

than the minimum nor more than the maximum amount which would result from the laying of the school levy authorized by the preceding section for the establishment, maintenance and operation of the schools of the county or city *and for the payment of grants for the furtherance of elementary or secondary education and transportation costs.* In addition to this, the governing body of any county or city may appropriate, *either tentatively or finally*, from any funds available, such sums as in its judgment may be necessary or expedient for the establishment, maintenance and operation of the public schools in the county or city, *and for the payment of such grants and transportation costs required or authorized by law.*

Whenever any such appropriations have been made on a tentative basis, no part of the funds so appropriated shall, in any event, be available to the local school board except as the local governing body may, from time to time, by resolution authorize the payment or transfer of such funds, or any part thereof, to such local school board.

§ 22-127.1. *Notwithstanding any other provision of law to the contrary, the governing body of any county, city or town which has made a levy for school purposes under § 22-126 or § 22-129 or has made a cash appropriation under § 22-127 or any other provision of law may by resolution direct the school board of such county, city or town and the treasurer of such county, city or town to make no further expenditures of local school funds until further authorized to do so by such local governing body. Any school board, and each member thereof, and any treasurer who makes any expenditure of local school funds after being so directed not to make such expenditures shall be personally liable to make restitution to the county, city or town involved of the funds so expended in violation of any such resolution of the local governing body and*

may be removed from office under the provisions of Article 3, Chapter 16, Title 15, of the Code.

§ 22-129. The governing body of any incorporated town in the State is authorized to levy an additional tax on all the property in the town, subject to local taxation, at such rate as it may deem proper, but in no event more than one dollar on the one hundred dollars of the assessed value of property in the town subject to taxation by the local town authorities, for the support and maintenance, and capital outlay of the public schools in the town *and for the payment of grants for the furtherance of elementary and secondary education and transportation costs.* In lieu of such levy, the governing body may, *in its discretion*, make a cash appropriation, *either tentative or final*, out of the general town levy of an amount not more than the maximum amount which would result from the school levy for the support and maintenance of the public schools in the town *and for the payment of such grants and transportation costs required or authorized by law.*

Whenever any such appropriation has been made on a tentative basis, no part of the funds so appropriated shall, in any event, be available to the local school board except as the governing body may, from time to time, by resolution authorize the payment or transfer of such funds, or any part thereof, to such local school board.

§ 22-138. All sums of money derived from State funds for school or educational purposes, which are unexpended in any year in any county or city shall go into the * fund of the State from which derived for redivision the next year, unless the State Board direct otherwise. All sums derived from county or city funds unexpended in any year shall remain a part of the county or city funds, respectively, for use the next year, but no local funds shall be subject to redivision outside of the county or city in which they were raised.

EDUCATION

Public Schools—Virginia

Chapter 68 of the acts of the 1956 Extra Session of the Virginia General Assembly, approved September 29, 1956, announces the public policy of the State of Virginia as requiring segregation in the public schools and provides for the assumption of control by the "Commonwealth of Virginia" of any school which is "voluntarily or under compulsion of any court order" racially integrated. The act further provides for the closing of any such school until an investiga-

tion by the governor shall determine that that school can be reopened and the pupils thereof reassigned in accordance with the state's policy. If the school cannot be reopened under such conditions, the act provides for the furnishing of other facilities for instruction or for the making of tuition grants to pupils. All acts done in connection with the establishment of schools and the assignment of pupils are stated to be acts of the state with respect to which the state declines to be amenable to suit except through suit brought by the state Attorney General.

CHAPTER 68

An Act to establish the responsibility of the Commonwealth of Virginia for the control of certain public schools under certain conditions; to that end to state the conditions which must exist in relation to such schools in order for the Commonwealth to assume such responsibility; to vest in the Commonwealth control of certain schools under stated conditions, and to confer powers and impose duties upon the Commonwealth to be exercised by the Governor of Virginia; to provide the conditions under which such powers shall be designated; to empower the Governor to act in certain cases; to confer immunity from legal proceedings upon the Commonwealth of Virginia and the Governor; to refuse the consent of the Commonwealth to certain legal proceedings; to provide for the payment of certain educational grants; and to provide for the appropriation and expenditure of funds necessary under this act.

Be it enacted by the General Assembly of Virginia:

§ 1. The General Assembly declares that, as a consequence of the decisions of the Supreme Court of the United States affecting the public school system, school authorities of the various political subdivisions of the Commonwealth of Virginia will be faced with unprecedented obstacles if and when ordered to enroll white and colored children in the same public schools, and such enforced integration of the races by a county or city school board could destroy the efficiency of the school in which white and colored children were so enrolled, and would tend to disturb the peace and tranquility of the community in which such school is located.

§ 2. The General Assembly declares that the welfare of all the citizens of the Commonwealth, the preservation of her public school system and a continuance of universal public education, make it necessary that there be uniformity of

action throughout the State in all instances where school authorities acting voluntarily, or under compulsion, enroll a child in a public school, which enrolment would require a child of the white race to attend a public school with a child of the colored race, or which enrollment would require a child of the colored race to attend a public school with a child of the white race.

§ 3. From and after the effective date of this act, and in conformity with the public policy of the Commonwealth of Virginia as herein established in §§ 1 and 2, and specifically invoking the police powers of the Commonwealth and the constitutional powers of the General Assembly, the Commonwealth of Virginia assumes direct responsibility for the control of any school, elementary or secondary, in the Commonwealth, to which children of both races are assigned and enrolled by any school authorities acting voluntarily or under compulsion of any court order. The making of such an assignment, and the enrollment of such child, or children, shall automatically divest the school authorities making the assignment and the enrollment of all further authority, power and control over such public school, its principal, teachers and other employees, and all pupils then enrolled or ordered to be enrolled therein; and such school is closed and is removed from the public school system, and such authority, power and control over such school, its principal, teachers, and other employees and all pupils then enrolled or ordered to be enrolled, shall be and is hereby vested in the Commonwealth of Virginia to be exercised by the Governor of Virginia in whom reposes the chief executive power of the State.

§ 4. Immediately upon such control, power and authority becoming vested in the Commonwealth of Virginia, by reason of the occurrences provided for in § 3 aforesaid, such school is closed, and shall not be reopened, as a public school, until in the opinion of the Governor, and after an investigation by him, he finds and issues an executive order that (1) the peace and tranquility of the community in which the school

is located will not be disturbed by such school being reopened and operated, and (2) the assignment of pupils to such school could be accomplished without enforced or compulsory integration of the races therein contrary to the wishes of any child enrolled therein, or of his or her parent or parents, lawful guardian or other custodian.

§ 5. If after investigation, the Governor concludes that such school cannot be reopened, under the conditions provided for in § 4 of this act, he is given authority to reorganize the school, its personnel, curriculum and facilities, and make such other changes therein as in his discretion may be necessary and desirable and needed to effect a reopening of such school and, in such reorganization and in making assignment of pupils to such school, or in making reassignments to the school or schools in which they were formerly enrolled if he deems it necessary to preserve the peace and tranquility of the community or in making assignments of pupils to other available schools, he shall give due consideration to the laws of the Commonwealth relative to assignment and enrollment of pupils and due consideration to the individual safety, needs and welfare of the child or children involved and the safety, welfare and best interest of other children attending the school and the welfare and safety of the community, the availability of facilities, the health and aptitude of such child, the availability of transportation, and all other relevant factors, and their effect on such child and other children attending said school and on the welfare and best interest of the administration of the school or schools involved, which assignment and enrollment shall remain in effect for the remainder of the current school session unless otherwise ordered or authorized by the Governor; provided, however, no school which has been closed, as aforesaid, shall be reopened, or reorganized and reopened, by the Governor, unless and until he finds and issues an executive order that such school can be reopened or reorganized and reopened in accordance with the provisions of § 4 above.

§ 6. If after investigation, the Governor concludes that such school cannot be reopened, or cannot be reorganized and reopened, he is authorized to assign the children in such school to any available public schools where such an assignment is practicable and to the best interest

of the children involved, and to the public system of the political subdivision concerned, taking into consideration the factors aforesaid; and the Governor is further authorized to make available other facilities for the instruction of such children, and to reassign the teachers in such closed school to other public schools in the political subdivision in which such closed school is located, or to other school or schools or other facilities made available for the instruction of such children, as authorized herein.

§ 7. Whenever any public school shall be closed under the circumstances aforesaid and as provided in the preceding sections of this act, and any child, or children, enrolled in such school cannot be reassigned to another public school, the Governor and the duly constituted authorities of the locality formerly having control of such school are authorized to make available to such child or children an education or tuition grant from funds which would otherwise have been available for the operation of the school in which he or she was enrolled, or are otherwise available for that purpose, the amount of such grant to be expended under rules and regulations established by law or in the absence thereof to be promulgated by the Governor, which grants shall be expended by pupils attending nonsectarian private schools only, and provided, further, however, that the amount of such grant authorized and expended shall not exceed an amount equal to the quotient derived by dividing the total amount expended in the elementary and secondary school system of the political subdivision in which such school is located by the enrollment of pupils attending such public school system of such political subdivision for the year next preceding.

§ 8. Should the Governor, in carrying out the provisions of this act and in providing for the education of the children assigned and enrolled in any school which is closed hereunder, expend an amount in excess of the amount which would have been expended by the school board of the political subdivision in which such school is located, had such school not closed, authority is hereby given and the Governor is authorized to supplement the appropriation available to such political subdivision for educational purposes by an amount equal to such difference, such supplement to be made from funds which may be available and upon such conditions as may

be decided upon by the fiscal officers of the Commonwealth, the State Board of Education and the duly constituted authorities of the locality involved.

§ 9. Whenever it is made to appear to the Governor that any school which has been closed under the conditions aforesaid can be reopened and operated in accordance with the provisions of § 4 of this act, the Governor is authorized to return forthwith the operation, control and maintenance of such school to the local school board of the political subdivision in which it is located.

§ 10. Notwithstanding any other provision contained in this act, if after investigation the Governor concludes, or, at any time the school board or board of supervisors of the county or the council of the city in which the closed school is located, certifies to the Governor by resolution that in it or their opinion such school cannot be reopened, or reorganized and reopened, in conformity with provisions of this act, the Governor shall so proclaim, in which event the said school shall again become a part of the public school system of the political subdivision in which it is located, and such school, elementary or secondary, shall along with all other schools of its class in the political subdivision in which it is located thereby become subject to the applicable provisions of the laws of this State.

§ 11. The Governor is given the power to take any and all actions and make such expenditures as may be necessary to carry into effect the provisions of this act and to fulfill the responsibilities assumed hereunder for the control of certain public schools upon the happening of certain contingencies.

§ 12. The Commonwealth of Virginia assumes the contractual obligation of the school board of any political subdivision, in which a school is closed under this act, with the principal, teachers and employees of such closed school, and it is directed that the salary, wage or compensation of such principal, teachers or em-

ployees be paid upon authorization of the Governor as agreed and provided by the terms of their contract with such school board and for the time specified in the contract, or so long as such principal, teachers and employees are under the control of the Governor by virtue of the provisions of this act; provided, however, nothing herein contained shall obligate the Commonwealth of Virginia to employ or compensate such principal, teachers and other employees beyond the expiration date of their contract with such school board.

§ 13. Every action authorized and taken in conformity with the provisions of this act shall be and is hereby declared to be the act of General Assembly of Virginia and an act of the Governor of Virginia and an act taken on behalf of the sovereign Commonwealth of Virginia, and if any suit, action or other legal proceedings be instituted relative thereto, the same shall be regarded and is hereby declared to be a suit, action or proceeding against the Commonwealth of Virginia, and the Commonwealth hereby declines and refuses for the Commonwealth of Virginia or the Governor of Virginia to be subject to such a suit unless it shall be one brought by the Attorney General of Virginia to enforce the laws of the Commonwealth.

2. If any part, section, portion or provision of this act or the application thereof to any person or circumstance be held invalid by a court of final resort, such holding shall not affect any part, section, portion, provision or application of this act which can be given effect without the part, section, portion, provision or application so held invalid; and to this end, the parts, sections, portions, provisions and applications hereof are declared severable.

3. Any acts or parts of acts in conflict herewith are hereby repealed to the extent of such conflict.

4. An emergency exists and this act is in force from its passage.

EDUCATION

Public Schools—Virginia

Chapter 69 of the acts of the 1956 Extra Session of the Virginia General Assembly, approved September 29, 1956, provides for the declaration of a state of emergency in any school district in which an "efficient system of elementary or secondary public schools" is not operated un-