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SENATE BILL NO. 1278

Offered January 9, 2019

Prefiled January 7, 2019

A BILL to amend and reenact §§ 22.1-79.1 and 22.1-253.13:2 of the Code of Virginia, relating to public schools; kindergarten instructional time.

Patrons—Barker, Favola and Mason

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-79.1 and 22.1-253.13:2 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 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;

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; or

4. A school division is entirely surrounded by a school division that has an opening date prior to Labor Day in the school year for which the waiver is sought. Such school division may open schools on the same opening date as the surrounding school division.

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 ~~through twelve~~.

§ 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

59 state the reason that the class size exceeds the class size limit and describe the measures that the local
60 school division will take to reduce the class size to comply with this subsection.

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

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

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

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

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

87 F. In addition to the positions supported by basic aid and those in support of regular school year
88 programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act,
89 shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students
90 identified as having limited English proficiency, which positions may include dual language teachers
91 who provide instruction in English and in a second language.

92 To provide flexibility in the instruction of English language learners who have limited English
93 proficiency and who are at risk of not meeting state accountability standards, school divisions may use
94 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to
95 employ additional English language learner teachers or dual language teachers to provide instruction to
96 identified limited English proficiency students. Using these funds in this manner is intended to
97 supplement the instructional services provided in this section. School divisions using the SOQ
98 Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel
99 licensed by the Board of Education.

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

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

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

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

120 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; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

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. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

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. Local school divisions that employ a sufficient number of guidance counselors to meet this staffing requirement may assign guidance counselors to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

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

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

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

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

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

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

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

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

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

186 1. Executive policy and leadership positions, including school board members, superintendents and
187 assistant superintendents;

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

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

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

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

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

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

200 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at
201 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each
202 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in
203 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and
204 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of
205 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to
206 schools within the division according to the area of greatest need, regardless of whether such schools are
207 elementary, middle, or secondary.

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

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

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

214 **2. That the provisions of the first enactment of this act shall become effective on July 1, 2021.**

215 **3. That the Board of Education shall adopt regulations establishing standards for accreditation**
216 **that include a requirement that the standard school day for students in kindergarten shall average**
217 **at least 5.5 instructional hours in order to qualify for full accreditation. The Board shall**
218 **promulgate such regulations by July 1, 2021.**