

Senate Bill No. 114

(By Senator Miller)

[Introduced February 13, 2013; referred to the Committee on
Education; and then to the Committee on Finance.]

**FISCAL
NOTE**

9
10 A BILL to amend and reenact §18-5-22 of the Code of West Virginia,
11 1931, as amended, relating to requirements for employment of
12 nurses in public schools; changing the student-school nurse
13 staffing ratio; expanding its coverage to all grades; and
14 eliminating a county's ability to obtain contract services for
15 nursing.

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

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

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

20 **§18-5-22. Medical and dental inspection; school nurses;**
21 **specialized health procedures; establishment of**
22 **council of school nurses.**

23 (a) County boards shall provide proper medical and dental

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

6 (b) Each county board shall employ full time at least one
7 school nurse for every ~~one thousand five hundred kindergarten~~
8 ~~through seventh grade pupils~~ seven hundred fifty pupils in net
9 enrollment or major fraction thereof beginning with the school year
10 2013-2014: *Provided*, That each county shall employ full time at
11 least one school nurse: *Provided, however*, That ~~a county board may~~
12 ~~contract with a public health department for services considered~~
13 ~~equivalent to those required by this section in accordance with a~~
14 ~~plan to be approved by the state board~~: *Provided further*, That the
15 state board shall promulgate rules requiring the employment of
16 school nurses in excess of the number required by this section to
17 ensure adequate provision of services to severely handicapped
18 pupils. An appropriation may be made to the state department to be
19 distributed to county boards to support school health service needs
20 that exceed the capacity of staff as mandated in this section.
21 Each county board shall apply to the state superintendent for
22 receipt of this funding in a manner set forth by the state
23 superintendent that assesses and takes into account varying acuity
24 levels of students with specialized health care needs.

1 (c) Any person employed as a school nurse must be a registered
2 professional nurse properly licensed by the West Virginia Board of
3 Examiners for Registered Professional Nurses in accordance with
4 article seven, chapter thirty of this code.

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

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

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

1 perform the specialized health care procedures.

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

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

20 (h) The State Board of Education shall work in conjunction
21 with county boards to provide training and retraining every two
22 years as recommended by the Council of School Nurses and
23 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 2013-14 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.