

Senate Bill No. 132

(By Senators Miller and Beach)

[Introduced January 14, 2015; referred to the Committee on Health and Human Resources; and

then to the Committee on 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 student-school nurse staffing ratio; expanding its coverage to all grades; and eliminating 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 and have the authority to take any other action necessary to protect the pupils from infectious diseases, including the authority to require from all school personnel

1 employed in their county, certificates of good health and of physical fitness.

2 (b) Each county board shall employ full time at least one school nurse for every ~~one thousand~~
3 ~~five hundred kindergarten through seventh grade pupils~~ seven hundred fifty pupils in net enrollment
4 or major fraction thereof beginning with the school year 2015-2016: *Provided*, That each county
5 shall employ full time at least one school nurse: *Provided, however*, That ~~a county board may~~
6 ~~contract with a public health department for services considered equivalent to those required by this~~
7 ~~section in accordance with a plan to be approved by the state board~~: *Provided further*, That the state
8 board shall promulgate rules requiring the employment of school nurses in excess of the number
9 required by this section to ensure adequate provision of services to severely handicapped pupils. An
10 appropriation may be made to the state department to be distributed to county boards to support
11 school health service needs that exceed the capacity of staff as mandated in this section. Each county
12 board shall apply to the state superintendent for receipt of this funding in a manner set forth by the
13 state superintendent that assesses and takes into account varying acuity levels of students with
14 specialized health care needs.

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

18 (d) Specialized health procedures that require the skill, knowledge and judgment of a licensed
19 health professional may be performed only by school nurses, other licensed school health care
20 providers as provided in this section, or school employees who have been trained and retrained every
21 two years who are subject to the supervision and approval by school nurses. After assessing the
22 health status of the individual student, a school nurse, in collaboration with the student's physician,

1 parents and, in some instances, an individualized education program team, may delegate certain
2 health care procedures to a school employee who ~~shall be~~ is trained pursuant to this section,
3 considered competent, ~~have consultation~~ can consult with, and ~~be~~ is monitored or supervised by the
4 school nurse: *Provided*, That ~~nothing in this section prohibits~~ does not prohibit any school employee
5 from providing specialized health procedures or any other prudent action to aid any person who is
6 in acute physical distress or requires emergency assistance. For the purposes of this section
7 "specialized health procedures" means, but is not limited to, catheterization, suctioning of
8 tracheostomy, naso-gastric tube feeding or gastrostomy tube feeding. "School employee" means
9 "teachers" as defined in section one, article one of this chapter and "aides" as defined in section
10 eight, article four, chapter eighteen-a of this code. Commencing with the school year beginning on
11 July 1, 2002, "school employee" also means "secretary I", "secretary II" and "secretary III" as
12 defined in section eight, article four, chapter eighteen-a of this code: *Provided, however*, That a
13 "secretary I", "secretary II" and "secretary III" shall be limited to the dispensing of medications.

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

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

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

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

16 (h) The State Board of Education shall work in conjunction with county boards to provide
17 training and retraining every two years as recommended by the Council of School Nurses and
18 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 2015-16 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.