

**WEST VIRGINIA LEGISLATURE  
EIGHTY-SECOND LEGISLATURE  
REGULAR SESSION, 2015**

—●—  
**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR**

**Senate Bill No. 19**

**(SENATOR PLYMALE, ORIGINAL SPONSOR)**

**[PASSED MARCH 13, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]**

SB 19 (veto)  
BS

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2015 APR - 2 P 12: 33

FILED

FILED

2015 APR -2 P 12:33

ENROLLED

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 19**

(SENATOR PLYMALE, ORIGINAL SPONSOR)

---

[Passed March 13, 2015; in effect ninety days from passage.]

---

**AN ACT to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to minimum periods of instruction for early childhood education programs; and setting forth minimum instructional days per week, minimum instructional minutes per week and minimum instructional days per year for early childhood education programs.**

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

That §18-5-44 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

**§18-5-44. Early childhood education programs.**

- 1 (a) For the purposes of this section, an “early childhood
- 2 education program” means a program created under this

3 section for children who have attained the age of four prior to  
4 September 1 of the school year in which the children enter  
5 the program.

6 (b) *Findings.* –

7 (1) Among other positive outcomes, early childhood  
8 education programs have been determined to:

9 (A) Improve overall readiness when children enter  
10 school;

11 (B) Decrease behavioral problems;

12 (C) Improve student attendance;

13 (D) Increase scores on achievement tests;

14 (E) Decrease the percentage of students repeating a  
15 grade; and

16 (F) Decrease the number of students placed in special  
17 education programs;

18 (2) Quality early childhood education programs improve  
19 school performance, and low-quality early childhood  
20 education programs may have negative effects, especially for  
21 at-risk children;

22 (3) West Virginia has the lowest percentage of its adult  
23 population twenty-five years of age or older with a bachelor's  
24 degree, and the education level of parents is a strong indicator  
25 of how their children will perform in school;

26 (4) During the 2006-2007 school year, West Virginia  
27 ranked thirty-ninth among the fifty states in the percentage of

28 school children eligible for free and reduced lunches, and this  
29 percentage is a strong indicator of how the children will  
30 perform in school;

31 (5) For the school year 2008-2009, 13,135 students were  
32 enrolled in prekindergarten, a number equal to approximately  
33 sixty-three percent of the number of students enrolled in  
34 kindergarten;

35 (6) Excluding projected increases due to increases in  
36 enrollment in the early childhood education program,  
37 projections indicate that total student enrollment in West  
38 Virginia will decline by one percent, or by approximately  
39 2,704 students, by the school year 2012-2013;

40 (7) In part, because of the dynamics of the state aid  
41 formula, county boards will continue to enroll four-year-old  
42 students to offset the declining enrollments;

43 (8) West Virginia has a comprehensive kindergarten  
44 program for five-year-olds, but the program was established  
45 in a manner that resulted in unequal implementation among  
46 the counties, which helped create deficit financial situations  
47 for several county boards;

48 (9) Expansion of current efforts to implement a  
49 comprehensive early childhood education program should  
50 avoid the problems encountered in kindergarten  
51 implementation;

52 (10) Because of the dynamics of the state aid formula,  
53 counties experiencing growth are at a disadvantage in  
54 implementing comprehensive early childhood education  
55 programs; and

56           (11) West Virginia citizens will benefit from the  
57 establishment of quality comprehensive early childhood  
58 education programs.

59           (c) Beginning no later than the school year 2012-2013,  
60 and continuing thereafter, county boards shall provide early  
61 childhood education programs for all children who have  
62 attained the age of four prior to September 1 of the school  
63 year in which the children enter the early childhood  
64 education program. Beginning no later than the school year  
65 2016-2017, and continuing thereafter, these early childhood  
66 education programs shall provide at least four days of  
67 instruction per week, provide at least one thousand two  
68 hundred minutes of instruction per week and include at least  
69 one hundred forty-six instructional days per year.

70           (d) The program shall meet the following criteria:

71           (1) It shall be voluntary, except that, upon enrollment, the  
72 provisions of section one-a, article eight of this chapter apply  
73 to an enrolled student, subject to subdivision (4) of this  
74 subsection;

75           (2) It shall be open to all children meeting the age  
76 requirement set forth in this section;

77           (3) It shall provide at least four days of instruction per  
78 week, provide at least one thousand two hundred minutes of  
79 instruction per week and include at least one hundred forty-  
80 six instructional days per year; and

81           (4) It shall permit a parent of an enrolled child to  
82 withdraw the child from that program for good cause by  
83 notifying the district. Good cause includes, but is not limited  
84 to, enrollment of the child in another program or the  
85 immaturity of the child. A child withdrawn under this section

86 is not subject to the attendance provisions of this chapter until  
87 that child again enrolls in a public school in this state.

88 (e) Enrollment of students in Head Start, or in any other  
89 program approved by the state superintendent as provided in  
90 this section, may be counted toward satisfying the  
91 requirement of subsection (c) of this section.

92 (f) For the purposes of implementation financing, all  
93 counties are encouraged to make use of funds from existing  
94 sources, including:

95 (1) Federal funds provided under the Elementary and  
96 Secondary Education Act pursuant to 20 U. S. C. §6301, *et*  
97 *seq.*;

98 (2) Federal funds provided for Head Start pursuant to 42  
99 U. S. C. §9831, *et seq.*;

100 (3) Federal funds for temporary assistance to needy  
101 families pursuant to 42 U. S. C. §601, *et seq.*;

102 (4) Funds provided by the School Building Authority  
103 pursuant to article nine-d of this chapter;

104 (5) In the case of counties with declining enrollments,  
105 funds from the state aid formula above the amount indicated  
106 for the number of students actually enrolled in any school  
107 year; and

108 (6) Any other public or private funds.

109 (g) Each county board shall develop a plan for  
110 implementing the program required by this section. The plan  
111 shall include the following elements:

112       **(1) An analysis of the demographics of the county related**  
113       **to early childhood education program implementation;**

114       **(2) An analysis of facility and personnel needs;**

115       **(3) Financial requirements for implementation and**  
116       **potential sources of funding to assist implementation;**

117       **(4) Details of how the county board will cooperate and**  
118       **collaborate with other early childhood education programs**  
119       **including, but not limited to, Head Start, to maximize federal**  
120       **and other sources of revenue;**

121       **(5) Specific time lines for implementation; and**

122       **(6) Any other items the state board may require by policy.**

123       **(h) A county board shall submit its plan to the Secretary**  
124       **of the Department of Health and Human Resources. The**  
125       **secretary shall approve the plan if the following conditions**  
126       **are met:**

127       **(1) The county board has maximized the use of federal**  
128       **and other available funds for early childhood programs; and**

129       **(2) The county board has provided for the maximum**  
130       **implementation of Head Start programs and other public and**  
131       **private programs approved by the state superintendent**  
132       **pursuant to the terms of this section; or**

133       **(3) The secretary finds that, if the the county board has**  
134       **not met one or more of the requirements of this subsection,**  
135       **the county board has acted in good faith and the failure to**  
136       **comply was not the primary fault of the county board. Any**  
137       **denial by the secretary may be appealed to the circuit court of**  
138       **the county in which the county board is located.**

139 (i) The county board shall submit its plan for approval to  
140 the state board. The state board shall approve the plan if the  
141 county board has complied substantially with the requirements  
142 of subsection (g) of this section and has obtained the approval  
143 required in subsection (h) of this section.

144 (j) Every county board shall submit its plan for reapproval  
145 by the Secretary of the Department of Health and Human  
146 Resources and by the state board at least every two years after  
147 the initial approval of the plan and until full implementation of  
148 the early childhood education program in the county. As part  
149 of the submission, the county board shall provide a detailed  
150 statement of the progress made in implementing its plan. The  
151 standards and procedures provided for the original approval of  
152 the plan apply to any reapproval.

153 (k) A county board may not increase the total number of  
154 students enrolled in the county in an early childhood program  
155 until its program is approved by the Secretary of the  
156 Department of Health and Human Resources and the state  
157 board.

158 (l) The state board annually may grant a county board a  
159 waiver for total or partial implementation if the state board  
160 finds that all of the following conditions exist:

161 (1) The county board is unable to comply either because:

162 (A) It does not have sufficient facilities available; or

163 (B) It does not and has not had available funds sufficient  
164 to implement the program;

165 (2) The county has not experienced a decline in  
166 enrollment at least equal to the total number of students to be  
167 enrolled; and



168           (3) Other agencies of government have not made  
169 sufficient funds or facilities available to assist in  
170 implementation.

171           Any county board seeking a waiver shall apply with the  
172 supporting data to meet the criteria for which they are eligible  
173 on or before March 25 for the following school year. The  
174 state superintendent shall grant or deny the requested waiver  
175 on or before April 15 of that same year.

176           (m) The provisions of subsections (b), (c) and (d), section  
177 eighteen of this article relating to kindergarten apply to early  
178 childhood education programs in the same manner in which  
179 they apply to kindergarten programs.

180           (n) Annually, the state board shall report to the  
181 Legislative Oversight Commission on Education  
182 Accountability on the progress of implementation of this  
183 section.

184           (o) Except as required by federal law or regulation, no  
185 county board may enroll students who will be less than four  
186 years of age prior to September 1 for the year they enter  
187 school.

188           (p) Neither the state board nor the state department may  
189 provide any funds to any county board for the purpose of  
190 implementing this section unless the county board has a plan  
191 approved pursuant to subsections (h), (i) and (j) of this  
192 section.

193           (q) The state board shall promulgate a rule in accordance  
194 with the provisions of article three-b, chapter twenty-nine-a  
195 of this code for the purposes of implementing the provisions  
196 of this section. The state board shall consult with the  
197 Secretary of the Department of Health and Human Resources

198 in the preparation of the rule. The rule shall contain the  
199 following:

200 (1) Standards for curriculum;

201 (2) Standards for preparing students;

202 (3) Attendance requirements;

203 (4) Standards for personnel; and

204 (5) Any other terms necessary to implement the  
205 provisions of this section.

206 (r) The rule shall include the following elements relating  
207 to curriculum standards:

208 (1) A requirement that the curriculum be designed to  
209 address the developmental needs of four-year-old children,  
210 consistent with prevailing research on how children learn;

211 (2) A requirement that the curriculum be designed to  
212 achieve long-range goals for the social, emotional, physical  
213 and academic development of young children;

214 (3) A method for including a broad range of content that  
215 is relevant, engaging and meaningful to young children;

216 (4) A requirement that the curriculum incorporate a wide  
217 variety of learning experiences, materials and equipment, and  
218 instructional strategies to respond to differences in prior  
219 experience, maturation rates and learning styles that young  
220 children bring to the classroom;

221 (5) A requirement that the curriculum be designed to  
222 build on what children already know in order to consolidate

223 their learning and foster their acquisition of new concepts and  
224 skills;

225 (6) A requirement that the curriculum meet the  
226 recognized standards of the relevant subject matter  
227 disciplines;

228 (7) A requirement that the curriculum engage children  
229 actively in the learning process and provide them with  
230 opportunities to make meaningful choices;

231 (8) A requirement that the curriculum emphasize the  
232 development of thinking, reasoning, decision-making and  
233 problem-solving skills;

234 (9) A set of clear guidelines for communicating with  
235 parents and involving them in decisions about the  
236 instructional needs of their children; and

237 (10) A systematic plan for evaluating program success in  
238 meeting the needs of young children and for helping them to  
239 be ready to succeed in school.

240 (s) The secretary and the state superintendent shall submit  
241 a report to the Legislative Oversight Commission on  
242 Education Accountability and the Joint Committee on  
243 Government and Finance which addresses, at a minimum, the  
244 following issues:

245 (1) A summary of the approved county plans for  
246 providing the early childhood education programs pursuant  
247 to this section;

248 (2) An analysis of the total cost to the state and county  
249 boards of implementing the plans;

250           **(3) A separate analysis of the impact of the plans on**  
251 **counties with increasing enrollment; and**

252           **(4) An analysis of the effect of the programs on the**  
253 **maximization of the use of federal funds for early childhood**  
254 **programs.**

255           **The intent of this subsection is to enable the Legislature**  
256 **to proceed in a fiscally responsible manner and make any**  
257 **necessary program improvements based on reported**  
258 **information prior to implementation of the early childhood**  
259 **education programs.**

260           **(t) After the school year 2012-2013, on or before July 1**  
261 **of each year, each county board shall report the following**  
262 **information to the Secretary of the Department of Health and**  
263 **Human Resources and the state superintendent:**

264           **(1) Documentation indicating the extent to which county**  
265 **boards are maximizing resources by using the existing**  
266 **capacity of community-based programs, including, but not**  
267 **limited to, Head Start and child care; and**

268           **(2) For those county boards that are including eligible**  
269 **children attending approved, contracted community-based**  
270 **programs in their net enrollment for the purposes of**  
271 **calculating state aid pursuant to article nine-a of this chapter,**  
272 **documentation that the county board is equitably distributing**  
273 **funding for all children regardless of setting.**

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

*Mark R. Hayward*  
.....  
Chairman Senate Committee

*Ed B. Hill*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Clark A. Barnes*  
.....  
Clerk of the Senate

*Stephen D. Harris*  
.....  
Clerk of the House of Delegates

*Phillip P. White*  
.....  
President of the Senate

*Charles M. Starnes*  
.....  
Speaker of the House of Delegates

The within *is* ~~is~~ *disapproved* this the *1st*  
Day of *April* ....., 2015.

*Carl Leg. Tomkins*  
.....  
Governor

MAR 23 2015

Time 10:51 AM