

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4917

BY DELEGATES CAPUTO AND PYLES

[Introduced February 11, 2020; Referred to the
Committee on Education then Finance]

1 A BILL to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §18-9A-8 of said code, all relating to requirements for employment of
 3 nurses in public schools; changing student to school nurse staffing ratios; expanding its
 4 coverage to all grades; and elimination of the county’s ability to obtain contract services
 5 for nursing and mandate that every school must have at least one nurse.

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 five hundred~~ 500 ~~kindergarten through seventh grade~~ pupils in net enrollment or major
 7 fraction thereof: *Provided*, That each county shall employ full time at least one school nurse at
 8 each school: *Provided, however*, ~~That a county board may contract with a public health~~
 9 ~~department for services considered equivalent to those required by this section in accordance~~
 10 ~~with a plan to be approved by the state board: *Provided further*~~ That the state board shall
 11 promulgate rules requiring the employment of school nurses in excess of the number required by
 12 this section to ensure adequate provision of services to severely handicapped pupils. An
 13 appropriation may be made to the state department to be distributed to county boards to support
 14 school health service needs that exceed the capacity of staff as mandated in this section. Each
 15 county board shall apply to the state superintendent for receipt of this funding in a manner set
 16 forth by the State Superintendent that assesses and takes into account varying acuity levels of
 17 students with specialized health care needs.

18 (c) Any person employed as a school nurse must be a registered professional nurse
19 properly licensed by the West Virginia Board of Examiners for Registered Professional Nurses in
20 accordance with §30-7-1 *et seq.* of this code.

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

39 (e) Any school service employee who elects, or is required by this section, to undergo
40 training or retraining to provide, in the manner specified in this section, the specialized health care
41 procedures for those students for which the selection has been approved by both the principal
42 and the county board shall receive additional pay of at least one pay grade higher than the highest
43 pay grade for which the employee is paid: *Provided*, That any training required in this section may

44 be considered in lieu of required in-service training of the school employee and a school employee
45 may not be required to elect to undergo the training or retraining; *Provided, however,* That
46 commencing with July 1, 1989, any newly employed school employee in the field of special
47 education is required to undergo the training and retraining as provided in this section; and
48 *Provided further,* That if an employee who holds a class title of an aide is employed in a school
49 and the aide has received the training, pursuant to this section, then an employee in the field of
50 special education is not required to perform the specialized health care procedures.

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

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

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

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-8. Foundation allowance for professional student support services.

1 (a) Until the 2019-2020 fiscal year, the basic foundation allowance to the county for
2 professional student support personnel shall be the same amount of money as in the 2013 fiscal

3 year, plus any additional amount of funding necessary to cover any increases in the State
4 Minimum Salary Schedule set forth in §18A-4-2 of this code.

5 (b) Effective for the 2019-2020 fiscal year, ~~and thereafter~~ the basic foundation allowance
6 to the county for professional student support personnel is the amount of money required to pay
7 the state minimum salaries, in accordance with provisions of §18A-4-1 *et seq.* of this code. ~~subject~~
8 ~~to the following:~~

9 ~~(1) In making this computation, each county shall receive an allowance for five state aid~~
10 ~~eligible professional student support personnel positions to each 1,000 students in net enrollment:~~
11 ~~Provided, That nothing in this section precludes the county from entering into public-private~~
12 ~~partnerships or other contracts to provide these services;~~

13 ~~(2) For any professional student support personnel positions, or fraction thereof,~~
14 ~~determined for a county pursuant to subdivision (1) of this subsection that exceed the number~~
15 ~~employed, the county's allowance for these positions shall be determined using the average state~~
16 ~~funded salary of professional student support personnel for the county;~~

17 ~~(3) The number of and the allowance for personnel paid in part by state and county funds~~
18 ~~shall be prorated; and~~

19 ~~(4) Where two or more counties join together in support of a vocational or comprehensive~~
20 ~~high school or any other program or service, the professional student support personnel for the~~
21 ~~school or program may be prorated among the participating counties on the basis of each one's~~
22 ~~enrollment therein and the personnel shall be considered within the above-stated limit.~~

23 ~~(5) For the 2019-2020 fiscal year only, the number of positions funded for each county by~~
24 ~~subdivision (1) cannot be less than the number of positions that would have been funded in~~
25 ~~accordance with the previous methodology for determining the number of professional student~~
26 ~~support personnel positions funded for each county~~

27 (c) Effective for the 2020-2021 fiscal year and thereafter, the basic foundation allowance
28 to the county for professional support will be set at a level that funds the student-school nurse

29 ratio set forth in §18-5-22(b) of this code.

NOTE: The purpose of this bill is to change student to school nurse staffing ratios, expanding its coverage to all grades, and elimination the counties ability to obtain contract services for nursing and mandate that every school must have at least one nurse.

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