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SENATE BILL NO. 1258

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Education and Health
 on January 10, 2019)

(Patrons Prior to Substitute—Senators Dunnivant and Favola [SB 1134])

A BILL to amend and reenact §§ 22.1-253.13:2 and 22.1-274 of the Code of Virginia, relating to school boards; personnel; behavior analysts.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:2 and 22.1-274 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-253.13:2. 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, 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. 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 the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability 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.

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

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, which positions may include dual language teachers who provide instruction in English and in a second language.

To provide flexibility in the instruction of English language learners who have limited English

60 proficiency and who are at risk of not meeting state accountability standards, school divisions may use
61 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to
62 employ additional English language learner teachers or dual language teachers to provide instruction to
63 identified limited English proficiency students. Using these funds in this manner is intended to
64 supplement the instructional services provided in this section. School divisions using the SOQ
65 Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel
66 licensed by the Board of Education.

67 G. In addition to the full-time equivalent positions required elsewhere in this section, each local
68 school board shall employ the following reading specialists in elementary schools, one full-time in each
69 elementary school at the discretion of the local school board. One reading specialist employed by each
70 local school board that employs a reading specialist shall have training in the identification of and the
71 appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a
72 related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist
73 shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to
74 help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at
75 different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory,
76 explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations,
77 and assistive technology supports for students with dyslexia.

78 To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ
79 reading specialists to provide the required reading intervention services. School divisions using the Early
80 Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed
81 by the Board of Education.

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

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

87 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900
88 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals
89 in high schools, one full-time for each 600 students; and school divisions that employ a sufficient
90 number of assistant principals to meet this staffing requirement may assign assistant principals to schools
91 within the division according to the area of greatest need, regardless of whether such schools are
92 elementary, middle, or secondary;

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

99 4. Guidance counselors in elementary schools, one hour per day per 100 students, one full-time at
100 500 students, one hour per day additional time per 100 students or major fraction thereof; guidance
101 counselors in middle schools, one period per 80 students, one full-time at 400 students, one additional
102 period per 80 students or major fraction thereof; guidance counselors in high schools, one period per 70
103 students, one full-time at 350 students, one additional period per 70 students or major fraction thereof.
104 Local school divisions that employ a sufficient number of guidance counselors to meet this staffing
105 requirement may assign guidance counselors to schools within the division according to the area of
106 greatest need, regardless of whether such schools are elementary, middle, or secondary.

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

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

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

119 K. *Local school boards shall employ one full-time equivalent licensed behavior analyst or licensed*
120 *assistant behavior analyst per five schools within the division. For purposes of this subsection, "school"*
121 *includes schools that are subject to state accreditation and reporting membership in grades kindergarten*

122 through 12, as well as regional vocational centers, special education centers, alternative education
123 centers, and academic year Governor's Schools.

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

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

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

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

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

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

158 1. Executive policy and leadership positions, including school board members, superintendents and
159 assistant superintendents;

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

161 3. Student support positions, including (i) social workers and social work administrative positions; (ii)
162 guidance administrative positions not included in subdivision H 4; (iii) homebound administrative
163 positions supporting instruction; (iv) attendance support positions related to truancy and dropout
164 prevention; and (v) health and behavioral positions, including school nurses, and school psychologists;

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

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

168 6. Operation and maintenance positions, including facilities; pupil transportation positions; operation
169 and maintenance professional and service positions; and security service, trade, and laborer positions;

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

172 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at
173 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each
174 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in
175 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and
176 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of
177 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to
178 schools within the division according to the area of greatest need, regardless of whether such schools are
179 elementary, middle, or secondary.

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

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

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

186 **§ 22.1-274. School health services.**

187 A. A school board shall provide pupil personnel and support services in compliance with
188 § 22.1-253.13:2. A school board may employ school nurses, physicians, physical therapists, occupational
189 therapists, and speech therapists. No such personnel shall be employed unless they meet such standards
190 as may be determined by the Board of Education. Subject to the approval of the appropriate local
191 governing body, a local health department may provide personnel for health services for the school
192 division.

193 B. In implementing subsection Θ P of § 22.1-253.13:2, relating to providing support services that are
194 necessary for the efficient and cost-effective operation and maintenance of its public schools, each
195 school board may strive to employ, or contract with local health departments for, nursing services
196 consistent with a ratio of at least one nurse (i) per 2,500 students by July 1, 1996; (ii) per 2,000
197 students by July 1, 1997; (iii) per 1,500 students by July 1, 1998; and (iv) per 1,000 students by July 1,
198 1999. In those school divisions in which there are more than 1,000 students in average daily
199 membership in school buildings, this section shall not be construed to encourage the employment of
200 more than one nurse per school building. Further, this section shall not be construed to mandate the
201 aspired-to ratios.

202 C. The Board of Education shall monitor the progress in achieving the ratios set forth in subsection
203 B and any subsequent increase in prevailing statewide costs, and the mechanism for funding health
204 services, pursuant to subsection O of § 22.1-253.13:2 and the appropriation act. The Board shall also
205 determine how school health funds are used and school health services are delivered in each locality and
206 shall provide, by December 1, 1994, a detailed analysis of school health expenditures to the House
207 Committee on Education, the House Committee on Appropriations, the Senate Committee on Education
208 and Health, and the Senate Committee on Finance.

209 D. With the exception of school administrative personnel and persons employed by school boards
210 who have the specific duty to deliver health-related services, no licensed instructional employee,
211 instructional aide, or clerical employee shall be disciplined, placed on probation, or dismissed on the
212 basis of such employee's refusal to (i) perform nonemergency health-related services for students or (ii)
213 obtain training in the administration of insulin and glucagon. However, instructional aides and clerical
214 employees may not refuse to dispense oral medications.

215 For the purposes of this subsection, "health-related services" means those activities that, when
216 performed in a health care facility, must be delivered by or under the supervision of a licensed or
217 certified professional.

218 E. Each school board shall ensure that in school buildings with an instructional and administrative
219 staff of 10 or more (i) at least three employees have current certification or training in emergency first
220 aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator and (ii) if one or
221 more students diagnosed as having diabetes attend such school, at least two employees have been trained
222 in the administration of insulin and glucagon. In school buildings with an instructional and
223 administrative staff of fewer than 10, school boards shall ensure that (a) at least two employees have
224 current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an
225 automated external defibrillator and (b) if one or more students diagnosed as having diabetes attend such
226 school, at least one employee has been trained in the administration of insulin and glucagon.
227 "Employee" includes any person employed by a local health department who is assigned to the public
228 school pursuant to an agreement between the local health department and the school board. When a
229 registered nurse, nurse practitioner, physician, or physician assistant is present, no employee who is not
230 a registered nurse, nurse practitioner, physician, or physician assistant shall assist with the administration
231 of insulin or administer glucagon. Prescriber authorization and parental consent shall be obtained for any
232 employee who is not a registered nurse, nurse practitioner, physician, or physician assistant to assist with
233 the administration of insulin and administer glucagon.