

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

### Introduced

## House Bill 2870

FISCAL  
NOTE

BY DELEGATES LAVENDER-BOWE, ANGELUCCI, R.  
THOMPSON, HORNBUCKLE, EVANS, ZUKOFF, CAMPBELL,  
C. THOMPSON, ESTEP-BURTON, DEAN AND TONEY

[Introduced February 6, 2019; Referred  
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-5-22 of the Code of West Virginia, as amended, relating to  
 2 reducing the number of students and schools that a school nurse must serve.

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

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

**§18-5-22. Medical and dental inspection; school nurses; specialized health procedures;  
 establishment of council of school nurses.**

1 (a) County boards shall provide proper medical and dental inspections for all pupils  
 2 attending the schools of their county and have the authority to take any other action necessary to  
 3 protect the pupils from infectious diseases, including the authority to require from all school  
 4 personnel employed in their county, certificates of good health and of physical fitness.

5 (b) Each county board shall employ full time at least one school nurse for every ~~one~~  
 6 ~~thousand~~ 500 kindergarten through seventh grade pupils in net enrollment or major fraction  
 7 thereof: *Provided*, That each county shall employ full time at least one school nurse and no nurse  
 8 may be assigned to, or held responsible, for more than two schools in the county: *Provided*,  
 9 *however*, That a county board may contract with a public health department for services  
 10 considered equivalent to those required by this section in accordance with a plan to be approved  
 11 by the state board: *Provided further*, That the state board shall promulgate rules requiring the  
 12 employment of school nurses in excess of the number required by this section to ensure adequate  
 13 provision of services to severely handicapped pupils. An appropriation may be made to the state  
 14 department to be distributed to county boards to support school health service needs that exceed  
 15 the capacity of staff as mandated in this section. Each county board shall apply to the state  
 16 superintendent for receipt of this funding in a manner set forth by the State Superintendent that  
 17 assesses and takes into account varying acuity levels of students with specialized health care  
 18 needs.

19 (c) Any person employed as a school nurse must be a registered professional nurse  
 20 properly licensed by the West Virginia Board of Examiners for Registered Professional Nurses in

21 accordance with §30-7-1 *et seq.* of this code.

22 (d) Specialized health procedures that require the skill, knowledge and judgment of a  
23 licensed health professional may be performed only by school nurses, other licensed school  
24 health care providers as provided in this section, or school employees who have been trained and  
25 retrained every two years who are subject to the supervision and approval by school nurses. After  
26 assessing the health status of the individual student, a school nurse, in collaboration with the  
27 student's physician, parents and, in some instances, an individualized education program team,  
28 may delegate certain health care procedures to a school employee who shall be trained pursuant  
29 to this section, considered competent, have consultation with, and be monitored or supervised by  
30 the school nurse: *Provided*, That nothing in this section prohibits any school employee from  
31 providing specialized health procedures or any other prudent action to aid any person who is in  
32 acute physical distress or requires emergency assistance. For the purposes of this section  
33 "specialized health procedures" means, but is not limited to, catheterization, suctioning of  
34 tracheostomy, naso-gastric tube feeding or gastrostomy tube feeding. "School employee" means  
35 "teachers" as defined in §18-1-1 of this code and "aides" as defined in §18A-4-8 of this code.  
36 Commencing with the school year beginning on July 1, 2002, "school employee" also means  
37 "secretary I", "secretary II" and "secretary III" as defined in §18A-4-8 of this code: *Provided*,  
38 *however*, That a "secretary I", "secretary II" and "secretary III" shall be limited to the dispensing of  
39 medications.

40 (e) Any school service employee who elects, or is required by this section, to undergo  
41 training or retraining to provide, in the manner specified in this section, the specialized health care  
42 procedures for those students for which the selection has been approved by both the principal  
43 and the county board shall receive additional pay of at least one pay grade higher than the highest  
44 pay grade for which the employee is paid: *Provided*, That any training required in this section may  
45 be considered in lieu of required in-service training of the school employee and a school employee  
46 may not be required to elect to undergo the training or retraining: *Provided, however*, That

47 commencing with July 1, 1989, any newly employed school employee in the field of special  
48 education is required to undergo the training and retraining as provided in this section: *Provided*  
49 *further*, That if an employee who holds a class title of an aide is employed in a school and the  
50 aide has received the training, pursuant to this section, then an employee in the field of special  
51 education is not required to perform the specialized health care procedures.

52 (f) Each county school nurse, as designated and defined by this section, shall perform a  
53 needs assessment. These nurses shall meet on the basis of the area served by their regional  
54 educational service agency, prepare recommendations and elect a representative to serve on the  
55 council of school nurses established under this section.

56 (g) There shall be a council of school nurses which shall be convened by the State Board  
57 of Education. This council shall prepare a procedural manual and shall provide recommendations  
58 regarding a training course to the Commissioner of the Bureau for Public Health who shall consult  
59 with the State Department of Education. The state board then has the authority to promulgate a  
60 rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code to implement the training  
61 and to create standards used by those school nurses and school employees performing  
62 specialized health procedures. The council shall meet every two years to review the certification  
63 and training program regarding school employees.

64 (h) The State Board of Education shall work in conjunction with county boards to provide  
65 training and retraining every two years as recommended by the Council of School Nurses and  
66 implemented by the rule promulgated by the state board.

NOTE: The purpose of this bill is to make school nurses more available to students by  
reducing the nurse to student ratio and nurse to school ratio.

Strike-throughs indicate language that would be stricken from a heading or the present law  
and underscoring indicates new language that would be added.