

**Senate Bill No. 98**

(By Senators Miller and Cann)

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[Introduced January 8, 2014; referred to the Committee on  
Education; and then to the Committee on Finance.]

**FISCAL  
NOTE**

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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.**

1 (a) County boards shall provide proper medical and dental  
2 inspections for all pupils attending the schools of their county  
3 and have the authority to take any other action necessary to  
4 protect the pupils from infectious diseases, including the  
5 authority to require from all school personnel employed in their  
6 county, certificates of good health and of physical fitness.

7 (b) Each county board shall employ full time at least one  
8 school nurse for every ~~one thousand five hundred kindergarten~~  
9 ~~through seventh grade pupils~~ seven hundred fifty pupils in net  
10 enrollment or major fraction thereof beginning with the school year  
11 2014-2015: *Provided*, That each county shall employ full time at  
12 least one school nurse: *Provided, however*, That ~~a county board may~~  
13 ~~contract with a public health department for services considered~~  
14 ~~equivalent to those required by this section in accordance with a~~  
15 ~~plan to be approved by the state board~~: ~~*Provided further*~~, That the  
16 state board shall promulgate rules requiring the employment of  
17 school nurses in excess of the number required by this section to  
18 ensure adequate provision of services to severely handicapped  
19 pupils. An appropriation may be made to the state department to be  
20 distributed to county boards to support school health service needs  
21 that exceed the capacity of staff as mandated in this section.  
22 Each county board shall apply to the state superintendent for  
23 receipt of this funding in a manner set forth by the state

1 superintendent that assesses and takes into account varying acuity  
2 levels of students with specialized health care needs.

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

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

1 means, but is not limited to, catheterization, suctioning of  
2 tracheostomy, naso-gastric tube feeding or gastrostomy tube  
3 feeding. "School employee" means "teachers" as defined in section  
4 one, article one of this chapter and "aides" as defined in section  
5 eight, article four, chapter eighteen-a of this code. Commencing  
6 with the school year beginning on July 1, 2002, "school employee"  
7 also means "secretary I", "secretary II" and "secretary III" as  
8 defined in section eight, article four, chapter eighteen-a of this  
9 code: *Provided, however,* That a "secretary I", "secretary II" and  
10 "secretary III" shall be limited to the dispensing of medications.

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

1 provided in this section: *Provided further*, That if an employee  
2 who holds a class title of an aide is employed in a school and the  
3 aide has received the training, pursuant to this section, then an  
4 employee in the field of special education is not required to  
5 perform the specialized health care procedures.

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

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

1           (h) The State Board of Education shall work in conjunction  
2 with county boards to provide training and retraining every two  
3 years as recommended by the Council of School Nurses and  
4 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 2014-15 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.