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**HOUSE BILL NO. 359****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Education

on January 24, 2024)

(Patron Prior to Substitute—Delegate Simonds)

A *BILL to amend and reenact § 22.1-253.13:2, as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-98.3, relating to public school funding; certain calculations; support services.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-253.13:2, as it shall become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-98.3 as follows:**

**§ 22.1-98.3. Department; certain funding calculations.**

A. *In calculating nonpersonal costs in the Standards of Quality funding formula, the Department shall include the costs associated with work-related travel, leases, rentals, and non-capital facility expenditures.*

B. *In calculating the deduction of federal funds in the Standards of Quality funding formula, the Department shall examine actual school division spending on support costs as a percentage of actual school division spending on all public education costs, with certain exceptions such as food service.*

C. *In calculating costs in the Standards of Quality funding formula, the Department shall combine the March 31 Average Daily Membership (ADM) for those school divisions that have partnered as a fiscal agent division and a contractual division.*

D. *In calculating costs in the Standards of Quality funding formula, the Department shall include all employee benefit costs incurred by a majority of school divisions, including costs related to retirement, health care, life insurance, and payout of earned but unused leave.*

**§ 22.1-253.13:2. (For effective date, see Acts 2022, cc. 549 and 550, cl. 2) Standard 2. Instructional, administrative, and support personnel.**

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, school counselors or certain other licensed individuals as set forth in subdivision H 4, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may

60 employ mathematics teacher specialists to provide the required algebra readiness intervention services.  
61 School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall  
62 only employ instructional personnel licensed by the Board.

63 F. In addition to the positions supported by basic aid and those in support of regular school year programs  
64 of prevention, intervention, and remediation, state funding, pursuant to the general appropriation act, shall be  
65 provided to support (i) 18.5 full-time equivalent instructional positions in the 2020-2021 school year for each  
66 1,000 students identified as having limited English proficiency and (ii) 20 full-time equivalent instructional  
67 positions in the 2021-2022 school year and thereafter for each 1,000 students identified as having limited  
68 English proficiency, which positions may include dual language teachers who provide instruction in English  
69 and in a second language.

70 To provide flexibility in the instruction of English language learners who have limited English proficiency  
71 and who are at risk of not meeting state accountability standards, school divisions may use state and local  
72 funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional  
73 English language learner teachers or dual language teachers to provide instruction to identified limited  
74 English proficiency students. Using these funds in this manner is intended to supplement the instructional  
75 services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation  
76 funds in this manner shall employ only instructional personnel licensed by the Board.

77 G. In addition to the full-time equivalent positions required elsewhere in this section, each local school  
78 board shall employ one reading specialist for each 550 students in kindergarten through grade five and one  
79 reading specialist for each 1,100 students in grades six through eight. Each such reading specialist shall have  
80 training in science-based reading research and evidence-based literacy instruction practices. In addition, each  
81 such reading specialist shall have training in the identification of and the appropriate interventions,  
82 accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as  
83 an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the  
84 definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills  
85 with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic  
86 foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading  
87 instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for  
88 students with dyslexia.

89 To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ  
90 reading specialists to provide the required reading intervention services. School divisions using the Early  
91 Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the  
92 Board. Local school divisions that employ a sufficient number of reading specialists to meet this staffing  
93 standard may assign reading specialists to grade levels according to grade levels with greatest need,  
94 regardless of the individual staffing standards established for grades kindergarten through five and six  
95 through eight.

96 H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for  
97 any school that reports fall membership, according to student enrollment:

98 1. Principals, one full-time in each elementary school, middle school, and high school, to be employed on  
99 a 12-month basis;

100 2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students;  
101 assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools,  
102 one full-time for each 600 students; and school divisions that employ a sufficient number of assistant  
103 principals to meet this staffing requirement may assign assistant principals to schools within the division  
104 according to the area of greatest need, regardless of whether such schools are elementary, middle, or  
105 secondary;

106 3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians  
107 in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000  
108 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time  
109 at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing  
110 requirement may assign librarians to schools within the division according to the area of greatest need,  
111 regardless of whether such schools are elementary, middle, or secondary; and

112 4. School counselors, one full-time equivalent position per 325 students in grades kindergarten through  
113 12.

114 However, in order to meet the staffing requirements set forth in this subdivision, any local school board (i)  
115 may employ, under a provisional license issued by the Department for three school years with an allowance  
116 for an additional two-year extension with the approval of the division superintendent, any professional  
117 counselor licensed by the Board of Counseling, clinical social worker licensed by the Board of Social Work,  
118 psychologist licensed by the Board of Psychology, or other licensed counseling professional with appropriate  
119 experience and training, provided that any such individual makes progress toward completing the  
120 requirements for full licensure as a school counselor during such period of employment or (ii) in the event

121 that the school board does not receive any application from a licensed school counselor, professional  
 122 counselor, clinical social worker, or psychologist or another licensed counseling professional with  
 123 appropriate experience and training to fill a school counselor vacancy in the school division, may enter into  
 124 an annual contract with another entity for the provision of school counseling services by a licensed  
 125 professional counselor, clinical social worker, or psychologist or another licensed counseling professional  
 126 with appropriate experience and training. Local school boards that employ a sufficient number of individuals  
 127 to meet the staffing requirements set forth in this subdivision may assign such individuals to schools within  
 128 the division according to the area of greatest need, regardless of whether such schools are elementary, middle,  
 129 or high schools.

130 I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades  
 131 kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

132 J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades  
 133 kindergarten through 12, one to provide technology support and one to serve as an instructional technology  
 134 resource teacher.

135 To provide flexibility, school divisions may use the state and local funds for instructional technology  
 136 resource teachers to employ a data coordinator position, an instructional technology resource teacher position,  
 137 or a data coordinator/instructional resource teacher blended position. The data coordinator position is  
 138 intended to serve as a resource to principals and classroom teachers in the area of data analysis and  
 139 interpretation for instructional and school improvement purposes, as well as for overall data management and  
 140 administration of state assessments. School divisions using these funds in this manner shall employ only  
 141 instructional personnel licensed by the Board.

142 K. Local school boards may employ additional positions that exceed these minimal staffing requirements.  
 143 These additional positions may include, but are not limited to, those funded through the state's incentive and  
 144 categorical programs as set forth in the appropriation act.

145 L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing  
 146 requirements for the highest grade level in that school; this requirement shall apply to all staff, except for  
 147 school counselors or certain other licensed individuals as set forth in subdivision H 4, and shall be based on  
 148 the school's total enrollment. The Board may grant waivers from these staffing levels upon request from local  
 149 school boards seeking to implement experimental or innovative programs that are not consistent with these  
 150 staffing levels.

151 M. School boards shall, however, annually, on or before December 31, report to the public (i) the actual  
 152 pupil/teacher ratios in elementary school classrooms in the local school division by school for the current  
 153 school year; and (ii) the actual pupil/teacher ratios in middle school and high school in the local school  
 154 division by school for the current school year. Actual pupil/teacher ratios shall include only the teachers who  
 155 teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report  
 156 pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the  
 157 voluntary kindergarten through third grade class size reduction program shall be identified as such classes.  
 158 Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools  
 159 shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher  
 160 and pupil identities.

161 N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the  
 162 relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home  
 163 instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in  
 164 any mathematics, science, English, history, social science, career and technical education, fine arts, foreign  
 165 language, or health education or physical education course shall be counted in the ADM in the relevant  
 166 school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such  
 167 students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be  
 168 counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not  
 169 include enrollments of such students in any other public school courses.

170 O. Each school board shall provide at least three specialized student support positions per 1,000 students.  
 171 For purposes of this subsection, specialized student support positions include school social workers, school  
 172 psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other  
 173 licensed health and behavioral positions, which may either be employed by the school board or provided  
 174 through contracted services.

175 In order to fill vacant school psychologist positions, any local school board may employ, under a  
 176 provisional license issued by the Department for three school years with an allowance for an additional two-  
 177 year extension with the approval of the division superintendent, clinical psychologists licensed by the Board  
 178 of Psychology, provided that any such individual makes progress toward completing the requirements for full  
 179 licensure as a school psychologist during such period of employment.

180 P. Each local school board shall provide those support services that are necessary for the efficient and  
 181 cost-effective operation and maintenance of its public schools. *Support services positions shall be funded*

182 *based on a calculation of prevailing costs and shall not be subject to any method of funding calculation that*  
183 *caps the number of funded support services positions based on a ratio of such positions to students enrolled*  
184 *in the local school division, provided, however, that such methodology shall not apply to the following*  
185 *Standards of Quality support positions: division superintendent, school board members, pupil transportation*  
186 *positions, or specialized student support positions as described in subsection O.*

187 For the purposes of this title, unless the context otherwise requires, "support services positions" shall  
188 include the following:

189 1. Executive policy and leadership positions, including school board members, superintendents and  
190 assistant superintendents;

191 2. Fiscal and human resources positions, including fiscal and audit operations;

192 3. Student support positions, including (i) social work administrative positions not included in subsection  
193 O; (ii) school counselor administrative positions not included in subdivision H 4; (iii) homebound  
194 administrative positions supporting instruction; (iv) attendance support positions related to truancy and  
195 dropout prevention; and (v) health and behavioral administrative positions not included in subsection O;

196 4. Instructional personnel support, including professional development positions and library and media  
197 positions not included in subdivision H 3;

198 5. Technology professional positions not included in subsection J;

199 6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and  
200 maintenance professional and service positions; and security service, trade, and laborer positions;

201 7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel  
202 support, operation and maintenance, administration, and technology; and

203 8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300  
204 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600  
205 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high  
206 schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-  
207 time for the library at 750 students. Local school divisions that employ a sufficient number of school-based  
208 clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the  
209 division according to the area of greatest need, regardless of whether such schools are elementary, middle, or  
210 secondary.

211 Pursuant to the appropriation act, support services shall be funded from basic school aid.

212 School divisions may use the state and local funds for support services to provide additional instructional  
213 services.

214 Q. Notwithstanding the provisions of this section, when determining the assignment of instructional and  
215 other licensed personnel in subsections C through J, a local school board shall not be required to include full-  
216 time students of approved virtual school programs.