this chapter to continue funding
117 school facility construction and improvements.

118 (c) Any project funded by the School Building Authority
119 shall be in accordance with a comprehensive educational facility
120 plan which must be approved by the state board and the School
121 Building Authority.

**ARTICLE 17. WEST VIRGINIA SCHOOLS FOR THE DEAF AND THE
BLIND.**

**§18-17-8. Continuing contract status established; dismissal and
suspension procedures.**

1 Before entering upon their duties, all teachers shall execute
2 a contract with the state board, which contract shall state the
3 salary to be paid and shall be in the form prescribed by the state
4 superintendent. Every such contract shall be signed by the
5 teacher and by the president and secretary of the state board.

6 A teacher's contract, under this section, shall be for a term
7 of not less than one nor more than three years; and if, after three
8 years of such employment, the teacher who holds a professional
9 certificate, based on at least a bachelor's degree, has met the
10 qualifications for the same, and the state board enter into a new
11 contract of employment, it shall be a continuing contract.

12 Notwithstanding any other provisions of law, the state board
13 may suspend or dismiss any teacher, auxiliary personnel or
14 service personnel, subject to the provisions of this article, for
15 immorality, incompetency, cruelty, insubordination, intemper-
16 ance or willful neglect of duty. The charges shall be stated in
17 writing and the teacher, auxiliary personnel or service personnel
18 affected shall be given an opportunity to be heard by the state
19 board, sitting as a hearing board, or by an assigned hearing
20 examiner employed by the state board to preside at the taking of
21 evidence upon not less than ten days' written notice. A hearing
22 examiner shall prepare his or her own proposed finding and
23 recommendation, make copies of the findings available to the
24 parties and then submit the entire record to the state board for
25 final decision. The state board shall set a time and place for
26 hearing of arguments by the parties on the record at a regular
27 meeting of the state board or at a special meeting called for that
28 purpose and shall deliberate and issue a decision at the conclu-
29 sion of arguments. Written notice of the final decision shall be
30 served within five days of the state board's consideration of the
31 matter.

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

Jimmy Wells
Chairman, House Committee

Rock Filippone
Member ~~Chairman~~ Senate Committee

Originating in the House.

In effect July 1, 2013.

Gregory D. Szel
Clerk of the House of Delegates

Joseph M. Minard
Clerk of the Senate

[Signature]
Speaker of the House of Delegates

[Signature]
President of the Senate

SECRETARY OF STATE

2013 MAY -3 PM 4:32

FILED

The within *is approved* this the *3rd*
day of *May*, 2013.

Carl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

APR 29 2013

Time 10:15 am