

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4467

FISCAL
NOTE

BY DELEGATES HANSHAW (MR. SPEAKER), SUMMERS,
TONEY, ROWAN, COOPER, ANDERSON, JENNINGS,
QUEEN, YOUNG, TULLY, AND CLARK

[Introduced January 31, 2022; Referred to the
Committee on Education then Finance]

1 A BILL to amend and reenact §18-5-18a of the Code of West Virginia, 1931, as amended; to
 2 amend and reenact §18-9A-5 of said code; and to amend said code by adding thereto a
 3 new section, designated §18A-5-9, all relating to requiring early childhood classroom
 4 assistant teacher in certain grade levels and enrollment levels in said grade levels; and
 5 removing outdated provisions; increasing ratios of service personnel per student net
 6 enrollment in state basic foundation program; requiring early childhood classroom
 7 assistant teachers exercise authority and control over students in certain instances and
 8 within certain limits; prohibiting assignment of noninstructional duties to early childhood
 9 classroom assistant teacher in excess of contractual requirements unless mutually agreed
 10 upon; and requiring in-service training for early childhood classroom assistant teachers on
 11 responsibilities and appropriate measures for exercising authority and control over
 12 students.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18a. Maximum teacher-pupil ratio.

1 (a) County boards of education shall provide sufficient personnel, equipment, and facilities
 2 as will ensure that each ~~first through sixth grade~~ classroom, or classrooms having two or more
 3 grades that include one or more of the ~~first~~ pre-kindergarten through sixth grades shall not have
 4 more than ~~25~~ pupils for each teacher ~~of the grade or grades and shall not have more than 20~~
 5 ~~pupils for each kindergarten teacher per session~~ as follows, unless the state superintendent has
 6 excepted a specific classroom upon application therefor by a county board as provided in this
 7 section:

8 (1) For pre-kindergarten, not more than 20 pupils for each teacher and one early childhood
 9 classroom assistant teacher;

10 (2) For kindergarten, not more than 20 pupils for each teacher and one early childhood
11 classroom assistant teacher in classrooms with more than 10 pupils;

12 (3) For first and second grades, not more than 25 pupils for each teacher and one early
13 childhood classroom assistant teacher in classrooms with more than 12 pupils;

14 (4) For third grade, not more than 25 pupils for each teacher; and

15 (5) For grades four, five and six, not more than 25 pupils for each teacher.

16 (b) County school boards may not maintain a greater number of classrooms having two
17 or more grades that include one or more of the grade levels referred to in this section than were
18 in existence in said county as of January 1, 1983.

19 (c) The state superintendent is authorized, consistent with sound educational policy, to:

20 (1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher
21 in a classroom for the purposes of instruction in physical education; and

22 (2) Permit more than 20 pupils per teacher in a specific kindergarten classroom and 25
23 pupils per teacher in a specific classroom in grades four through six during a school year in the
24 event of extraordinary circumstances as determined by the state superintendent after application
25 by a county board of education.

26 (d) The state board shall establish guidelines for the exceptions authorized in this section,
27 but in no event shall the superintendent except classrooms having more than three pupils above
28 the pupil-teacher ratio as set forth in this section.

29 (e) The requirement for approval of an exception to exceed the 20 pupils per kindergarten
30 teacher per session limit or the 25 pupils per teacher limit in grades ~~one~~ four through six is waived
31 in schools where the schoolwide pupil-teacher ratio is 25 or less in grades ~~one~~ four through six:
32 *Provided*, That a teacher shall not have more than three pupils above the teacher/pupil ratio as
33 set forth in this section. Any kindergarten teacher who has more than 20 pupils per session and
34 any classroom teacher of grades ~~one~~ four through six who has more than 25 pupils, shall be paid
35 additional compensation based on the affected classroom teacher's average daily salary divided

36 by 20 for kindergarten teachers, or 25 for teachers of grades ~~one~~ four through six, for every day
37 times the number of additional pupils enrolled up to the maximum pupils permitted in the teacher's
38 classroom. All such additional compensation shall be paid from county funds exclusively.

39 Notwithstanding any other provision of this section to the contrary, commencing with the
40 school year beginning on ~~July 1, 1994~~ July 1, 1996, a teacher in grades one, two or three or
41 classrooms having two or more such grade levels, ~~shall not have more than two pupils above the~~
42 ~~teacher/pupil ratio as set forth in this section: *Provided, That commencing with the school year*~~
43 ~~beginning on July 1, 1995, such teacher shall not have more than one pupil above the~~
44 ~~teacher/pupil ratio as set forth in this section: *Provided, however, That commencing with the*~~
45 ~~school year beginning on July 1, 1996, such teacher shall not have any pupils above the~~
46 teacher/pupil ratio as set forth in this section.

47 (f) No provision of this section is intended to limit the number of pupils per teacher in a
48 classroom for the purpose of instruction in choral, band or orchestra music.

49 (g) Each school principal shall assign students equitably among the classroom teachers,
50 taking into consideration reasonable differences due to subject areas and/or grade levels.

51 (h) The state board shall collect from each county board of education information on class
52 size and the number of pupils per teacher for all classes in grades seven through 12. The state
53 board shall report such information to the Legislative Oversight Commission on Education
54 Accountability before January 1, of each year.

55 ~~(i) The West Virginia Department of Education shall survey districts to determine those~~
56 ~~grade levels, content areas, and geographic locations where class overcrowding is impeding~~
57 ~~student achievement and report to the Legislature by July 1, 2020 a tailored plan for reducing~~
58 ~~class overcrowding in such areas.~~

59 ~~The study shall include, but is not limited to, an examination of the following issues:~~

60 ~~(1) The effect on student learning of limits on the number of pupils per teacher in a~~
61 ~~classroom in elementary classes and in a middle and high school format in which students have~~

62 ~~different teachers for different subject matter instruction;~~

63 ~~(2) The effect on the equity among teachers in a middle school in which the number of~~
 64 ~~pupils per teacher in a classroom is limited for some teachers and not for others, including the~~
 65 ~~additional pay for certain teachers in whose classrooms the limits are exceeded; and~~

66 ~~(3) The effect limits on the number of pupils per teacher in a classroom have on the ability~~
 67 ~~of school systems to offer elective courses in secondary school.~~

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-5. Foundation allowance for service personnel.

1 (a) The basic foundation allowance to the county for service personnel shall be the amount
 2 of money required to pay the annual state minimum salaries in accordance with the provisions of
 3 article four, chapter eighteen-a of this code, to such service personnel employed, subject to the
 4 following:

5 (1) A county shall receive an allowance for state aid eligible service personnel positions
 6 per 1,000 students in net enrollment, as follows:

7 (A) For each high-density county, ~~forty-three and ninety-seven one hundredths~~ 51.06
 8 service personnel per 1,000 students in net enrollment;

9 (B) For each medium-density county, ~~forty-four and fifty-three one hundredths~~ 51.62
 10 service personnel per 1,000 students in net enrollment;

11 (C) For each low-density county, ~~forty-five and one tenth~~ 52.19 service personnel per
 12 1,000 students in net enrollment;

13 (D) For each sparse-density county, ~~forty-five and sixty-eight one hundredths~~ 52.77
 14 service personnel per 1,000 students in net enrollment; and

15 (E) For any service personnel positions, or fraction thereof, determined for a county
 16 pursuant to subdivision (1) of this subsection that exceed the number employed, the county's
 17 allowance for these positions shall be determined using the average state funded minimum salary
 18 of service personnel for the county;

19 (2) The number of and the allowance for personnel paid in part by state and county funds
20 shall be prorated; and

21 (3) Where two or more counties join together in support of a vocational or comprehensive
22 high school or any other program or service, the service personnel for the school or program may
23 be prorated among the participating counties on the basis of each one's enrollment therein and
24 that the personnel shall be considered within the above-stated limit.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-9. Authority of early childhood classroom assistant teachers to exercise control over students; limitations.

1 (a) Within the limitations provided in this section, an early childhood classroom assistant
2 teacher shall stand in the place of the parent or guardian and shall exercise such authority and
3 control over students as is required of a teacher as provided in section one of this article. The
4 principal shall enumerate the instances in which the authority shall be exercised by an early
5 childhood classroom assistant teacher when requested by the principal, assistant principal or
6 professional employee to whom the assistant teacher is assigned.

7 (b) The authority provided for in subsection (a) of this section does not extend to
8 suspending or expelling any student, participating in the administration of corporal punishment or
9 performing instructional duties as a teacher or substitute teacher.

10 (c) An early childhood classroom assistant teacher may not be required by the operation
11 of this section to perform noninstructional duties for an amount of time which exceeds that
12 required under the assistant teacher's contract of employment or that required of other early
13 childhood classroom assistant teachers in the same school unless the assignment of the duties
14 is mutually agreed upon by the assistant teacher and the county superintendent, or the
15 superintendent's designated representative, subject to county board approval.

16 (1) The terms and conditions of the agreement shall be in writing, signed by both parties,
17 and may include additional benefits.

18 (2) The agreement shall be uniform as to early childhood classroom assistant teachers
19 assigned similar duties for similar amounts of time within the same school.

20 (d) The county board shall provide in-service training for early childhood classroom
21 assistant teachers specifically related to their responsibilities and appropriate measures for
22 exercising authority and control over students as required under this section.

23 (e) The county board shall provide in-service training for classroom teachers in grades
24 pre-k through two to help the classroom teachers gain a strong understanding of how to best
25 utilize the early childhood classroom assistant teachers during classroom instruction and during
26 other periods of the day.

NOTE: The purpose of this bill is to provide additional classroom social/emotional and academic support for first and second grade pupils by requiring an early childhood classroom assistant teacher in first and second grade classrooms that have more than 12 pupils. Note that requirements currently exist in State Board Policy 2510 for pre-kindergarten and kindergarten classrooms with more than 10 pupils to have an early childhood classroom assistant teacher and these provisions would be added to the statute in this bill. The school aid formula allowance for service personnel is amended to increase the number of state funded positions per 1,000 students in net enrollment to provide state funding for the added positions. Finally, A new section of code is added which requires early childhood classroom assistant teachers to exercise authority and control over students such as required of a teacher, but only in instances enumerated by the principal and excluding suspensions, expulsions and performing instructional duties as a teacher.

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