

H. B. 2112

(By Delegates Duke, J. Miller, Romine and Ireland)
[Introduced January 12, 2011; referred to the
Committee on Education then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §18-9A-11 of the Code of West Virginia, 1931, as amended, relating to reforming the school aid formula by reducing from ninety-eight percent to an amount equal to fifty percent of growth in each county's local share as compared to five years' earlier amount of the regular levy deducted from county boards of education for general current expense purposes.

Be it enacted by the Legislature of West Virginia:

That §18-9A-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-11. Computation of local share; appraisal and assessment of property; public library support.

(a) On the basis of each county's certificates of valuation as to all classes of property as determined and published by the

1 assessors pursuant to section six, article three, chapter eleven of
2 this code for the next ensuing fiscal year in reliance upon the
3 assessed values annually developed by each county assessor pursuant
4 to the provisions of articles one-c and three of said chapter, the
5 state board shall for each county compute by application of the
6 levies for general current expense purposes, as defined in section
7 two of this article, the amount of revenue which the levies would
8 produce if levied upon one hundred percent of the assessed value of
9 each of the several classes of property contained in the report or
10 revised report of the value, made to it by the Tax Commissioner as
11 follows:

12 (1) The state board shall first take ninety-five percent of
13 the amount ascertained by applying these rates to the total
14 assessed public utility valuation in each classification of
15 property in the county; and

16 (2) The state board shall then apply these rates to the
17 assessed taxable value of other property in each classification in
18 the county as determined by the Tax Commissioner and shall deduct
19 therefrom five percent as an allowance for the usual losses in
20 collections due to discounts, exonerations, delinquencies and the
21 like. All of the amount so determined shall be added to the
22 ninety-five percent of public utility taxes computed as provided in
23 subdivision (1) of this subsection and this total shall be further
24 reduced by the amount due each county assessor's office pursuant to

1 the provisions of section eight, article one-c, chapter eleven of
2 this code and this amount shall be the local share of the
3 particular county.

4 As to any estimations or preliminary computations of local
5 share required prior to the report to the Legislature by the Tax
6 Commissioner, the state shall use the most recent projections or
7 estimations that may be available from the Tax Department for that
8 purpose.

9 (b) Effective July 1, 2013, subsection (a) of this section is
10 void and local share shall be calculated in accordance with the
11 following:

12 (1) The state board shall for each county compute by
13 application of the levies for general current expense purposes, as
14 defined in sections two and two-a of this article, the amount of
15 revenue which the levies would produce if levied upon 100% of the
16 assessed value calculated pursuant to section five-b, article one-
17 c, chapter eleven of this code;

18 (2) Five percent shall be deducted from the revenue calculated
19 pursuant to subdivision (1) of this subsection as an allowance for
20 the usual losses in collections due to discounts, exonerations,
21 delinquencies and the like; and

22 (3) The amount calculated in subdivision (2) of this
23 subsection shall further be reduced by the sum of money due each
24 assessor's office pursuant to the provisions of section eight,

1 article one-c, chapter eleven of this code and this reduced amount
2 shall be the local share of the particular county.

3 (c) Whenever in any year a county assessor or a county
4 commission fails or refuses to comply with the provisions of this
5 section in setting the valuations of property for assessment
6 purposes in any class or classes of property in the county, the
7 State Tax Commissioner shall review the valuations for assessment
8 purposes made by the county assessor and the county commission and
9 shall direct the county assessor and the county commission to make
10 corrections in the valuations as necessary so that they comply with
11 the requirements of chapter eleven of this code and this section
12 and the Tax Commissioner shall enter the county and fix the
13 assessments at the required ratios. Refusal of the assessor or the
14 county commission to make the corrections constitutes grounds for
15 removal from office.

16 (d) For the purposes of any computation made in accordance
17 with the provisions of this section, in any taxing unit in which
18 tax increment financing is in effect pursuant to the provisions of
19 article eleven-b, chapter seven of this code, the assessed value of
20 a related private project shall be the base-assessed value as
21 defined in section two of said article.

22 (e) An additional reduction in local share is taken in an
23 amount equal to fifty percent of the total growth in local property
24 tax collection during the previous five years.

1 ~~(e)~~ (f) For purposes of any computation made in accordance
2 with the provisions of this section, in any county where the county
3 board of education has adopted a resolution choosing to use the
4 provisions of the Growth County School Facilities Act set forth in
5 section six-f, article eight, chapter eleven of this code,
6 estimated school board revenues generated from application of the
7 regular school board levy rate to new property values, as that term
8 is designated in said section, may not be considered local share
9 funds and shall be subtracted before the computations in
10 subdivisions (1) and (2), subsection (a) of this section or in
11 subdivisions (2) and (3), subsection (b) of this section, as
12 applicable, are made.

13 ~~(f)~~ (g) The Legislature finds that public school systems
14 throughout the state provide support in varying degrees to public
15 libraries through a variety of means including budgeted
16 allocations, excess levy funds and portions of their regular school
17 board levies as may be provided by special act. A number of public
18 libraries are situated on the campuses of public schools and
19 several are within public school buildings serving both the
20 students and public patrons. To the extent that public schools
21 recognize and choose to avail the resources of public libraries
22 toward developing within their students such legally recognized
23 elements of a thorough and efficient education as literacy,
24 interests in literature, knowledge of government and the world

1 around them and preparation for advanced academic training, work
2 and citizenship, public libraries serve a legitimate school purpose
3 and may do so economically. For the purposes of any computation
4 made in accordance with the provisions of this section, the library
5 funding obligation on the regular school board levies which is
6 created by a special act and is due and payable from the levy
7 revenues to a library shall be paid from the county school board's
8 discretionary retainage, which is hereby defined as the amount by
9 which the regular school board levies exceeds the local share as
10 determined hereunder. If the library funding obligation which is
11 created by a special act and is due and payable to a library is
12 greater than the county school board's discretionary retainage, the
13 library funding obligation created by the special act is amended
14 and is reduced to the amount of the discretionary retainage,
15 notwithstanding any provisions of the special act to the contrary.
16 Any excess of the discretionary retainage over the library funding
17 obligation shall be available for expenditure by the county board
18 in its discretion for its properly budgeted purposes.

19 ~~(g)~~ (h) It is the intent of the Legislature that whenever a
20 provision of subsection ~~(f)~~ (g) of this section is contrary to any
21 special act of the Legislature which has been or may in the future
22 be enacted by the Legislature that creates a library funding
23 obligation on the regular school board levy of a county, subsection
24 ~~(f)~~ (g) of this section controls over the special act.

1 Specifically, the special acts which are subject to said subsection
2 upon the enactment of this section during the 2007 regular session
3 of the Legislature include:

4 (1) Enrolled Senate Bill No. 11, passed on February 12, 1970,
5 applicable to the Berkeley County Board of Education;

6 (2) Enrolled House Bill No. 1352, passed on April 7, 1981,
7 applicable to the Hardy County Board of Education;

8 (3) Enrolled Committee Substitute for House Bill No. 2833,
9 passed on March 14, 1987, applicable to the Harrison County Board
10 of Education;

11 (4) Enrolled House Bill No. 161, passed on March 6, 1957,
12 applicable to the Kanawha County Board of Education;

13 (5) Enrolled Senate Bill No. 313, passed on March 12, 1937, as
14 amended by Enrolled House Bill No. 1074, passed on March 8, 1967,
15 and as amended by Enrolled House Bill No. 1195, passed on January
16 18, 1982, applicable to the Ohio County Board of Education;

17 (6) Enrolled House Bill No. 938, passed on February 28, 1969,
18 applicable to the Raleigh County Board of Education;

19 (7) Enrolled House Bill No. 398, passed on March 1, 1935,
20 applicable to the Tyler County Board of Education;

21 (8) Enrolled Committee Substitute for Senate Bill No. 450,
22 passed on March 11, 1994, applicable to the Upshur County Board of
23 Education; and

24 (9) Enrolled House Bill No. 2994, passed on March 13, 1987,

1 applicable to the Wood County Board of Education.

2 ~~(h)~~ (i) Notwithstanding any provision of any special act set
3 forth in subsection ~~(g)~~ (h) of this section to the contrary, the
4 county board of any county with a special act creating a library
5 obligation out of the county's regular school levy revenues may
6 transfer that library obligation so that it becomes a continuing
7 obligation of its excess levy revenues instead of an obligation of
8 its regular school levy revenues, subject to the following:

9 (1) If a county board chooses to transfer the library
10 obligation pursuant to this subsection, the library funding
11 obligation shall remain an obligation of the regular school levy
12 revenues until the fiscal year in which the excess levy is
13 effective or would have been effective if it had been passed by the
14 voters;

15 (2) If a county board chooses to transfer the library
16 obligation pursuant to this subsection, the county board shall
17 include the funding of the public library obligation in the same
18 amount as its library funding obligation which exists or had
19 existed on its regular levy revenues as one of the purposes for the
20 excess levy to be voted on as a specifically described line item of
21 the excess levy: *Provided*, That if the county board has
22 transferred the library obligation to the excess levy and the
23 excess levy fails to be passed by the voters or the excess levy
24 passes and thereafter expires upon the time limit for continuation

1 as set forth in section sixteen, article eight, chapter eleven of
2 this code, then in any subsequent excess levy which the county
3 board thereafter submits to the voters the library funding
4 obligation again shall be included as one of the purposes of the
5 subsequent excess levy as a specifically described line item of the
6 excess levy;

7 (3) If a county board chooses to transfer the library
8 obligation pursuant to this subsection, regardless of whether or
9 not the excess levy passes, effective the fiscal year in which the
10 excess levy is effective or would have been effective if it had
11 been passed by the voters, a county's library obligation on its
12 regular levy revenues is void notwithstanding any provision of the
13 special acts set forth in subsection (g) of this section to the
14 contrary; and

15 (4) Nothing in subdivision (3) of this subsection prohibits a
16 county board from funding its public library obligation
17 voluntarily.

NOTE: The purpose of this bill is to reform the school aid
formula by reducing the regular levy deducted from county boards of
education for general current expense purposes by fifty percent of
the growth in local share from five years prior.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.