

2010 SESSION

LEGISLATION NOT PREPARED BY DLS
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HOUSE BILL NO. 1388

Offered February 11, 2010

A *BILL* to amend § 22.1-253.13:2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.4, consisting of sections numbered 22.1-212.23 through 22.1-212.27, relating to the establishment of virtual school programs.

Patrons—Bell, Richard P., Bell, Robert B., Byron, Cline, Cox, J.A., Crockett-Stark, Dance, Ebbin, Greason, Howell, W.J., Iaquinto, Jones, Keam, Kilgore, Landes, Lingamfelter, Lohr, Morefield, Morrissey, Peace and Plum

Introduced at the request of the Governor

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:2 of the Code of Virginia is amended and reenacted and the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.4, consisting of sections numbered 22.1-212.23 through 22.1-212.27, as follows:

Article 1.4.

Establishment of Virtual School Programs.

§ 22.1-212.23. Definitions.

As used in this article:

"Multidivision online provider" means (i) a private or nonprofit organization that enters into a contract with a local school division to provide online courses or programs to students in grades K through 12 from that school division and also to students who reside in Virginia but outside the geographical boundaries of that school division; (ii) a private or nonprofit organization that enters into contracts with multiple local school divisions to provide online courses or programs to students in grades K through 12 from those school divisions; or (iii) a local school division that provides online courses or programs to students who reside in Virginia but outside the geographical boundaries of that school division. However, "multidivision online provider" shall not include a local school division's online learning program in which fewer than 10 percent of the students enrolled are from outside the geographical boundaries of that school division.

"Online course" means a course or grade-level subject instruction that (i) is delivered primarily electronically using the internet or other computer-based methods; and (ii) is taught by a teacher primarily from a remote location, with student access to the teacher being given synchronously, asynchronously, or both.

"Online program" means an online program with an instructional component that (i) is delivered primarily electronically using the internet or other computer-based methods; and (ii) is taught by a teacher primarily from a remote location, with student access to the teacher being given synchronously, asynchronously, or both; (iii) delivers a part-time or full-time program; and (iv) has an online component of the program with online lessons and tools for student and data management.

An online course or online program may be delivered to students at school as part of the regularly scheduled school day.

§ 22.1-212.24. Approval of multidivision online providers.

A. The Superintendent of Public Instruction shall develop, and the Board of Education shall approve (i) the criteria and application process for approving multidivision online providers; (ii) a process for monitoring approved multidivision online providers; (iii) a process for revocation of a previously approved multidivision online provider; and (iv) an appeals process for a multidivision online provider whose approval was revoked or whose application was denied. The process developed under this subsection shall require approvals and revocations to be determined by the Superintendent of Public Instruction, and either the denial of an application or revocation of approval may be appealed to the Board of Education for review. The approval of a multidivision online provider under this section shall be effective until the approval is revoked, for cause, pursuant to the terms of this section. Any notice of revocation of approval of a multidivision online provider or rejection of an application by a multidivision provider shall state the grounds for such action with reasonable specificity and give reasonable notice to the multidivision online provider to appeal. These criteria and processes shall be adopted by January 2011.

B. In developing the criteria for § 22.1-212.24.A, the Superintendent of Public Instruction shall (i) require multidivision online providers to be accredited by a national, regional, or state accreditation

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57 program approved by the Board; (ii) require such courses or programs, pupil performance standards
58 and curriculum to meet or exceed any applicable Standards of Quality, Standards of Learning, and
59 Standards of Accreditation; (iii) require any educational objectives and assessments used to measure
60 pupil progress towards achievement of the school's pupil performance standards to be in accordance
61 with the Board's Standards of Accreditation [8 VAC 20-131-110 and 8 VAC 201-131-30] and all
62 applicable state and federal laws.

63 C. Any multidivision online provider operating prior to the enactment of this act and prior to the
64 development and enactment of the approval criteria in § 22.1-212.24.A, and meets the requirements of
65 § 22.1-212.24.B, shall be permitted to continue operating until enactment of the approval criteria in
66 § 22.1-212.24.A. Following such enactment, any operating multidivision online provider shall be
67 required to submit an application for approval and shall be able to continue operating until a decision
68 is rendered under the criteria enacted in §§ 22.1-212.24.A and 22.1-212.24.B.

69 § 22.1-212.25.

70 A. The Virginia Department of Education shall develop and maintain a page on its website that
71 provides objective information for students, parents, and educators regarding online learning
72 opportunities offered by multidivision online providers that have been approved in accordance with
73 § 22.1-212.24 of this act. The website shall include information regarding the online course provider's
74 overall instructional program, specific information regarding the content of individual online courses
75 and online school programs, a direct link to each online course provider's website, how to register for
76 online learning programs and courses, teacher qualifications, course completion rates, and other
77 evaluative and comparative information. The web page shall also provide information regarding the
78 process and criteria for approving multidivision online providers. Multidivision online providers shall
79 provide the Virginia Department of Education the required information for the web page as a condition
80 of maintaining Board approval.

81 B. The Superintendent of Public Instruction shall develop:

82 1. Model policies and procedures that may be used by local school divisions in the development of
83 policies and procedures required by § 22.1-212.26;

84 2. Nothing in this article shall be deemed to require a local school division to adopt model policies
85 or procedures developed pursuant to this section.

86 C. Beginning November 2011, and annually thereafter, the Board of Education shall include in its
87 annual report to the Governor and the General Assembly information regarding online learning during
88 the previous school year. The information shall include but not be limited to student demographics,
89 course enrollment data, parental satisfaction, aggregated student course completion and passing rates,
90 and activities and outcomes of course and provider approval reviews. The November 2011 report shall
91 be an interim progress report and include information on the criteria and processes adopted by the
92 Board, and outcomes of provider approval reviews.

93 § 22.1-212.26. Local School division policies on online learning required.

94 A. By July 1, 2011, all school divisions shall develop policies and procedures regarding student
95 access to online courses and online learning programs. The policies and procedures shall include but
96 not be limited to: the types of online courses available to students through the school division; when the
97 school division will and will not pay course fees and other costs; and the granting of high school credit.
98 School divisions shall not implement any policies that limit student access to available online programs
99 full-time in their school division or any other school division around the state. The policies and
100 procedures shall take effect beginning with the 2011-2012 school year.

101 B. School divisions shall provide students with information regarding online courses that are
102 available through the school division. This information shall be posted on the school divisions' websites.
103 The information shall include the types of information described in subsection A of this section.

104 C. When developing local or regional online learning programs, school divisions shall incorporate
105 into the program design the approval criteria developed by the Superintendent of Public Instruction and
106 adopted by the Board under section 22.1-212.24 of this act.

107 § 22.1-212.27. Online teachers and administrators.

108 A. Teachers who deliver online instruction to students must be licensed by the Board of Education or
109 be eligible to hold a teaching license and have undergone a criminal records check where no record
110 exists in the Central Criminal Records Exchange prior to delivering instruction to students.

111 B. The administration of an online school program shall hold an advanced degree from a regionally
112 accredited institution of higher education with educational and work experience in administering
113 educational programs. Administrators of online programs who are not licensed or eligible to be licensed
114 by the Board of Education shall work under the supervision of an individual who holds a Board
115 endorsement in administration and supervision.

116 § 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.

117 A. The Board shall establish requirements for the licensing of teachers, principals, superintendents,
118 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, counselors, 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.

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

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

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

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

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board.

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

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

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

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students;

4. Guidance counselors in elementary schools, one hour per day per 100 students, one full-time at 500 students, one hour per day additional time per 100 students or major fraction thereof; guidance counselors in middle schools, one period per 80 students, one full-time at 400 students, one additional period per 80 students or major fraction thereof; guidance counselors in high schools, one period per 70 students, one full-time at 350 students, one additional period per 70 students or major fraction thereof; and

5. Clerical personnel in elementary schools, part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools, one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools, one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students.

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

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

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

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

195 M. School boards shall, however, annually, on or before January 1, report to the public the actual
196 pupil/teacher ratios in elementary school classrooms by school for the current school year. Such actual
197 ratios shall include only the teachers who teach the grade and class on a full-time basis and shall
198 exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers
199 in the same annual report. Any classes funded through the voluntary kindergarten through third grade
200 class size reduction program shall be identified as such classes. Any classes having waivers to exceed
201 the requirements of this subsection shall also be identified. Schools shall be identified; however, the data
202 shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

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

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

215 For the purposes of this title, unless the context otherwise requires, "support services" shall include
216 services provided by the school board members; the superintendent; assistant superintendents; student
217 services (including guidance counselors, social workers, and homebound, improvement, principal's office,
218 and library-media positions); attendance and health positions; administrative, technical, and clerical
219 positions; operation and maintenance positions; educational technology positions; school nurses; and
220 pupil transportation positions.

221 Pursuant to the appropriation act, support services shall be funded from basic school aid on the basis
222 of prevailing statewide costs.

223 *P. Notwithstanding the provisions of this when determining the assignment of instructional and other*
224 *licensed personnel in sections C through J, a local school board shall not be required to include*
225 *full-time students of approved multidivision virtual school programs.*