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HOUSE BILL NO. 437

Offered January 9, 2008

Prefiled January 4, 2008

A BILL to amend and reenact §§ 22.1-23, 22.1-92, and 22.1-97 of the Code of Virginia, relating to inclusion of English as Second Language students in the calculation of the composite index formula.

Patrons—Miller, J.H. and Scott, J.M.

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-23, 22.1-92, and 22.1-97 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-23. Duties in general.

The Superintendent of Public Instruction shall:

1. Serve as secretary of the Board of Education;
2. Provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;
3. Prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law;

4. (Expires July 1, 2010) At least annually, survey all local school divisions to identify critical shortages of teachers and administrative personnel by geographic area, by school division, or by subject matter, and report such critical shortages to each local school division and to the Virginia Retirement System;

5. Along with the State Health Commissioner, work to combat childhood obesity and other chronic health conditions that affect school-age children; ~~and~~

6. *Prepare or cause to be prepared the calculation of the composite index of local ability-to-pay to include the percentage of students enrolled in the public schools of each school division for whom English is a second language; and*

67. Perform such other duties as the Board of Education may prescribe.

§ 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 *include the number of students enrolled in the public schools of the school division for whom English is a second language and shall also* 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 a form prescribed by the Board 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. To promote uniformity and allow for comparisons, the Board of Education shall develop a one-page form for this notice and distribute such form to the school superintendents for duplication and distribution.

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.

§ 22.1-97. Calculation and reporting of required local expenditures; procedure if locality fails to

59 appropriate sufficient educational funds.

60 A. The Department of Education shall collect annually the data necessary to make calculations and
61 reports required by this subsection.

62 At the beginning of each school year, the Department shall make calculations to ensure that each
63 school division has appropriated sufficient funds to support its estimated required local expenditure for
64 providing an educational program meeting the prescribed Standards of Quality, required by Article VIII
65 of the Constitution of Virginia and Chapter 13.2 (§ 22.1-253.13:1 et seq.) of this title. *Such calculations*
66 *shall include the percentage of students enrolled in the public schools in each school division for whom*
67 *English is a second language.* At the conclusion of the school year, the Department shall make
68 calculations to verify whether the locality has provided the required expenditure, based on average daily
69 membership as of March 31 of the relevant school year.

70 The Department shall report annually to the House Committees on Education and Appropriations and
71 the Senate Committees on Finance and Education and Health the results of such calculations and the
72 degree to which each school division has met, failed to meet, or surpassed its required expenditure.

73 The Joint Legislative Audit and Review Commission shall report annually to the House Committees
74 on Education and Appropriations and the Senate Committees on Finance and Education and Health the
75 state expenditure provided each locality for an educational program meeting the Standards of Quality.

76 The Department and the Joint Legislative Audit and Review Commission shall coordinate to ensure
77 that their respective reports are based upon comparable data and are delivered together, or as closely
78 following one another as practicable, to the appropriate standing committees.

79 B. Whenever such calculations indicate that the governing body of a county, city or town fails or
80 refuses to appropriate funds sufficient to provide that portion of the cost apportioned to such county,
81 city or town by law for maintaining an educational program meeting the Standards of Quality, the Board
82 of Education shall notify the Attorney General of such failure or refusal in writing signed by the
83 president of the Board. Upon receipt of such notification, it shall be the duty of the Attorney General to
84 file in the circuit court for the county, city or town a petition for a writ of mandamus directing and
85 requiring such governing body to make forthwith such appropriation as is required by law.

86 The petition shall be in the name of the Board of Education, and the governing body shall be made a
87 party defendant thereto. The court may, in its discretion, cause such other officers or persons to be made
88 parties defendant as it may deem proper. The court may make such order as may be appropriate
89 respecting the employment and compensation of an attorney or attorneys for any party defendant not
90 otherwise represented by counsel. The petition shall be given first priority on the docket of such court
91 and shall be heard expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et
92 seq.) of Chapter 25 of Title 8.01 and the writ of mandamus shall be awarded or denied according to the
93 law and facts of the case and with or without costs, as the court may determine. The order of the court
94 shall be final upon entry. Any appeal therefrom shall be heard and disposed of promptly by the Supreme
95 Court next after habeas corpus cases already on the docket.