VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 22.1-253.13:2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.4, consisting of sections numbered 22.1-212.23 through 22.1-212.27, relating to the establishment of virtual school programs.

[S 738]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.4, consisting of sections numbered 22.1-212.23 through 22.1-212.27, as follows:

Article 1.4.

Establishment of Virtual School Programs.

§ 22.1-212.23. Definitions.

As used in this article:

"Multi-division online provider" means (i) a private or nonprofit organization that enters into a contract with a local school board to provide online courses or programs through that school board to students who reside in Virginia both within and outside the geographical boundaries of that school division; (ii) a private or nonprofit organization that enters into contracts with multiple local school boards to provide online courses or programs to students in grades K through 12 through those school boards; or (iii) a local school board that provides online courses or programs to students who reside in Virginia but outside the geographical boundaries of that school division. However, "multi-division online provider" shall not include (a) a local school board's online learning program in which fewer than 10 percent of the students enrolled reside outside the geographical boundaries of that school division; (b) multiple local school boards that establish joint online courses or programs in which fewer than 10 percent of the students enrolled reside outside the geographical boundaries of those school divisions; (c) local school boards that provide online learning courses or programs for their students through an arrangement with a public or private institution of higher education; and (d) local school boards providing online courses or programs through a private or nonprofit organization that has been approved as a multi-division online provider.

"Online course" means a course or grade-level subject instruction that (i) is delivered by a multi-division online provider primarily electronically using the Internet or other computer-based methods and (ii) is taught by a teacher primarily from a remote location, with student access to the teacher given synchronously, asynchronously, or both.

"Virtual school program" means a series of online courses with instructional content that (i) is delivered by a multi-division online provider primarily electronically using the Internet or other computer-based methods; (ii) is taught by a teacher primarily from a remote location, with student access to the teacher given synchronously, asynchronously, or both; (iii) is delivered as a part-time or full-time program; and (iv) has an online component with online lessons and tools for student and data management.

An online course or virtual school program may be delivered to students at school as part of the regularly scheduled school day.

§ 22.1-212.24. Approval of multi-division online providers; contracts with local school boards.

A. The Superintendent of Public Instruction shall develop, and the Board of Education shall approve, (i) the criteria and application process for approving multi-division online providers; (ii) a process for monitoring approved multi-division online providers; (iii) a process for revocation of a previously approved multi-division online provider; and (iv) an appeals process for a multi-division online provider whose approval was revoked or whose application was denied. The process developed under this subsection shall require approvals and revocations to be determined by the Superintendent of Public Instruction, and either the denial of an application or revocation of approval may be appealed to the Board of Education for review. The approval of a multi-division online provider under this section shall be effective until the approval is revoked, for cause, pursuant to the terms of this section. Any notice of revocation of approval of a multi-division online provider or rejection of an application by a multi-division online provider shall state the grounds for such action with reasonable specificity and give reasonable notice to the multi-division online provider to appeal. These criteria and processes shall be adopted by January 31, 2011.

B. In developing the criteria for approval pursuant to subsection A, the Superintendent of Public

Instruction shall (i) require multi-division online providers to be accredited by a national, regional, or state accreditation program approved by the Board; (ii) require such courses or programs, pupil performance standards, and curriculum to meet or exceed any applicable Standards of Learning and Standards of Accreditation; (iii) require any educational objectives and assessments used to measure pupil progress toward achievement of the school's pupil performance standards to be in accordance with the Board's Standards of Accreditation and all applicable state and federal laws; and (iv) require such courses or programs to maintain minimum staffing requirements appropriate for virtual school programs.

C. Local school boards may enter into contracts, consistent with the criteria approved by the Board pursuant to this section, with approved private or nonprofit organizations to provide multi-division online courses and virtual school programs. Such contracts shall be exempt from the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

§ 22.1-212.25. Information regarding online courses and virtual programs; report.

A. The Department of Education shall develop and maintain a website that provides objective information for students, parents, and educators regarding online courses and virtual programs offered through local school boards by multi-division online providers that have been approved in accordance with § 22.1-212.24. The website shall include information regarding the overall instructional programs, the specific content of individual online courses and online programs, a direct link to each multi-division online provider's website, how to register for online learning programs and courses, teacher qualifications, course completion rates, and other evaluative and comparative information. The website shall also provide information regarding the process and criteria for approving multi-division online providers. Multi-division online providers shall provide the Department of Education the required information for the website as a condition of maintaining Board approval.

B. The Superintendent of Public Instruction shall develop model policies and procedures regarding student access to online courses and online learning programs that may be used by local school divisions.

Nothing in this article shall be deemed to require a local school division to adopt model policies or procedures developed pursuant to this section.

C. Beginning November 1, 2011, and annually thereafter, the Board of Education shall include in its annual report to the Governor and the General Assembly information regarding multi-division online learning during the previous school year. The information shall include but not be limited to student demographics, course enrollment data, parental satisfaction, aggregated student course completion and passing rates, and activities and outcomes of course and provider approval reviews. The November 1, 2011, report shall be an interim progress report and include information on the criteria and processes adopted by the Board and outcomes of provider applications.

D. By July 1, 2011, local school boards shall post on their websites information regarding online courses and programs that are available through the school division. Such information shall include but not be limited to the types of online courses and programs available to students through the school division, when the school division will pay course fees and other costs for nonresident students, and the granting of high school credit.

§ 22.1-212.26. Teachers and administrators of online courses and programs.

A. Teachers who deliver instruction to students through online courses or virtual school programs shall be licensed by the Board of Education and shall be subject to the requirements of §§ 22.1-296.1 and 22.1-296.2 applicable to teachers employed by a local school board.

B. The administrator of a virtual school program shall hold an advanced degree from a regionally accredited institution of higher education with educational and work experience in administering educational programs.

§ 22.1-212.27. Students enrolled in online courses and virtual programs.

A. Any student enrolled in any online course or virtual program offered by a local school division shall be enrolled in a public school in Virginia as provided in § 22.1-3.1.

B. A student's parent or guardian shall give written permission prior to the enrollment of the student in any full-time virtual program offered by a local school division.

C. A student shall not be charged tuition for enrolling in any online course or virtual program offered by the school division in which he resides, pursuant to 22.1-3. However, tuition may be charged to students who do not reside within the boundaries of the school division offering such course or program, pursuant to 22.1-5.

§ 22.1-253.13:2. 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, counselors, 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.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with mental retardation 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. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their average daily membership for kindergarten to reflect 85 percent of the total kindergarten average daily memberships, as provided 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.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board.

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

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students;

4. Guidance counselors in elementary schools, one hour per day per 100 students, one full-time at 500 students, one hour per day additional time per 100 students or major fraction thereof; guidance counselors in middle schools, one period per 80 students, one full-time at 400 students, one additional period per 80 students or major fraction thereof; guidance counselors in high schools, one period per 70 students, one full-time at 350 students, one additional period per 70 students or major fraction thereof; and

5. Clerical personnel in elementary schools, part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools, one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools, one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students.

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

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

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

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for guidance counselors, and shall be based on the school's total enrollment; guidance counselor staff requirements shall, however, be based on the enrollment at the various school organization levels, i.e., elementary, middle, or high school. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before January 1, report to the public the actual pupil/teacher ratios in elementary school classrooms by school for the current school year. Such actual ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

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

O. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services" shall include services provided by the school board members; the superintendent; assistant superintendents; student services (including guidance counselors, social workers, and homebound, improvement, principal's office, and library-media positions); attendance and health positions; administrative, technical, and clerical positions; operation and maintenance positions; educational technology positions; school nurses; and pupil transportation positions.

Pursuant to the appropriation act, support services shall be funded from basic school aid on the basis of prevailing statewide costs.

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

2. That any multi-division online provider operating prior to the enactment of this act and prior to the development and enactment of the approval criteria pursuant to subsection A of § 22.1-212.24 of the Code of Virginia and meeting the requirements of subsection B of § 22.1-212.24 shall be permitted to continue operating until enactment of the approval criteria pursuant to § 22.1-212.24. Following such enactment, any operating multi-division online provider shall be required to submit an application for approval and shall be permitted to continue operating until a decision is rendered under the criteria enacted pursuant to § 22.1-212.24.