

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 887

An Act to amend and reenact § 22.1-98 of the Code of Virginia, relating to school closings and reduction of state aid; emergency.

[S 452]

Approved April 15, 2004

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-98 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-98. Reduction of state aid when length of school term below 180 days or 990 hours.

If the length of the term of any school in a school division is less than 180 teaching days or 990 hours in any school year, the amount paid by the Commonwealth from the Basic School Aid Fund shall, except as hereinafter provided or as otherwise provided by law, be reduced in the same proportion as the length of the term has been reduced from 180 teaching days or 990 hours. The Board of Education may authorize, in regulations promulgated pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), any school in a school division which is operated on a year-round basis on a 45/15-day schedule and which is unable to meet the 180-day or 990-hour requirement because severe weather conditions, and other emergency situations presenting a threat to the health or safety of the students, including, but not limited to, energy shortages or power failures have required the closing of such school to make up the teaching days lost by making up the number of instructional hours equivalent to such teaching days without a proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund.

The Superintendent of Public Instruction, with the approval of the Board of Education, shall authorize such reduction as may be necessary in the length of the term for any school or school division without a proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund when severe weather conditions, and other emergency situations presenting a threat to the health or safety of the students, including, but not limited to, energy shortages or power failures have required, as determined in accordance with regulations of the Board of Education, the closing of such school or the schools in such school division for no more than ten days in any school year if at least five teaching days shall be made up. In any case in which severe weather conditions, and other emergency situations presenting a threat to the health or safety of the students, including, but not limited to, energy shortages or power failures have required the closing of such school or the schools in the school division for more than ten days, but less than fifteen days, five days plus each day in excess of ten days up to fifteen days shall be made up. In any case in which severe weather conditions, and other emergency situations presenting a threat to the health or safety of the students, including, but not limited to, energy shortages or power failures have required the closing of such school or the schools in the school division for more than fifteen days, at least ten days shall be made up.

A. For the purposes of this section and the Board of Education's implementing regulations, "severe weather conditions or other emergency situations" means those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including, but not limited to, natural and man-made disasters, energy shortages or power failures.

B. Except as provided in this section and the implementing regulations of the Board of Education:

1. The length of every school's term in every school division shall be 180 teaching days or 990 teaching hours in any school year; and

2. If the length of the term of any school or the schools in a school division shall be less than 180 teaching days or 990 teaching hours in any school year, the amount paid by the Commonwealth from the Basic School Aid Fund shall, except as otherwise hereinafter provided or as otherwise provided by law, be reduced in the same proportion as the length of the school term has been reduced in any school or the schools in the school division from 180 teaching days or 990 teaching hours.

C. Notwithstanding the requirements of subsection B, in any case in which severe weather conditions or other emergency situations, as defined in this section, result in the closing of a school or the schools in a school division, the amount paid by the Commonwealth from the Basic School Aid Fund shall not be reduced if the following schedule of make-up days shall be followed:

1. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for less than five days, the school or the schools in the school division shall make up such days as may be required by the Board's regulations; however, the required make-up days shall not exceed the missed teaching days;

2. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for five days, but no more than 15 days, the school or the schools in the school division shall make up the first five days plus one day for each two days missed in

excess of the first five, up to a maximum of nine make-up days;

3. When severe weather conditions or other emergency situations have resulted in the closing of a school or the schools in a school division for more than 15 days, the school or the schools in the school division shall make up at least 10 days; or

4. When severe weather conditions or other emergency situations have resulted in the closing of any school in a school division and such school has been unable to meet the 180 teaching day or 990 teaching hour requirement, the school division may make up the missed teaching days by providing its students with instructional hours equivalent to such missed teaching days.

D. The local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall also not be proportionally reduced by any local governing body because of authorization by the Superintendent of Public Instruction of any reduction in the length of the term of any school or the schools in a school division authorized by subsection C.

E. The foregoing provisions of this section notwithstanding, the Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for school closings resulting from a declared state of emergency. If the Board grants such a waiver, there shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. Further, the local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to any reduction in the length of the term of any school or the schools in a school division permitted by such waiver.

F. If the professional personnel of any such school division actually render service for less than the contracted period for such school year and if their compensation is reduced because of insufficient funds or other reason, the proportionate amount paid by the Commonwealth for the personnel component of the Basic School Aid Fund for such school year shall be reduced pro rata.

Notwithstanding any provision of law to the contrary, the school board of any school division in which the length of the term for any school or for the schools in the school division is reduced as provided in this section and the Board's implementing regulations may pay its professional personnel such salary as they would have received if the term had not been so reduced.

G. The Board of Education shall approve for each school division the closing date for the school year beyond which days would shall not be required to be made up.

H. The Board of Education shall promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to implement this section. The Board's regulations may authorize the Superintendent of Public Instruction to approve, in compliance with this section, reductions in the school term for a school or the schools in a school division without a proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund.

I. With the exception of the Basic School Aid Fund as provided for above, the Commonwealth may shall not distribute funds to a locality for costs not incurred when the school term is reduced below 180 teaching days or 990 teaching hours.

2. That the Board of Education shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

3. That an emergency exists and this act is in force from its passage.