

SB 53

FILED

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WEST VIRGINIA  
SECRETARY OF STATE

**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

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

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FOR

**Senate Bill No. 53**

(SENATORS HUNTER, DEMPSEY AND UNGER, *original sponsors*)

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

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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.**

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

8 (b) Each county board shall employ full time at least one  
9 school nurse for every one thousand five hundred kinder-  
10 garten through seventh grade pupils in net enrollment or  
11 major fraction thereof: *Provided*, That each county shall  
12 employ full time at least one school nurse: *Provided*,  
13 *however*, That a county board may contract with a public  
14 health department for services considered equivalent to  
15 those required by this section in accordance with a plan to  
16 be approved by the state board: *Provided further*, That the  
17 state board shall promulgate rules requiring the employ-  
18 ment of school nurses in excess of the number required by  
19 this section to ensure adequate provision of services to  
20 severely handicapped pupils. An appropriation may be  
21 made to the state department to be distributed to county  
22 boards to support school health service needs that exceed  
23 the capacity of staff as mandated in this section. Each  
24 county board shall apply to the state superintendent for  
25 receipt of this funding in a manner set forth by the state  
26 superintendent that assesses and takes into account  
27 varying acuity levels of students with specialized health  
28 care needs.

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

34 (d) Specialized health procedures that require the skill,  
35 knowledge and judgment of a licensed health professional  
36 may be performed only by school nurses, other licensed  
37 school health care providers as provided in this section, or  
38 school employees who have been trained and retrained  
39 every two years who are subject to the supervision and  
40 approval by school nurses. After assessing the health  
41 status of the individual student, a school nurse, in collabo-  
42 ration with the student's physician, parents and, in some  
43 instances, an individualized education program team, may  
44 delegate certain health care procedures to a school em-  
45 ployee who shall be trained pursuant to this section,  
46 considered competent, have consultation with, and be  
47 monitored or supervised by the school nurse: *Provided,*  
48 That nothing in this section prohibits any school employee  
49 from providing specialized health procedures or any other  
50 prudent action to aid any person who is in acute physical  
51 distress or requires emergency assistance. For the pur-  
52 poses of this section "specialized health procedures"  
53 means, but is not limited to, catheterization, suctioning of  
54 tracheostomy, naso-gastric tube feeding or gastrostomy  
55 tube feeding. "School employee" means "teachers" as  
56 defined in section one, article one of this chapter and  
57 "aides" as defined in section eight, article four, chapter  
58 eighteen-a of this code. Commencing with the school year  
59 beginning on the first day of July, two thousand two,  
60 "school employee" also means "secretary I", "secretary II"  
61 and "secretary III" as defined in section eight, article four,  
62 chapter eighteen-a of this code: *Provided, however,* That  
63 a "secretary I", "secretary II" and "secretary III" shall be  
64 limited to the dispensing of medications.

65 (e) Any school service employee who elects, or is required  
66 by this section, to undergo training or retraining to  
67 provide, in the manner specified in this section, the  
68 specialized health care procedures for those students for  
69 which the selection has been approved by both the princi-  
70 pal and the county board shall receive additional pay of at  
71 least one pay grade higher than the highest pay grade for  
72 which the employee is paid: *Provided*, That any training  
73 required in this section may be considered in lieu of  
74 required in-service training of the school employee and a  
75 school employee may not be required to elect to undergo  
76 the training or retraining: *Provided, however*, That  
77 commencing with the first day of July, one thousand nine  
78 hundred eighty-nine, any newly employed school employee  
79 in the field of special education is required to undergo the  
80 training and retraining as provided in this section: *Pro-*  
81 *vided further*, That if an employee who holds a class title  
82 of an aide is employed in a school and the aide has re-  
83 ceived the training, pursuant to this section, then an  
84 employee in the field of special education is not required  
85 to perform the specialized health care procedures.

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

92 (g) There shall be a council of school nurses which shall  
93 be convened by the State Board of Education. This council  
94 shall prepare a procedural manual and shall provide  
95 recommendations regarding a training course to the  
96 Commissioner of the Bureau for Public Health who shall  
97 consult with the State Department of Education. The  
98 state board then has the authority to promulgate a rule in  
99 accordance with the provisions of article three-b, chapter  
100 twenty-nine-a of this code to implement the training and  
101 to create standards used by those school nurses and school

102 employees performing specialized health procedures. The  
103 council shall meet every two years to review the certifica-  
104 tion and training program regarding school employees.

105 (h) The State Board of Education shall work in conjunc-  
106 tion with county boards to provide training and retraining  
107 every two years as recommended by the Council of School  
108 Nurses and implemented by the rule promulgated by the  
109 state board.

**ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

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

1 (a) The Legislature finds that the need for health services  
2 has grown over the years in the public schools, particularly  
3 with respect to serving special needs students and regula-  
4 tions on the administration of medications, and the  
5 existing statutorily required ratio of one nurse for each  
6 one thousand five hundred students in net enrollment in  
7 grades kindergarten through seven is no longer adequate.  
8 The Legislature further finds that limits on state-funded  
9 professional personnel, required ratios for instructional  
10 personnel and declining student population and popula-  
11 tion density require county boards to make increasingly  
12 difficult decisions with respect to the instructional person-  
13 nel employed in the classroom and those that provide  
14 health and other services to students. Therefore, the intent  
15 of this section is to augment the funding of instructional  
16 personnel and to assure improved health services for  
17 students by partially funding nurse positions for certain  
18 counties as an intermediate step toward improving  
19 instructional personnel staffing. The Legislature intends  
20 to further examine the state basic foundation program in  
21 context with the changing educational environment and  
22 address the staffing and other needs of the public schools  
23 as may be indicated through that examination.

24 (b) Commencing with the school year beginning on the  
25 first day of July, two thousand six, notwithstanding any

26 other provision of this code to the contrary and not subject  
27 to nor counted toward the respective ratios of professional  
28 and instructional personnel per students in adjusted and  
29 net enrollment set forth in sections four and five-a of this  
30 article, counties shall receive funding at the state average  
31 contracted salary for nurses plus fixed charges, retirement  
32 and the public employee insurance employer premium for  
33 nurse positions as determined by applying a ratio of one  
34 nurse per each one thousand five hundred students in net  
35 enrollment, or major fraction thereof, in grades  
36 prekindergarten through twelve, less existing nurses  
37 employed during the two thousand five-two thousand six  
38 school year, to the extent funds are available.

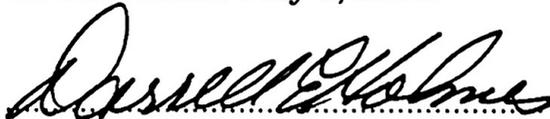
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

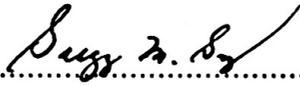
  
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Chairman Senate Committee

  
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Chairman House Committee

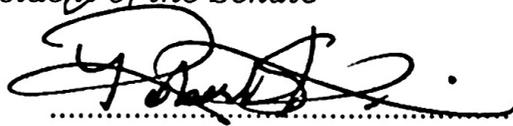
Originated in the Senate.

To take effect July 1, 2006.

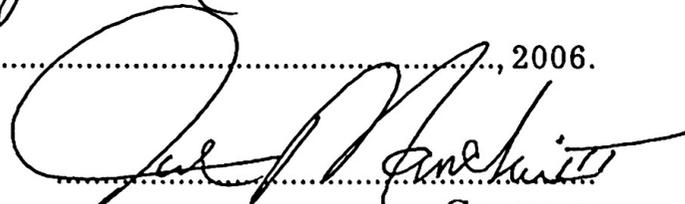
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker House of Delegates

The within is approved ..... this the 3rd .....  
Day of April ....., 2006.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 03 2006

Time 2:03p