

SENATE BILL NO. 228

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

on _____)

(Patron Prior to Substitute--Senator Hashmi)

A BILL to amend and reenact § 22.1-253.13:2, as it shall become effective, of the Code of Virginia, relating to public school funding; English language learner students and children with disabilities.

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 as follows:

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

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

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

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify

27 the parent of each student in such class of such fact no later than 10 days after the date on which the class
28 exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class
29 size limit and describe the measures that the local school division will take to reduce the class size to
30 comply with this subsection.

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

34 ~~Further, school~~ School boards shall assign instructional personnel in a manner that produces
35 schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of
36 21 to one in middle schools and high schools. School divisions shall provide all middle and high school
37 teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory
38 duties.

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

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

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

54 F. In addition to the positions supported by basic aid and those in support of regular school year
55 programs of prevention, intervention, and remediation, ~~state funding, pursuant to the general appropriation~~
56 ~~act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021~~
57 ~~school year for each 1,000 students identified as having limited English proficiency and (ii) 20 full-time~~
58 ~~equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000 students~~
59 ~~identified as having limited English proficiency, which positions may include dual language teachers who~~
60 ~~provide instruction in English and in a second language~~ state-funded add-ons shall be applied for each
61 English language learner and special education student as follows:

62 1. A student weight of .293 of basic aid per-pupil funding, which weight shall be adjusted by the
63 Department during the biennial process of rebenchmarking the direct aid to public education budget based
64 on a recalculation of actual expenditures, plus the per-pupil amount of the cost of competing adjustment
65 as relevant by school division, for English language learner students; and

66 2. A student weight of 1.68 of basic aid per-pupil funding, which weight shall be adjusted by the
67 Department during the biennial process of rebenchmarking the direct aid to public education budget based
68 on a recalculation of actual expenditures, plus the per-pupil amount of the cost of competing adjustment
69 as relevant by school division, for special education students.

70 Such additional Standards of Quality funding shall be calculated by multiplying the relevant
71 weight by the relevant per-pupil amount for each qualifying English language learner student and each
72 special education student in each school division. Such relevant per-pupil amount shall consist of the
73 average actual per-pupil expenditures reported by the local school division less any expenditures reported
74 directly for English language learners, special education, remedial programs, career and technical
75 education, gifted education, transportation, food service, non-K-12 operations, capital investments,
76 transfers, and any other non-operating costs. Local funding obligations for such add-ons shall be
77 determined by the composite index of local ability-to-pay.

78 To provide flexibility in the instruction of English language learners who have limited English
79 proficiency and who are at risk of not meeting state accountability standards, school divisions may use
80 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to

81 employ additional English language learner teachers or dual language teachers to provide instruction to
82 identified limited English proficiency students. Using these funds in this manner is intended to supplement
83 the instructional services provided in this section. School divisions using the SOQ Prevention,
84 Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by
85 the Board.

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

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

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

107 1. Principals, one full-time in each elementary school, middle school, and high school, to be
108 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, one full-time equivalent position per 325 students in grades kindergarten
122 through 12.

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

134 counseling services by a licensed professional counselor, clinical social worker, or psychologist or another
135 licensed counseling professional with appropriate experience and training. Local school boards that
136 employ a sufficient number of individuals to meet the staffing requirements set forth in this subdivision
137 may assign such individuals to schools within the division according to the area of greatest need,
138 regardless of whether such schools are elementary, middle, or high schools.

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

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

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

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

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

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

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

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

184 In order to fill vacant school psychologist positions, any local school board may employ, under a
185 provisional license issued by the Department for three school years with an allowance for an additional
186 two-year extension with the approval of the division superintendent, clinical psychologists licensed by the

187 Board of Psychology, provided that any such individual makes progress toward completing the
188 requirements for full licensure as a school psychologist during such period of employment.

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

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

193 1. Executive policy and leadership positions, including school board members, superintendents
194 and assistant superintendents;

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

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

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

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

204 6. Operation and maintenance positions, including facilities; pupil transportation positions;
205 operation and maintenance professional and service positions; and security service, trade, and laborer
206 positions;

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

209 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time
210 at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each
211 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in
212 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and
213 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of

214 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to
215 schools within the division according to the area of greatest need, regardless of whether such schools are
216 elementary, middle, or secondary.

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

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

220 Q. In addition to the positions supported by basic aid, state funding, pursuant to the general
221 appropriation act, shall be provided to cover the actual average school division cost to educate children
222 with disabilities.

223 R. Notwithstanding the provisions of this section, when determining the assignment of
224 instructional and other licensed personnel in subsections C, D, and E and subsections G through J, a local
225 school board shall not be required to include full-time students of approved virtual school programs.

226 **2. That the Department of Education shall first adjust the weights set forth in subsection F of § 22.1-**
227 **253.13:2 of the Code of Virginia, as amended by this act, during the process of rebenchmarking the**
228 **direct aid to public education budget for the 2026–2028 biennium.**

229 **3. That the Department of Education shall collect data on actual expenditures for the education of**
230 **English language learners in each school division for the purpose of implementing the provisions of**
231 **the first enactment of this act.**

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