

H. B. 4570

(By Delegates Hatfield, Staggers, Williams,  
Hartman, Shaver, Sumner, Evans,  
Barill, Cowles and Perry)

[Introduced February 16, 2012; referred to the  
Committee on Education then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §18-5-22 of the Code of West Virginia,  
1931, as amended, relating to requirements for employment of  
nurses in public schools; changing the student-school nurse  
staffing ratio; expanding its coverage to all grades; and  
eliminating a county's ability to obtain contract services for  
nursing.

*Be it enacted by the Legislature of West Virginia:*

That §18-5-22 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-22. Medical and dental inspection; school nurses;  
specialized health procedures; establishment of  
council of school nurses.**

(a) County boards shall provide proper medical and dental  
inspections for all pupils attending the schools of their county

1 and have the authority to take any other action necessary to  
2 protect the pupils from infectious diseases, including the  
3 authority to require from all school personnel employed in their  
4 county, certificates of good health and of physical fitness.

5 (b) Each county board shall employ full time at least one  
6 school nurse for every ~~one thousand five hundred kindergarten~~  
7 ~~through seventh grade pupils~~ seven hundred fifty pupils in net  
8 enrollment or major fraction thereof beginning with the school year  
9 2012-2013: *Provided*, That each county shall employ full time at  
10 least one school nurse: *Provided, however*, That ~~a county board may~~  
11 ~~contract with a public health department for services considered~~  
12 ~~equivalent to those required by this section in accordance with a~~  
13 ~~plan to be approved by the state board~~: *Provided further*, That the  
14 state board shall promulgate rules requiring the employment of  
15 school nurses in excess of the number required by this section to  
16 ensure adequate provision of services to severely handicapped  
17 pupils. An appropriation may be made to the state department to be  
18 distributed to county boards to support school health service needs  
19 that exceed the capacity of staff as mandated in this section.  
20 Each county board shall apply to the state superintendent for  
21 receipt of this funding in a manner set forth by the state  
22 superintendent that assesses and takes into account varying acuity  
23 levels of students with specialized health care needs.

24 (c) Any person employed as a school nurse must be a registered

1 professional nurse properly licensed by the West Virginia Board of  
2 Examiners for Registered Professional Nurses in accordance with  
3 article seven, chapter thirty of this code.

4 (d) Specialized health procedures that require the skill,  
5 knowledge and judgment of a licensed health professional may be  
6 performed only by school nurses, other licensed school health care  
7 providers as provided in this section, or school employees who have  
8 been trained and retrained every two years who are subject to the  
9 supervision and approval by school nurses. After assessing the  
10 health status of the individual student, a school nurse, in  
11 collaboration with the student's physician, parents and, in some  
12 instances, an individualized education program team, may delegate  
13 certain health care procedures to a school employee who ~~shall be~~ is  
14 trained pursuant to this section, considered competent, have  
15 consultation with, and be monitored or supervised by the school  
16 nurse: *Provided*, That nothing in this section prohibits any school  
17 employee from providing specialized health procedures or any other  
18 prudent action to aid any person who is in acute physical distress  
19 or requires emergency assistance. For the purposes of this section  
20 "specialized health procedures" means, but is not limited to,  
21 catheterization, suctioning of tracheostomy, naso-gastric tube  
22 feeding or gastrostomy tube feeding. "School employee" means  
23 "teachers" as defined in section one, article one of this chapter  
24 and "aides" as defined in section eight, article four, chapter

1 eighteen-a of this code. Commencing with the school year beginning  
2 on July 1, 2002, "school employee" also means "secretary I",  
3 "secretary II" and "secretary III" as defined in section eight,  
4 article four, chapter eighteen-a of this code: *Provided, however,*  
5 That a "secretary I", "secretary II" and "secretary III" shall be  
6 limited to the dispensing of medications.

7 (e) Any school service employee who elects, or is required by  
8 this section, to undergo training or retraining to provide, in the  
9 manner specified in this section, the specialized health care  
10 procedures for those students for which the selection has been  
11 approved by both the principal and the county board shall receive  
12 additional pay of at least one pay grade higher than the highest  
13 pay grade for which the employee is paid: *Provided,* That any  
14 training required in this section may be considered in lieu of  
15 required in-service training of the school employee and a school  
16 employee may not be required to elect to undergo the training or  
17 retraining: *Provided, however,* That commencing with July 1, 1989,  
18 any newly employed school employee in the field of special  
19 education is required to undergo the training and retraining as  
20 provided in this section: *Provided further,* That if an employee  
21 who holds a class title of an aide is employed in a school and the  
22 aide has received the training, pursuant to this section, then an  
23 employee in the field of special education is not required to  
24 perform the specialized health care procedures.

1           (f) Each county school nurse, as designated and defined by  
2 this section, shall perform a needs assessment. These nurses shall  
3 meet on the basis of the area served by their regional educational  
4 service agency, prepare recommendations and elect a representative  
5 to serve on the council of school nurses established under this  
6 section.

7           (g) There shall be a council of school nurses which shall be  
8 convened by the state Board of Education. This council shall  
9 prepare a procedural manual and shall provide recommendations  
10 regarding a training course to the Commissioner of the Bureau for  
11 Public Health who shall consult with the state Department of  
12 Education. The state board then has the authority to promulgate a  
13 rule in accordance with the provisions of article three-b, chapter  
14 twenty-nine-a of this code to implement the training and to create  
15 standards used by those school nurses and school employees  
16 performing specialized health procedures. The council shall meet  
17 every two years to review the certification and training program  
18 regarding school employees.

19           (h) The State Board of Education shall work in conjunction  
20 with county boards to provide training and retraining every two  
21 years as recommended by the Council of School Nurses and  
22 implemented by the rule promulgated by the state board.

NOTE: The purpose of this bill is to reduce the student-school nurse ratio from 1,500-1 in grades k-7 to 750-1 and to expand it to all levels of school in the 2012-13 school year to provide for ever-increasing medical needs of students, while ensuring that school nurses will do the work, not contract services.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.