

1 SENATE BILL NO. 156

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the Senate Committee on Finance and Appropriations  
4 on February 9, 2022)

5 (Patron Prior to Substitute--Senator Hashmi)

6 A BILL to amend and reenact § 22.1-253.13:2 of the Code of Virginia, relating to public schools; English  
7 language learners.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That § 22.1-253.13:2 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.**

11 A. The Board shall establish requirements for the licensing of teachers, principals, superintendents,  
12 and other professional personnel.

13 B. School boards shall employ licensed instructional personnel qualified in the relevant subject  
14 areas.

15 C. Each school board shall assign licensed instructional personnel in a manner that produces  
16 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions,  
17 excluding special education teachers, principals, assistant principals, school counselors, and librarians,  
18 that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than  
19 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time  
20 teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being  
21 larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students;  
22 and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year,  
23 anytime the number of students in a class exceeds the class size limit established by this subsection, the  
24 local school division shall notify the parent of each student in such class of such fact no later than 10 days  
25 after the date on which the class exceeded the class size limit. Such notification shall state the reason that

26 the class size exceeds the class size limit and describe the measures that the local school division will take  
27 to reduce the class size to comply with this subsection.

28         Within its regulations governing special education programs, the Board shall seek to set  
29 pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for  
30 self-contained classes for pupils with specific learning disabilities.

31         Further, school boards shall assign instructional personnel in a manner that produces schoolwide  
32 ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in  
33 middle schools and high schools. School divisions shall provide all middle and high school teachers with  
34 one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

35         D. (Effective until July 1, 2022) Each local school board shall employ with state and local basic,  
36 special education, gifted, and career and technical education funds a minimum number of licensed, full-  
37 time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as  
38 set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day  
39 kindergarten programs. Beginning with the March 31 report of average daily membership, those school  
40 divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their  
41 average daily membership for kindergarten to reflect 85 percent of the total kindergarten average daily  
42 memberships, as provided in the appropriation act.

43         D. (Effective July 1, 2022) Each local school board shall employ with state and local basic, special  
44 education, gifted, and career and technical education funds a minimum number of licensed, full-time  
45 equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set  
46 forth in the appropriation act.

47         E. In addition to the positions supported by basic aid and in support of regular school year programs  
48 of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be  
49 provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K  
50 through 12 who are identified as needing prevention, intervention, and remediation services. State funding  
51 for prevention, intervention, and remediation programs provided pursuant to this subsection and the

52 appropriation act may be used to support programs for educationally at-risk students as identified by the  
53 local school boards.

54 To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions  
55 may employ mathematics teacher specialists to provide the required algebra readiness intervention  
56 services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this  
57 manner shall only employ instructional personnel licensed by the Board of Education.

58 F. In addition to the positions supported by basic aid and those in support of regular school year  
59 programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation  
60 act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021  
61 school year for each 1,000 students identified as having limited English proficiency~~and~~, (ii) 20 full-time  
62 equivalent instructional positions in the 2021-2022 school year ~~and thereafter~~ for each 1,000 students  
63 identified as having limited English proficiency, ~~which positions may include dual language teachers who~~  
64 ~~provide instruction in English and in a second language~~ (iii) 22 full-time equivalent instructional positions  
65 in the 2022-2023 school year for each 1,000 students identified as having limited English proficiency, and  
66 (iv) in the 2023-2024 school year and thereafter, divisionwide ratios of English learner students in average  
67 daily membership to full-time equivalent teaching positions, in addition to those positions required  
68 pursuant to subsection C, as follows:

69 1. For each English language learner identified as proficiency level one, one position per 25  
70 students;

71 2. For each English language learner identified as proficiency level two, one position per 30  
72 students;

73 3. For each English language learner identified as proficiency level three, one position per 40  
74 students; and

75 4. For all other English language learners, one position per 50 students.

76 Teaching positions that are filled using such funds may include dual language teachers who  
77 provide instruction in English and in a second language. To facilitate the provision of state funding based

78 on English proficiency, the Virginia Department of Education shall provide guidance to school divisions  
79 on collecting and reporting the English proficiency of each English learner.

80 To provide flexibility in the instruction of English language learners who have limited English  
81 proficiency and who are at risk of not meeting state accountability standards, school ~~divisions~~ boards may  
82 ~~use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account~~  
83 positions to employ additional English language learner teachers or dual language teachers to provide  
84 instruction to identified limited English proficiency students. ~~Using these funds in this manner is intended~~  
85 ~~to supplement the instructional services provided in this section. School divisions using the SOQ~~  
86 ~~Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel~~  
87 ~~licensed by the Board of Education~~

88 G. In addition to the full-time equivalent positions required elsewhere in this section, each local  
89 school board shall employ the following reading specialists in elementary schools, one full-time in each  
90 elementary school at the discretion of the local school board. One reading specialist employed by each  
91 local school board that employs a reading specialist shall have training in the identification of and the  
92 appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related  
93 disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have  
94 an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student  
95 on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages  
96 and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit,  
97 systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and  
98 assistive technology supports for students with dyslexia.

99 To provide reading intervention services required by § 22.1-253.13:1, school divisions may  
100 employ reading specialists to provide the required reading intervention services. School divisions using  
101 the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel  
102 licensed by the Board of Education.

103 H. Each local school board shall employ, at a minimum, the following full-time equivalent  
104 positions for any school that reports fall membership, according to the type of school and student  
105 enrollment:

106 1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students;  
107 principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools,  
108 one full-time, to be employed on a 12-month basis;

109 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900  
110 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in  
111 high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of  
112 assistant principals to meet this staffing requirement may assign assistant principals to schools within the  
113 division according to the area of greatest need, regardless of whether such schools are elementary, middle,  
114 or secondary;

115 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;  
116 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at  
117 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two  
118 full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet  
119 this staffing requirement may assign librarians to schools within the division according to the area of  
120 greatest need, regardless of whether such schools are elementary, middle, or secondary; and

121 4. School counselors:

122 a. Effective with the 2020-2021 school year, in elementary schools, one hour per day per 75  
123 students, one full-time at 375 students, one hour per day additional time per 75 students or major fraction  
124 thereof; in middle schools, one period per 65 students, one full-time at 325 students, one additional period  
125 per 65 students or major fraction thereof; in high schools, one period per 60 students, one full-time at 300  
126 students, one additional period per 60 students or major fraction thereof.

127 b. Effective with the 2021-2022 school year, local school boards shall employ one full-time  
128 equivalent school counselor position per 325 students in grades kindergarten through 12.

129 c. Local school divisions that employ a sufficient number of school counselors to meet the school  
130 counselor staffing requirements set forth in this subdivision may assign school counselors to schools  
131 within the division according to the area of greatest need, regardless of whether such schools are  
132 elementary, middle, or high schools.

133 I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades  
134 kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

135 J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades  
136 kindergarten through 12, one to provide technology support and one to serve as an instructional technology  
137 resource teacher.

138 To provide flexibility, school divisions may use the state and local funds for instructional  
139 technology resource teachers to employ a data coordinator position, an instructional technology resource  
140 teacher position, or a data coordinator/instructional resource teacher blended position. The data  
141 coordinator position is intended to serve as a resource to principals and classroom teachers in the area of  
142 data analysis and interpretation for instructional and school improvement purposes, as well as for overall  
143 data management and administration of state assessments. School divisions using these funds in this  
144 manner shall employ only instructional personnel licensed by the Board of Education.

145 K. Local school boards may employ additional positions that exceed these minimal staffing  
146 requirements. These additional positions may include, but are not limited to, those funded through the  
147 state's incentive and categorical programs as set forth in the appropriation act.

148 L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing  
149 requirements for the highest grade level in that school; this requirement shall apply to all staff, except for  
150 school counselors, and shall be based on the school's total enrollment; school counselor staff requirements  
151 shall, however, be based on the enrollment at the various school organization levels, i.e., elementary,  
152 middle, or high school. The Board of Education may grant waivers from these staffing levels upon request  
153 from local school boards seeking to implement experimental or innovative programs that are not consistent  
154 with these staffing levels.

155 M. School boards shall, however, annually, on or before December 31, report to the public (i) the  
156 actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the  
157 current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local  
158 school division by school for the current school year. Actual pupil/teacher ratios shall include only the  
159 teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School  
160 boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any  
161 classes funded through the voluntary kindergarten through third grade class size reduction program shall  
162 be identified as such classes. Any classes having waivers to exceed the requirements of this subsection  
163 shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to  
164 ensure the confidentiality of all teacher and pupil identities.

165 N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in  
166 the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving  
167 home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time  
168 basis in any mathematics, science, English, history, social science, career and technical education, fine  
169 arts, foreign language, or health education or physical education course shall be counted in the ADM in  
170 the relevant school division on a pro rata basis as provided in the appropriation act. Each such course  
171 enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home  
172 school student shall be counted as more than one-half a student for purposes of such pro rata calculation.  
173 Such calculation shall not include enrollments of such students in any other public school courses.

174 O. Each school board shall provide at least three specialized student support positions per 1,000  
175 students. For purposes of this subsection, specialized student support positions include school social  
176 workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior  
177 analysts, and other licensed health and behavioral positions, which may either be employed by the school  
178 board or provided through contracted services.

179 P. Each local school board shall provide those support services that are necessary for the efficient  
180 and cost-effective operation and maintenance of its public schools.

181 For the purposes of this title, unless the context otherwise requires, "support services positions"  
182 shall include the following:

183 1. Executive policy and leadership positions, including school board members, superintendents  
184 and assistant superintendents;

185 2. Fiscal and human resources positions, including fiscal and audit operations;

186 3. Student support positions, including (i) social work administrative positions not included in  
187 subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii)  
188 homebound administrative positions supporting instruction; (iv) attendance support positions related to  
189 truancy and dropout prevention; and (v) health and behavioral administrative positions not included in  
190 subsection O;

191 4. Instructional personnel support, including professional development positions and library and  
192 media positions not included in subdivision H 3;

193 5. Technology professional positions not included in subsection J;

194 6. Operation and maintenance positions, including facilities; pupil transportation positions;  
195 operation and maintenance professional and service positions; and security service, trade, and laborer  
196 positions;

197 7. Technical and clerical positions for fiscal and human resources, student support, instructional  
198 personnel support, operation and maintenance, administration, and technology; and

199 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time  
200 at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each  
201 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in  
202 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and  
203 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of  
204 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to  
205 schools within the division according to the area of greatest need, regardless of whether such schools are  
206 elementary, middle, or secondary.

207 Pursuant to the appropriation act, support services shall be funded from basic school aid.



208 School divisions may use the state and local funds for support services to provide additional  
209 instructional services.

210 Q. Notwithstanding the provisions of this section, when determining the assignment of  
211 instructional and other licensed personnel in subsections C through J, a local school board shall not be  
212 required to include full-time students of approved virtual school programs.

213 **2. That in order to provide additional support for instruction of English language learners, \$75 shall**  
214 **be appropriated during the 2022-2023 school year to divisions for each English learner student to**  
215 **support professional development of instructional and support staff, purchase resources developed**  
216 **for students learning English, and offer grants to community-based organizations that offer support**  
217 **services to English language learners in school settings. This appropriation shall be amended into**  
218 **the Standards of Quality but shall not require a local match. State funding for such additional**  
219 **support shall be apportioned as provided in the appropriation act.**

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