

H. B. 2868

(By Delegates Hatfield, Perry, Moye, Rowan, Guthrie, D. Campbell, T. Campbell, Walters, Anderson, Sumner and Duke)

[Introduced January 26, 2011; referred to the Committee on Education then Finance.]

FISCAL NOTE

A BILL to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended, relating to requiring every county board of education to employ a nurse in each public school in the county.

Be it enacted by the Legislature of West Virginia:

That §18-5-22 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

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

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

(b) Each county board shall employ full-time at least one school nurse for ~~every one thousand five hundred kindergarten through seventh grade pupils in net enrollment or major fraction~~

1 thereof: ~~Provided, That each county shall employ full time at~~
2 ~~least one school nurse:~~ each public school in the county,
3 beginning with the school year 2011-2012: ~~Provided, however~~ That
4 a county board may contract with a public health department for
5 services considered equivalent to those required by this section in
6 accordance with a plan to be approved by the state board:
7 ~~Provided, further~~ however, That the state board shall promulgate
8 rules requiring the employment of school nurses in excess of the
9 number required by this section to ensure adequate provision of
10 services to severely handicapped pupils. An appropriation may be
11 made to the state department to be distributed to county boards to
12 support school health service needs that exceed the capacity of
13 staff as mandated in this section. Each county board shall apply
14 to the state superintendent for receipt of this funding in a manner
15 set forth by the state superintendent that assesses and takes into
16 account varying acuity levels of students with specialized health
17 care needs.

18 (c) Any person employed as a school nurse must be a registered
19 professional nurse properly licensed by the West Virginia Board of
20 Examiners for Registered Professional Nurses in accordance with
21 article seven, chapter thirty of this code.

22 (d) Specialized health procedures that require the skill,
23 knowledge and judgment of a licensed health professional may be
24 performed only by school nurses, other licensed school health care
25 providers as provided in this section, or school employees who have
26 been trained and retrained every two years who are subject to the
27 supervision and approval by school nurses. After assessing the

1 health status of the individual student, a school nurse, in
2 collaboration with the student's physician, parents and, in some
3 instances, an individualized education program team, may delegate
4 certain health care procedures to a school employee who shall be
5 trained pursuant to this section, considered competent, have
6 consultation with, and be monitored or supervised by the school
7 nurse: *Provided*, That nothing in this section prohibits any school
8 employee from providing specialized health procedures or any other
9 prudent action to aid any person who is in acute physical distress
10 or requires emergency assistance. For the purposes of this section
11 "specialized health procedures" means, but is not limited to,
12 catheterization, suctioning of tracheostomy, naso-gastric tube
13 feeding or gastrostomy tube feeding. "School employee" means
14 "teachers" as defined in section one, article one of this chapter
15 and "aides" as defined in section eight, article four, chapter
16 eighteen-a of this code. Commencing with the school year beginning
17 on July 1, 2002, "school employee" also means "secretary I",
18 "secretary II" and "secretary III" as defined in section eight,
19 article four, chapter eighteen-a of this code: *Provided, however*,
20 That a "secretary I", "secretary II" and "secretary III" ~~shall be~~
21 is limited to the dispensing of medications.

22 (e) Any school service employee who elects, or is required by
23 this section, to undergo training or retraining to provide, in the
24 manner specified in this section, the specialized health care
25 procedures for those students for which the selection has been
26 approved by both the principal and the county board shall receive
27 additional pay of at least one pay grade higher than the highest

1 pay grade for which the employee is paid: *Provided*, That any
2 training required in this section may be considered in lieu of
3 required in-service training of the school employee and a school
4 employee may not be required to elect to undergo the training or
5 retraining: *Provided, however*, That commencing with July 1, 1989,
6 any newly employed school employee in the field of special
7 education is required to undergo the training and retraining as
8 provided in this section: *Provided further*, That if an employee
9 who holds a class title of an aide is employed in a school and the
10 aide has received the training, pursuant to this section, then an
11 employee in the field of special education is not required to
12 perform the specialized health care procedures.

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

19 (g) There shall be a Council of School Nurses which shall be
20 convened by the State Board of Education. This council shall
21 prepare a procedural manual and shall provide recommendations
22 regarding a training course to the Commissioner of the Bureau for
23 Public Health who shall consult with the State Department of
24 Education. The state board then has the authority to promulgate a
25 rule in accordance with the provisions of article three-b, chapter
26 twenty-nine-a of this code to implement the training and to create
27 standards used by those school nurses and school employees

1 performing specialized health procedures. The council shall meet
2 every two years to review the certification and training program
3 regarding school employees.

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

NOTE: The purpose of this bill is to require every county
board of education to employ a nurse in each public school in the
county.

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