WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED

Com. Sub. for Com. Sub. for
SENATE BILL NO. 53

(By Senator Hunter, et al.)

PASSED March 11, 2006

In Effect July 1, 2006 Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 53
(SENATORS HUNTER, DEMPSEY AND UNGER, original sponsors)

[Passed March 11, 2006; to take effect July 1, 2006.]

AN ACT to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18-9A-10a, all relating to improving the capacity of county boards of education to provide school health services; providing for distribution to counties of appropriations to support certain school health service needs; eliminating the authority of the Commissioner of the Bureau for Public Health to promulgate a rule to implement certain training and create certain standards and giving that authority to the State Board of Education; and establishing an allowance for new nurse positions to the extent funds are available.

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; and that said code be amended by adding thereto a new section, designated §18-9A-10a, all 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 employed in their county, certificates of good health and of physical fitness.

(b) Each county board shall employ full time at least one school nurse for every one thousand five hundred kindergarten through seventh grade pupils in net enrollment or major fraction thereof: Provided, That each county shall employ full time at least one school nurse: Provided, however, That a county board may contract with a public health department for services considered equivalent to those required by this section in accordance with a plan to be approved by the state board: Provided further, That the state board shall promulgate rules requiring the employment of school nurses in excess of the number required by this section to ensure adequate provision of services to severely handicapped pupils. An appropriation may be made to the state department to be distributed to county boards to support school health service needs that exceed the capacity of staff as mandated in this section. Each county board shall apply to the state superintendent for receipt of this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of students with specialized health care needs.
(c) Any person employed as a school nurse must be a registered professional nurse properly licensed by the West Virginia Board of Examiners for Registered Professional Nurses in accordance with article seven, chapter thirty of this code.

(d) Specialized health procedures that require the skill, knowledge and judgment of a licensed health professional may be performed only by school nurses, other licensed school health care providers as provided in this section, or school employees who have been trained and retrained every two years who are subject to the supervision and approval by school nurses. After assessing the health status of the individual student, a school nurse, in collaboration with the student's physician, parents and, in some instances, an individualized education program team, may delegate certain health care procedures to a school employee who shall be trained pursuant to this section, considered competent, have consultation with, and be monitored or supervised by the school nurse: Provided, That nothing in this section prohibits any school employee from providing specialized health procedures or any other prudent action to aid any person who is in acute physical distress or requires emergency assistance. For the purposes of this section "specialized health procedures" means, but is not limited to, catheterization, suctioning of tracheostomy, naso-gastric tube feeding or gastrostomy tube feeding. "School employee" means "teachers" as defined in section one, article one of this chapter and "aides" as defined in section eight, article four, chapter eighteen-a of this code. Commencing with the school year beginning on the first day of July, two thousand two, "school employee" also means "secretary I", "secretary II" and "secretary III" as defined in section eight, article four, chapter eighteen-a of this code: Provided, however, That a "secretary I", "secretary II" and "secretary III" shall be limited to the dispensing of medications.
(e) Any school service employee who elects, or is required by this section, to undergo training or retraining to provide, in the manner specified in this section, the specialized health care procedures for those students for which the selection has been approved by both the principal and the county board shall receive additional pay of at least one pay grade higher than the highest pay grade for which the employee is paid: Provided, That any training required in this section may be considered in lieu of required in-service training of the school employee and a school employee may not be required to elect to undergo the training or retraining: Provided, however, That commencing with the first day of July, one thousand nine hundred eighty-nine, any newly employed school employee in the field of special education is required to undergo the training and retraining as provided in this section: Provided further, That if an employee who holds a class title of an aide is employed in a school and the aide has received the training, pursuant to this section, then an employee in the field of special education is not required to perform the specialized health care procedures.

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

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

(h) The State Board of Education shall work in conjunction with county boards to provide training and retraining every two years as recommended by the Council of School Nurses and implemented by the rule promulgated by the state board.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-10a. Allowance for student health services.

(a) The Legislature finds that the need for health services has grown over the years in the public schools, particularly with respect to serving special needs students and regulations on the administration of medications, and the existing statutorily required ratio of one nurse for each one thousand five hundred students in net enrollment in grades kindergarten through seven is no longer adequate. The Legislature further finds that limits on state-funded professional personnel, required ratios for instructional personnel and declining student population and population density require county boards to make increasingly difficult decisions with respect to the instructional personnel employed in the classroom and those that provide health and other services to students. Therefore, the intent of this section is to augment the funding of instructional personnel and to assure improved health services for students by partially funding nurse positions for certain counties as an intermediate step toward improving instructional personnel staffing. The Legislature intends to further examine the state basic foundation program in context with the changing educational environment and address the staffing and other needs of the public schools as may be indicated through that examination.

(b) Commencing with the school year beginning on the first day of July, two thousand six, notwithstanding any
other provision of this code to the contrary and not subject
to nor counted toward the respective ratios of professional
and instructional personnel per students in adjusted and
net enrollment set forth in sections four and five-a of this
article, counties shall receive funding at the state average
contracted salary for nurses plus fixed charges, retirement
and the public employee insurance employer premium for
nurse positions as determined by applying a ratio of one
nurse per each one thousand five hundred students in net
enrollment, or major fraction thereof, in grades
prekindergarten through twelve, less existing nurses
employed during the two thousand five-two thousand six
school year, to the extent funds are available.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2006.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within............. this the 30th
Day of April.............., 2006.

Governor