

SENATE BILL NO. 128

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

on January 18, 2024)

(Patron Prior to Substitute--Senator VanValkenburg)

A BILL to amend and reenact § 22.1-253.13:2, as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-98.3, relating to public school funding; certain calculations; support services positions.

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:2, as it shall become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-98.3 as follows:

§ 22.1-98.3. Department; certain funding calculations.

A. When calculating the cost of salaries under the Standards of Quality funding formula, the Department shall include facilities staff and transportation staff salaries in the calculation of any cost of competing adjustment to salaries for instructional and support positions that is provided as part of the state share of basic aid pursuant to the general appropriation act.

B. When estimating the cost of any compensation supplement for instructional and support positions under the Standards of Quality funding formula, the Department shall include and estimate the cost of such a compensation supplement for facilities staff.

C. The Department shall not apply any cap on inflation rate adjustments to non-personal cost categories during the biennial process of rebenchmarking the direct aid to public education budget.

D. The Department shall utilize a three-year average of the most recently available data to calculate the composite index of local ability-to-pay for each school division.

§ 22.1-253.13:2. (For effective date, see Acts 2022, cc. 549, 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.

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

29 B. School boards shall employ licensed instructional personnel qualified in the relevant subject
30 areas.

31 C. Each school board shall assign licensed instructional personnel in a manner that produces
32 divisionwide ratios of students in average daily membership to full-time equivalent teaching positions,
33 excluding special education teachers, principals, assistant principals, school counselors or certain other
34 licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following
35 ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily
36 membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the
37 class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to
38 one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English
39 classes in grades six through 12. After September 30 of any school year, anytime the number of students
40 in a class exceeds the class size limit established by this subsection, the local school division shall notify
41 the parent of each student in such class of such fact no later than 10 days after the date on which the class
42 exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class
43 size limit and describe the measures that the local school division will take to reduce the class size to
44 comply with this subsection.

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

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

52 D. Each local school board shall employ with state and local basic, special education, gifted, and
53 career and technical education funds a minimum number of licensed, full-time equivalent instructional

54 personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation
55 act.

56 E. In addition to the positions supported by basic aid and in support of regular school year programs
57 of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be
58 provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K
59 through 12 who are identified as needing prevention, intervention, and remediation services. State funding
60 for prevention, intervention, and remediation programs provided pursuant to this subsection and the
61 appropriation act may be used to support programs for educationally at-risk students as identified by the
62 local school boards.

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

67 F. In addition to the positions supported by basic aid and those in support of regular school year
68 programs of prevention, intervention, and remediation, state funding, pursuant to the general appropriation
69 act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021
70 school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time
71 equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students
72 identified as having limited English proficiency, which positions may include dual language teachers who
73 provide instruction in English and in a second language.

74 To provide flexibility in the instruction of English language learners who have limited English
75 proficiency and who are at risk of not meeting state accountability standards, school divisions may use
76 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to
77 employ additional English language learner teachers or dual language teachers to provide instruction to
78 identified limited English proficiency students. Using these funds in this manner is intended to supplement
79 the instructional services provided in this section. School divisions using the SOQ Prevention,

80 Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by
81 the Board.

82 G. In addition to the full-time equivalent positions required elsewhere in this section, each local
83 school board shall employ one reading specialist for each 550 students in kindergarten through grade five
84 and one reading specialist for each 1,100 students in grades six through eight. Each such reading specialist
85 shall have training in science-based reading research and evidence-based literacy instruction practices. In
86 addition, each such reading specialist shall have training in the identification of and the appropriate
87 interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder
88 and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an
89 understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student
90 on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages
91 and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit,
92 systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and
93 assistive technology supports for students with dyslexia.

94 To provide reading intervention services required by § 22.1-253.13:1, school divisions may
95 employ reading specialists to provide the required reading intervention services. School divisions using
96 the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel
97 licensed by the Board. Local school divisions that employ a sufficient number of reading specialists to
98 meet this staffing standard may assign reading specialists to grade levels according to grade levels with
99 greatest need, regardless of the individual staffing standards established for grades kindergarten through
100 five and six through eight.

101 H. Each local school board shall employ, at a minimum, the following full-time equivalent
102 positions for any school that reports fall membership, according to student enrollment:

103 1. Principals, one full-time in each elementary school, middle school, and high school, to be
104 employed on a 12-month basis;

105 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900
106 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in

107 high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of
108 assistant principals to meet this staffing requirement may assign assistant principals to schools within the
109 division according to the area of greatest need, regardless of whether such schools are elementary, middle,
110 or secondary;

111 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students;
112 librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at
113 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two
114 full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet
115 this staffing requirement may assign librarians to schools within the division according to the area of
116 greatest need, regardless of whether such schools are elementary, middle, or secondary; and

117 4. School counselors, one full-time equivalent position per 325 students in grades kindergarten
118 through 12.

119 However, in order to meet the staffing requirements set forth in this subdivision, any local school
120 board (i) may employ, under a provisional license issued by the Department for three school years with
121 an allowance for an additional two-year extension with the approval of the division superintendent, any
122 professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board
123 of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling
124 professional with appropriate experience and training, provided that any such individual makes progress
125 toward completing the requirements for full licensure as a school counselor during such period of
126 employment or (ii) in the event that the school board does not receive any application from a licensed
127 school counselor, professional counselor, clinical social worker, or psychologist or another licensed
128 counseling professional with appropriate experience and training to fill a school counselor vacancy in the
129 school division, may enter into an annual contract with another entity for the provision of school
130 counseling services by a licensed professional counselor, clinical social worker, or psychologist or another
131 licensed counseling professional with appropriate experience and training. Local school boards that
132 employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision

133 may assign such individuals to schools within the division according to the area of greatest need,
134 regardless of whether such schools are elementary, middle, or high schools.

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

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

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

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

150 L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing
151 requirements for the highest grade level in that school; this requirement shall apply to all staff, except for
152 school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based
153 on the school's total enrollment. The Board may grant waivers from these staffing levels upon request
154 from local school boards seeking to implement experimental or innovative programs that are not consistent
155 with these staffing levels.

156 M. School boards shall, however, annually, on or before December 31, report to the public (i) the
157 actual pupil/teacher ratios in elementary school classrooms in the local school division by school for the
158 current school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local
159 school division by school for the current school year. Actual pupil/teacher ratios shall include only the

160 teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School
161 boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any
162 classes funded through the voluntary kindergarten through third grade class size reduction program shall
163 be identified as such classes. Any classes having waivers to exceed the requirements of this subsection
164 shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to
165 ensure the confidentiality of all teacher and pupil identities.

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

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

180 In order to fill vacant school psychologist positions, any local school board may employ, under a
181 provisional license issued by the Department for three school years with an allowance for an additional
182 two-year extension with the approval of the division superintendent, clinical psychologists licensed by the
183 Board of Psychology, provided that any such individual makes progress toward completing the
184 requirements for full licensure as a school psychologist during such period of employment.

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

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

189 1. Executive policy and leadership positions, including school board members, superintendents
190 and assistant superintendents;

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

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

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

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

200 6. Operation and maintenance positions, including facilities; pupil transportation positions;
201 operation and maintenance professional and service positions; and security service, trade, and laborer
202 positions;

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

205 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time
206 at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each
207 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in
208 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and
209 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of
210 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to
211 schools within the division according to the area of greatest need, regardless of whether such schools are
212 elementary, middle, or secondary; and

213 9. Any central office clerical position that is not set forth in subdivisions 1 through 8.

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

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

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

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