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HOUSE BILL NO. 359

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education  
on January 24, 2024)

(Patron Prior to Substitute—Delegate Simonds)

A BILL to amend and reenact § 22.1-253.13:2, as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-98.3, relating to public school funding; certain calculations; support services.

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:2, as it shall become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-98.3 as follows:

§ 22.1-98.3. Department; certain funding calculations.

A. In calculating nonpersonal costs in the Standards of Quality funding formula, the Department shall include the costs associated with work-related travel, leases, rentals, and non-capital facility expenditures.

B. In calculating the deduction of federal funds in the Standards of Quality funding formula, the Department shall examine actual school division spending on support costs as a percentage of actual school division spending on all public education costs, with certain exceptions such as food service.

C. In calculating costs in the Standards of Quality funding formula, the Department shall combine the March 31 Average Daily Membership (ADM) for those school divisions that have partnered as a fiscal agent division and a contractual division.

D. In calculating costs in the Standards of Quality funding formula, the Department shall include all employee benefit costs incurred by a majority of school divisions, including costs related to retirement, health care, life insurance, and payout of earned but unused leave.

§ 22.1-253.13:2. (For effective date, see Acts 2022, cc. 549 and 550, cl. 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, school counselors or certain other licensed individuals as set forth in subdivision H 4, 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.

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

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60 funding for prevention, intervention, and remediation programs provided pursuant to this subsection and  
61 the appropriation act may be used to support programs for educationally at-risk students as identified by  
62 the local school boards.

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

67 F. In addition to the positions supported by basic aid and those in support of regular school year  
68 programs of prevention, intervention, and remediation, state funding, pursuant to the general  
69 appropriation act, shall be provided to support (i) 18.5 full-time equivalent instructional positions in the  
70 2020-2021 school year for each 1,000 students identified as having limited English proficiency and (ii)  
71 20 full-time equivalent instructional positions in the 2021-2022 school year and thereafter for each 1,000  
72 students identified as having limited English proficiency, which positions may include dual language  
73 teachers who provide instruction in English and in a second language.

74 To provide flexibility in the instruction of English language learners who have limited English  
75 proficiency and who are at risk of not meeting state accountability standards, school divisions may use  
76 state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to  
77 employ additional English language learner teachers or dual language teachers to provide instruction to  
78 identified limited English proficiency students. Using these funds in this manner is intended to  
79 supplement the instructional services provided in this section. School divisions using the SOQ  
80 Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel  
81 licensed by the Board.

82 G. In addition to the full-time equivalent positions required elsewhere in this section, each local  
83 school board shall employ one reading specialist for each 550 students in kindergarten through grade  
84 five and one reading specialist for each 1,100 students in grades six through eight. Each such reading  
85 specialist shall have training in science-based reading research and evidence-based literacy instruction  
86 practices. In addition, each such reading specialist shall have training in the identification of and the  
87 appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a  
88 related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist  
89 shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to  
90 help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at  
91 different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory,  
92 explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations,  
93 and assistive technology supports for students with dyslexia.

94 To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ  
95 reading specialists to provide the required reading intervention services. School divisions using the Early  
96 Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed  
97 by the Board. Local school divisions that employ a sufficient number of reading specialists to meet this  
98 staffing standard may assign reading specialists to grade levels according to grade levels with greatest  
99 need, regardless of the individual staffing standards established for grades kindergarten through five and  
100 six through eight.

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

103 1. Principals, one full-time in each elementary school, middle school, and high school, to be  
104 employed on a 12-month basis;

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

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

117 4. School counselors, one full-time equivalent position per 325 students in grades kindergarten  
118 through 12.

119 However, in order to meet the staffing requirements set forth in this subdivision, any local school  
120 board (i) may employ, under a provisional license issued by the Department for three school years with  
121 an allowance for an additional two-year extension with the approval of the division superintendent, any

122 professional counselor licensed by the Board of Counseling, clinical social worker licensed by the Board  
 123 of Social Work, psychologist licensed by the Board of Psychology, or other licensed counseling  
 124 professional with appropriate experience and training, provided that any such individual makes progress  
 125 toward completing the requirements for full licensure as a school counselor during such period of  
 126 employment or (ii) in the event that the school board does not receive any application from a licensed  
 127 school counselor, professional counselor, clinical social worker, or psychologist or another licensed  
 128 counseling professional with appropriate experience and training to fill a school counselor vacancy in the  
 129 school division, may enter into an annual contract with another entity for the provision of school  
 130 counseling services by a licensed professional counselor, clinical social worker, or psychologist or  
 131 another licensed counseling professional with appropriate experience and training. Local school boards  
 132 that employ a sufficient number of individuals to meet the staffing requirements set forth in this  
 133 subdivision may assign such individuals to schools within the division according to the area of greatest  
 134 need, regardless of whether such schools are elementary, middle, or high schools.

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

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

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

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

150 L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing  
 151 requirements for the highest grade level in that school; this requirement shall apply to all staff, except  
 152 for school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be  
 153 based on the school's total enrollment. The Board may grant waivers from these staffing levels upon  
 154 request from local school boards seeking to implement experimental or innovative programs that are not  
 155 consistent with these staffing levels.

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

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

176 O. Each school board shall provide at least three specialized student support positions per 1,000  
 177 students. For purposes of this subsection, specialized student support positions include school social  
 178 workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior  
 179 analysts, and other licensed health and behavioral positions, which may either be employed by the  
 180 school board or provided through contracted services.

181 In order to fill vacant school psychologist positions, any local school board may employ, under a  
 182 provisional license issued by the Department for three school years with an allowance for an additional

183 two-year extension with the approval of the division superintendent, clinical psychologists licensed by  
184 the Board of Psychology, provided that any such individual makes progress toward completing the  
185 requirements for full licensure as a school psychologist during such period of employment.

186 P. Each local school board shall provide those support services that are necessary for the efficient  
187 and cost-effective operation and maintenance of its public schools. *Support services positions shall be*  
188 *funded based on a calculation of prevailing costs and shall not be subject to any method of funding*  
189 *calculation that caps the number of funded support services positions based on a ratio of such positions*  
190 *to students enrolled in the local school division, provided, however, that such methodology shall not*  
191 *apply to the following Standards of Quality support positions: division superintendent, school board*  
192 *members, pupil transportation positions, or specialized student support positions as described in*  
193 *subsection O.*

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

196 1. Executive policy and leadership positions, including school board members, superintendents and  
197 assistant superintendents;

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

199 3. Student support positions, including (i) social work administrative positions not included in  
200 subsection O; (ii) school counselor administrative positions not included in subdivision H 4; (iii)  
201 homebound administrative positions supporting instruction; (iv) attendance support positions related to  
202 truancy and dropout prevention; and (v) health and behavioral administrative positions not included in  
203 subsection O;

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

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

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

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

211 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at  
212 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each  
213 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in  
214 high schools; one full-time and one additional full-time for each 600 students beyond 200 students and  
215 one full-time for the library at 750 students. Local school divisions that employ a sufficient number of  
216 school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to  
217 schools within the division according to the area of greatest need, regardless of whether such schools are  
218 elementary, middle, or secondary.

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

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

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