

# VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

## CHAPTER 216

*An Act to amend and reenact §§ 22.1-79.1, 22.1-92, 22.1-93, 22.1-199.1, 22.1-212.2, 22.1-212.2:2, and 22.1-217.01 of the Code of Virginia and to repeal §§ 22.1-208.1, 22.1-208.2, 22.1-208.2:1, 22.1-208.2:2, 22.1-209.01, 22.1-209.1, 22.1-209.1:1, 22.1-209.1:6, 22.1-212.2:3, 22.1-274.01, and 22.1-291 of the Code of Virginia, relating to outdated language and unfunded educational programs.*

[H 1885]

Approved March 16, 2011

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

**1. That §§ 22.1-79.1, 22.1-92, 22.1-93, 22.1-199.1, 22.1-212.2, 22.1-212.2:2, and 22.1-217.01 of the Code of Virginia are amended and reenacted as follows:**

§ 22.1-79.1. Opening of the school year; approvals for certain alternative schedules.

A. Each local school board shall set the school calendar so that the first day students are required to attend school shall be after Labor Day. The Board of Education may waive this requirement based on a school board certifying that it meets one of the good cause requirements of subsection B.

B. For purposes of this section, "good cause" means:

1. A school division has been closed an average of eight days per year during any five of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations;

2. A school division is providing, in the school year for which the waiver is sought, an instructional program or programs in one or more of its elementary or middle or high schools, excluding ~~the electronic classroom~~ *Virtual Virginia*, which are dependent on and provided in one or more elementary or middle or high schools of another school division that qualifies for such waiver. However, any waiver granted by the Board of Education pursuant to this subdivision shall only apply to the opening date for those schools where such dependent programs are provided; or

3. A school division is providing its students, in the school year for which the waiver is sought, with an experimental or innovative program which requires an earlier opening date than that established in subsection A of this section and which has been approved by the Department of Education pursuant to the regulations of the Board of Education establishing standards for accrediting public schools. However, any waiver or extension of the school year granted by the Board of Education pursuant to this subdivision or its standards for accrediting public schools for such an experimental or innovative program shall only apply to the opening date for those schools where such experimental or innovative programs are offered generally to the student body of the school. For the purposes of this subdivision, experimental or innovative programs shall include instructional programs that are offered on a year-round basis by the school division in one or more of its elementary or middle or high schools.

C. Individual schools may propose, and local school boards may approve, pursuant to guidelines developed by the Board of Education, alternative school schedule plans providing for the operation of schools on a four-day weekly calendar, so long as a minimum of 990 hours of instructional time is provided for grades one through twelve and 540 hours for kindergarten. No alternative plan that reduces the instructional time in the core academics of English, mathematics, social studies, and science shall be approved.

§ 22.1-92. Estimate of moneys needed for public schools; notice of costs to be distributed.

A. It shall be the duty of each division superintendent to prepare, with the approval of the school board, and submit to the governing body or bodies appropriating funds for the school division, by the date specified in § 15.2-2503, the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division. The estimate shall set up the amount of money deemed to be needed for each major classification prescribed by the Board of Education and such other headings or items as may be necessary.

Upon preparing the estimate of the amount of money deemed to be needed during the next fiscal year for the support of the public schools of the school division, each division superintendent shall also prepare and distribute, within a reasonable time as prescribed by the Board of Education, notification of the estimated average per pupil cost for public education in the school division for the coming school year to each parent, guardian, or other person having control or charge of a child enrolled in the relevant school division, in accordance with the budget estimates provided to the local governing body or bodies. Such notification shall also include actual per pupil state and local education expenditures for the previous school year. The notice may also include federal funds expended for public education in the school division.

The notice shall be ~~printed on~~ *made available in a form prescribed provided by the Board Department of Education* and shall be ~~distributed separately or with any other materials being currently~~

transmitted to the parents, guardians or other persons having control or charge of students *published on the school division's website or in hard copy upon request.* To promote uniformity and allow for comparisons, the ~~Board~~ Department of Education shall develop a ~~one-page~~ form for this notice and distribute such form to the school ~~superintendents divisions~~ for ~~duplication and distribution~~ *publication.*

B. Before any school board gives final approval to its budget for submission to the governing body, the school board shall hold at least one public hearing to receive the views of citizens within the school division. A school board shall cause public notice to be given at least ten days prior to any hearing by publication in a newspaper having a general circulation within the school division. The passage of the budget by the local government shall be conclusive evidence of compliance with the requirements of this section.

§ 22.1-93. Approval of annual budget for school purposes.

Notwithstanding any other provision of law, including but not limited to Chapter 25 (§ 15.2-2500 et seq.) of Title 15.2, the governing body of a county shall prepare and approve an annual budget for educational purposes by May first or within thirty days of the receipt by the county of the estimates of state funds, whichever shall later occur, and the governing body of a municipality shall prepare and approve an annual budget for educational purposes by May fifteen or within thirty days of the receipt by the municipality of the estimates of state funds, whichever shall later occur. Upon approval, each local school division shall publish the approved annual budget, including the estimated required local match, on the division's website, ~~if any, or if there is no division website,~~ and the document shall ~~otherwise~~ also be made available in hard copy as needed to citizens for inspection.

The Superintendent of Public Instruction shall, no later than the fifteenth day following final adjournment of the Virginia General Assembly in each session, submit estimates to be used for budgetary purposes relative to the Basic School Aid Formula to each school division and to the local governing body of each county, city and town that operates a separate school division. Such estimates shall be for each year of the next biennium or for the then next fiscal year.

§ 22.1-199.1. Programs designed to promote educational opportunities.

A. The General Assembly finds that Virginia educational research supports the conclusion that poor children are more at risk of educational failure than children from more affluent homes and that reduced pupil/teacher ratios and class sizes result in improved academic performance among young children; to this end, the General Assembly establishes a long-term goal of reducing pupil/teacher ratios and class sizes for grades K through three in those schools in the Commonwealth with high or moderate concentrations of at-risk students.

With such funds as are provided in the appropriation act for this purpose, there is hereby established the statewide voluntary pupil/teacher ratio and class size reduction program for the purpose of reaching the long-term goal of statewide voluntary pupil/teacher ratio and class size reductions for grades K through three in schools with high or moderate concentrations of at-risk students, consistent with the provisions provided in the appropriation act.

In order to facilitate these primary grade ratio and class size reductions, the Department of Education shall calculate the state funding of these voluntary ratio and class size reductions based on the incremental cost of providing the lower class sizes according to the greater of the division average per-pupil cost of all divisions or the actual division per-pupil cost. Localities shall provide matching funds for these voluntary ratio and class size reductions based on the composite index of local ability to pay. School divisions shall notify the Department of Education of their intention to implement the reduced ratios and class sizes in one or more of their qualifying schools by August 1 of each year. By March 31 of each year, school divisions shall forward data substantiating that each participating school has a complying pupil/teacher ratio.

In developing each proposed biennium budget for public education, the Board of Education shall include funding for these ratios and class sizes. These ratios and class sizes shall be included in the annual budget for public education.

B. The General Assembly finds that educational technology is one of the most important components, along with highly skilled teachers, in ensuring the delivery of quality public school education throughout the Commonwealth. Therefore, the Board of Education shall strive to incorporate technological studies within the teaching of all disciplines. Further, the General Assembly notes that educational technology can only be successful if teachers and administrators are provided adequate training and assistance. To this end, the following program is established.

With such funds as are appropriated for this purpose, the Board of Education shall award to the several school divisions grants for expanded access to educational technology. Funding for educational technology training for instructional personnel shall be provided as set forth in the appropriation act.

Funds for improving the quality and capacity of educational technology shall also be provided as set forth in the appropriation act, including, but not limited to, (i) funds for providing a technology resource assistant to serve every elementary school in this Commonwealth beginning on July 1, 1998, and (ii) ~~funds for implementing the Family Involvement in Technology program as established in § 22.1-212.2:3, and (iii) funds to maintain the currency of career and technical education programs.~~ Any local school board accepting funds to hire technology resource assistants, ~~implement the Family Involvement in~~

~~Technology program~~ or maintain currency of career and technical education programs shall commit to providing the required matching funds, based on the composite index of local ability to pay.

Each qualifying school board shall establish an individualized technology plan, which shall be approved by the Superintendent of Public Instruction, for integrating technology into the classroom and into schoolwide instructional programs, including career and technical education programs. The grants shall be prioritized as follows:

1. In the 1994 biennium, the first priority for these funds shall be to automate the library media centers and provide network capabilities in Virginia's elementary, middle and high schools, or combination thereof, in order to ensure access to the statewide library and other information networks. If any elementary, middle or high school has already met this priority, the 1994 biennium grant shall be used to provide other educational technologies identified in the relevant division's approved technology plan, such as multimedia and telecomputing packages, integrated learning systems, laptop computer loan programs, career and technical education laboratories or other electronic techniques designed to enhance public education and to facilitate teacher training in and implementation of effective instructional technology. The Board shall also distribute, as provided in the appropriation act, funds to support the purchase of electronic reference materials for use in the statewide automated reference system.

2. In the 1996 biennium and thereafter, the first priority for funding shall be consistent with those components of the Board of Education's revised six-year technology plan which focus on (i) retrofitting and upgrading existing school buildings to efficiently use educational technology; (ii) providing (a) one network-ready multimedia microcomputer for each classroom, (b) a five-to-one ratio of pupils to network-ready microcomputers, (c) graphing calculators and relevant scientific probes/sensors as required by the Standards of Learning, and (d) training and professional development on available technologies and software to all levels and positions, including professional development for personnel delivering career and technical education at all levels and positions; and (iii) assisting school divisions in developing integrated voice-, video-, and data-connectivity to local, national and international resources.

This funding may be used to implement a local school division's long-range technology plan, at the discretion of the relevant school board, if the local plan meets or exceeds the goals and standards of the Board's revised six-year technology plan and has been approved by the Superintendent of Public Instruction.

3. The Departments of Education, Information Technology, and General Services shall coordinate master contracts for the purchase by local school boards of the aforementioned educational technologies and reference materials.

4. Beginning on July 1, 1998, a technology replacement program shall be, with such funds as may be appropriated for this purpose, implemented to replace obsolete educational hardware and software. As provided in subsection D of § 22.1-129, school boards may donate obsolete educational technology hardware and software which are being replaced. Any such donations shall be offered to other school divisions and to preschool programs in the Commonwealth, or to public school students as provided in guidelines to be promulgated by the Board of Education. Such guidelines shall include criteria for determining student eligibility and need; a reporting system for the compilation of information concerning the number and socioeconomic characteristics of recipient students; and notification of parents of the availability of such donations of obsolete educational hardware and software.

5. In fiscal year 2000, the Board of Education shall, with such funds as are appropriated for this purpose, contract for the development or purchase of interactive educational software and other instructional materials designed as tutorials to improve achievement on the Standards of Learning assessments. Such interactive educational software and other instructional materials may be used in media centers, computer laboratories, libraries, after-school or before-school programs or remedial programs by teachers and other instructional personnel or provided to parents and students to be used in the home. This interactive educational software and other instructional materials shall only be used as supplemental tools for instruction, remediation, and acceleration of the learning required by the K through 12 Standards of Learning objectives.

Consistent with school board policies designed to improve school-community communications and guidelines for providing instructional assistance in the home, each school division shall strive to establish a voice mail communication system after regular school hours for parents, families, and teachers by the year 2000.

C. The General Assembly finds that effective prevention programs designed to assist children at risk of school failure and dropout are practical mechanisms for reducing violent and criminal activity and for ensuring that Virginia's children will reach adulthood with the skills necessary to succeed in the twenty-first century; to this end, the following program is hereby established. With such funds as are appropriated for this purpose, the General Assembly hereby establishes a grant program to be disbursed by the Department of Education to schools and community-based organizations to provide quality preschool programs for at-risk four-year-olds who are unserved by Head Start programs and for at-risk five-year-olds who are not eligible to attend kindergarten.

The grants shall be used to provide at least half-day services for the length of the school year for at-risk four-year-old children who are unserved by Head Start programs and for at-risk five-year-olds

who are not eligible to attend kindergarten. The services shall include quality preschool education, health services, social services, parental involvement including activities to promote family literacy, and transportation.

The Department of Education, in cooperation with such other state agencies that may coordinate child day care and early childhood programs, shall establish guidelines for quality preschool education and criteria for the service components, consistent with the findings of the November 1993 study by the Board of Education, the Department of Education, and the Council on Child Day Care and Early Childhood Programs.

The guidelines for quality preschool education and criteria for preschool education services may be differentiated according to the agency providing the services in order to comply with various relevant federal or state requirements. However, the guidelines for quality preschool education and the criteria for preschool education services shall require when such services are being provided by the public schools of the Commonwealth, and may require for other service providers, that (i) one teacher shall be employed for any class of nine students or less, (ii) if the average daily membership in any class exceeds nine students but does not exceed 18, a full-time teacher's aide shall be assigned to the class, and (iii) the maximum class size shall be 18 students.

School divisions may apply for and be granted waivers from these guidelines by the Department of Education.

During the 1995-1996 fiscal year, the Board of Education shall, with such funds as are appropriated for this purpose, distribute grants, based on an allocation formula providing the state share of the grant per child, as specified in the appropriation act, for 30 percent of the unserved at-risk four-year-olds in the Commonwealth pursuant to the funding provided in the appropriation act.

During the 1996-1997 fiscal year and thereafter, grants shall be distributed, with such funds as are appropriated for this purpose, based on an allocation formula providing the state share of the grant per child, as specified in the appropriation act, for at least 60 percent of the unserved at-risk four-year-olds and five-year-olds who are not eligible to attend kindergarten in the Commonwealth, such 60 percent to be calculated by adding services for 30 percent more of the unserved at-risk children to the 30 percent of unserved at-risk children in each locality provided funding in the appropriation act.

Local school boards may elect to serve more than 60 percent of the at-risk four-year-olds and may use federal funds or local funds for this expansion or may seek funding through this grant program for such purposes. Grants may be awarded, if funds are available in excess of the funding for the 60 percent allocation, to expand services to at-risk four-year-olds beyond the 60 percent goal.

In order for a locality to qualify for these grants, the local governing body shall commit to providing the required matching funds, based on the composite index of local ability to pay. Localities may use, for the purposes of meeting the local match, local or other nonstate expenditures for existing qualifying programs and shall also continue to pursue and coordinate other funding sources, including child care subsidies. Funds received through this program shall be used to supplement, not supplant, any local funds currently provided for preschool programs within the locality.

D. The General Assembly finds that local autonomy in making decisions on local educational needs and priorities results in effective grass-roots efforts to improve education in the Commonwealth's public schools only when coupled with sufficient state funding; to this end, the following block grant program is hereby established. With such funds as are provided in the appropriation act, the Department of Education shall distribute block grants to localities to enable compliance with the Commonwealth's requirements for school divisions in effect on January 1, 1995. Therefore, for the purpose of such compliance, the block grant herein established shall consist of a sum equal to the amount appropriated in the appropriation act for the covered programs, including the at-risk add-on program; dropout prevention, specifically Project YES; Project Discovery; English as a second language programs, including programs for overage, nonschooled students; Advancement Via Individual Determination (AVID); the Homework Assistance Program; programs initiated under the Virginia Guaranteed Assistance Program, except that such funds shall not be used to pay any college expenses of participating students; Reading Recovery; and school/community health centers. Each school board may use any funds received through the block grant to implement the covered programs and other programs designed to save the Commonwealth's children from educational failure.

E. In order to reduce pupil/teacher ratios and class sizes in elementary schools, from such funds as may be appropriated for this purpose, each school board may employ additional classroom teachers, remedial teachers, and reading specialists for each of its elementary schools over the requirements of the Standards of Quality. State and local funding for such additional classroom teachers, remedial teachers, and reading specialists shall be apportioned as provided in the appropriation act.

F. Pursuant to a turnaround specialist program administered by the Department of Education, local school boards may enter into agreements with individuals to be employed as turnaround specialists to address those conditions at the school that may impede educational progress and effectiveness and academic success. Local school boards may offer such turnaround specialists or other administrative personnel incentives such as increased compensation, improved retirement benefits in accordance with Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with

§ 51.1-603, relocation expenses, bonuses, and other incentives as may be determined by the board.

G. The General Assembly finds that certain schools have particular difficulty hiring teachers for certain subject areas and that the need for such teachers in these schools is particularly strong. Accordingly in an effort to attract and retain high quality teachers, local school boards may offer instructional personnel serving in such schools as a member of a middle school teacher corps administered by the Department of Education incentives such as increased compensation, improved retirement benefits in accordance with Chapter 6.2 (§ 51.1-617 et seq.) of Title 51.1, increased deferred compensation in accordance with § 51.1-603, relocation expenses, bonuses, and other incentives as may be determined by the board.

For purposes of this subsection, "middle school teacher corps" means licensed instructional personnel who are assigned to a local school division to teach in a subject matter in grades six, seven, or eight where there is a critical need, as determined by the Department of Education. The contract between such persons and the relevant local school board shall specify that the contract is for service in the middle school teacher corps.

#### § 22.1-212.2. Virtual Virginia.

From such funds as are appropriated, the ~~Board~~ Department of Education shall establish a ~~Statewide Electronic Classroom Program~~ *statewide electronic classroom to be known as the Virtual Virginia Program*. ~~The Statewide Electronic Classroom Program~~ Virtual Virginia shall be made available to every public high school.

The ~~Board~~ Department may utilize the services of the Commonwealth's ~~five~~ educational television stations and ~~earth satellite stations~~ *other providers*, as well as any other appropriate technology for the purposes of implementing ~~the Statewide Electronic Classroom Program~~ *Virtual Virginia*.

The services of this program shall be limited to educational purposes. Educational purposes shall include, but not be limited to, ~~classroom~~ instruction in subject areas ~~which~~ *that* are not available in all schools and inservice training for instructional, administrative and support personnel.

#### § 22.1-212.2:2. Educational technology foundations and public school foundations.

##### A. As used in this section:

"Educational technology" means any software, hardware, or other equipment or infrastructure or technical assistance or instruction in the use of such software, hardware or other equipment or infrastructure ~~which~~ *that* may be required to implement a local school board's approved plan for educational technology; ~~the Family Involvement in Technology program pursuant to § 22.1-212.2:3, or the Board of Education's comprehensive technology plan for Virginia described in § 22.1-253.13:6.~~

"Educational technology foundation" means a nonstock, nonprofit corporation, established for the express purpose of implementing a public/private partnership to expand access to and improve the quality of educational technology in a school division.

"Public school foundation" means a nonstock, nonprofit corporation, established for the express purpose of implementing a public/private partnership to implement public school improvement projects approved by the local school board.

"Public school improvement project" means any project designed to achieve an educational purpose that may be identified in Title 22.1.

B. Any school board may establish educational technology and public school foundations. Such foundations may be established directly by the school board or by the school board and other organizations or persons, on behalf of the school board by a third party, or through a contract with a corporation as defined in this section. Such foundations may be established as a cooperative regional effort by two or more school boards.

C. Upon establishing or contracting with such nonstock, nonprofit corporation, whether or not other organizations, school boards or persons are involved, a school board shall:

1. Review and approve the articles of incorporation and bylaws;
2. Establish a system of accounting to protect public funds;
3. Establish agreement that, upon dissolution of such corporation, any assets remaining after payment of just debts shall be transferred to and become the property of the school board or, if a regional effort, the procedure by which the property may be divided among the school boards;
4. Require, in any instance in which the school board advances, contributes or loans funds to the corporation, that such contract shall provide for the posting of a bond with surety by the officers of such corporation conditioned to protect the rights of the school board;
5. Establish terms for the allocation of any profits or revenues between the school board and the corporation; and
6. Take such other steps as may be necessary to comply with applicable law.

D. A school board may (i) advance, contribute or loan funds to such foundations and (ii) establish an escrow fund for the purpose of funding various educational technology projects, in the case of an educational technology foundation, or public school improvement projects approved by the local school board, in the case of a public school foundation.

E. A school board that makes purchases through its public school foundation or purchases educational technology through its educational technology foundation, either as may be established

pursuant to this section shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), as provided in subsection E of § 2.2-4300, except, relative to such purchases, the school board shall comply with the provisions of § 2.2-4311 and §§ 2.2-4367 through 2.2-4377.

§ 22.1-217.01. Information on educational and other services for students identified as hearing or visually impaired.

The Department of Education shall annually prepare and distribute to local school boards packets of information describing the educational and other services available through the Virginia School for the Deaf and the Blind at Staunton, ~~the Virginia School for the Deaf, Blind and Multi-Disabled at Hampton~~, the Virginia Department for the Deaf and Hard-of-Hearing, and the Virginia Department for the Blind and Vision Impaired to students who are identified as hearing impaired or visually impaired. Local school boards shall annually distribute this information to the parents of those students who are identified as hearing impaired or visually impaired.

**2. That §§ 22.1-208.1, 22.1-208.2, 22.1-208.2:1, 22.1-208.2:2, 22.1-209.01, 22.1-209.1, 22.1-209.1:1, 22.1-209.1:6, 22.1-212.2:3, 22.1-274.01, and 22.1-291 of the Code of Virginia are repealed.**