

965728464

HOUSE BILL NO. 1147

Offered January 22, 1996

A BILL to amend and reenact §§ 22.1-91 and 22.1-122 of the Code of Virginia, relating to the fiduciary responsibilities of school board members, division superintendents, etc., and personal liability for unauthorized deficits; penalty.

Patrons—Tata, Croshaw, Drake, Purkey, Wagner and Wardrup; Senators: Schrock and Stolle

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-91 and 22.1-122 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-91. Fiduciary duty; limitation on expenditures; unauthorized deficits; personal liability; malfeasance.

Each school board member, division superintendent, or other school board officer, clerk, or employee having authority for expenditures shall have a fiduciary duty for the handling of funds. No school board shall expend or contract to expend, in any fiscal year, any sum of money in excess of the funds available for school purposes for that fiscal year without the consent of the governing body or bodies appropriating funds to the school board. Any expenditures or contract for expenditures or issued warrants or checks in excess of the funds available for school purposes for the fiscal year which are made without the consent of the relevant governing body or bodies shall be unauthorized deficits.

Any member of a school board or, any division superintendent, or other school board officer, clerk, or employee violating, causing to be violated or voting to violate or recommending the violation ~~any provision~~ of this section shall be personally liable for the full amount of any unauthorized deficit and shall also be guilty of malfeasance in office.

§ 22.1-122. Approval and payment of claims; warrants; prohibited acts.

A. Except as provided in § 22.1-122.1, a school board shall examine all claims against it and, when approved, shall order or authorize the payment thereof. A record of such approval and order or authorization shall be made in the minutes of the school board. Payment of each claim shall be ordered or authorized by a warrant drawn on the treasurer or other officer charged by law with the responsibility for the receipt, custody and disbursement of the funds of the school board. The warrant shall be signed by the chairman or vice-chairman of the school board, countersigned by the clerk or deputy clerk thereof, made payable to the person or persons, firm or corporation entitled to receive such payment and recorded in the form and manner prescribed by the Board of Education. There shall be stated on the face of the warrant the purpose or service for which such payment is drawn and the date of the order entered or authority granted by the school board.

B. A school board may, in its discretion by resolution, appoint an agent, and a deputy agent to act for the agent in his absence or inability to perform this duty, to examine and approve such claims and, when approved by him or his deputy, to order or authorize the payment thereof. A record of such approval and order or authorization shall be made and kept with the records of the school board. Payment of each such claim so examined and approved by such agent or his deputy shall be ordered or authorized by a warrant drawn on the treasurer or other officer charged by law with the responsibility for the receipt, custody, and disbursement of the funds made available to the school board. The warrant shall be signed by such agent or his deputy and countersigned by the clerk or deputy clerk of the school board, payable to the person or persons, firm or corporation entitled to receive such payments; provided, however, that when the agent appointed by the school board is the division superintendent and the division superintendent and clerk is one and the same person, all such warrants shall be countersigned by the chairman or vice-chairman of the school board and when the deputy agent and deputy clerk is one and the same person, the warrant shall be countersigned by either the clerk or the agent of the school board. There shall be stated on the face of the warrant the purpose or service for which such payment is made and also that such warrant is drawn pursuant to authority delegated to such agent or his deputy by the school board on the day of The school board shall require such agent and his deputy to furnish a corporate surety bond conditioned upon the faithful performance and discharge of the duties herein assigned to each such official. The school board shall fix the amount of such bond or bonds and the premium therefor shall be paid out of the funds made available to the school board.

C. The school board of any school division composed of a county may provide, by resolution, for the drawing of special warrants in payment of compensation, when such compensation has been earned and is due, for (i) all employees and school bus operators under written contract, (ii) upon receipt of

INTRODUCED

HB1147

60 certified time sheets or other evidence of service performed, the payment of all other employees whose
61 rates of pay have been established by the school board or its properly delegated agent, and (iii) for
62 payment on contracts for school construction projects according to the terms of such contracts. All such
63 special warrants so authorized shall be signed by the clerk or deputy clerk of the school board and
64 countersigned by the division superintendent or the chairman or vice-chairman of the school board.
65 When the division superintendent and clerk is one and the same person, such special warrants shall be
66 countersigned by such chairman or vice-chairman. Such payrolls and contracts so paid shall be reviewed
67 and approved by the school board at its next regular meeting.

68 D. Any warrant provided for in this section may be converted into a negotiable check when the
69 name of the bank upon which the funds stated in the warrant are drawn or by which the check is to be
70 paid is designated upon its face and is signed by the treasurer or other officer charged by law with the
71 responsibility for the receipt, custody and disbursement of the funds of the school board.

72 E. ~~The acts prohibited by § 15.1-549 with respect to the ordering of the issuance of warrants by a~~
73 ~~board of supervisors and the signing and countersigning of such warrants by the clerk, deputy clerk,~~
74 ~~chairman, and vice-chairman of such board shall apply to the ordering of the issuance of warrants by a~~
75 ~~school board and to the signing and countersigning thereof by the chairman, vice-chairman, clerk,~~
76 ~~deputy clerk, agent and deputy agent of the school board. No school board member, division~~
77 ~~superintendent or other school board officer, clerk or employee shall sign any warrant issued for any~~
78 ~~purpose other than the payment of a claim received and approved as required by this section.~~

79 *No school board member, division superintendent, or other school board officer, clerk or employee*
80 *shall expend in any year for any purpose an amount greater than the amount available for such purpose*
81 *during the year nor shall any such person order any warrant or check in excess of the amount*
82 *available, taking into account all previously issued and outstanding warrants or checks. Any clerk,*
83 *deputy clerk, agent, deputy agent or member of any school board such person who violates any*
84 *provision of this section shall be personally liable for any warrant or check issued for any purpose*
85 *other than the payment of a claim received and approved or issued for an amount greater than the*
86 *amount available, and shall be guilty of both a Class 3 misdemeanor and malfeasance in office.*