

# H. B. 4653

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(Originating in the Committee on Finance)  
[February 23, 2011]

A BILL to repeal §11-1C-5b of the Code of West Virginia, 1931, as amended; to repeal §18-9A-2a of said code; and to amend and reenact §18-9A-2 and §18-9A-11 of said code, all relating to public school support computation of local share; removing provisions for using assumed assessed values for the purpose of computation; and removing provisions for increasing counties' local share responsibility for funding basic foundation education formula when property assessments are not at least fifty-four percent of market value as indicated by assessment ratio study; revising definitions.

*Be it enacted by the Legislature of West Virginia:*

That §11-1C-5b of the Code of West Virginia, 1931, as amended, be repealed; that §18-9A-2a of said code be repealed; and

that §18-9A-2 and §18-9A-11 of said code be amended and reenacted, all to read as follows:

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

**§18-9A-2. Definitions.**

1 For the purpose of this article:

2 (a) “State board” means the West Virginia Board of  
3 Education.

4 (b) “County board” or “board” means a county board of  
5 education.

6 (c) “Professional salaries” means the state legally  
7 mandated salaries of the professional educators as provided  
8 in article four, chapter eighteen-a of this code.

9 (d) “Professional educator” shall be synonymous with  
10 and shall have the same meaning as “teacher” as defined in  
11 section one, article one of this chapter, and includes  
12 technology integration specialists.

13 (e) “Professional instructional personnel” means a  
14 professional educator whose regular duty is as that of a  
15 classroom teacher, librarian, attendance director or school

16 psychologist. A professional educator having both  
17 instructional and administrative or other duties shall be  
18 included as professional instructional personnel for that ratio  
19 of the school day for which he or she is assigned and serves  
20 on a regular full-time basis in appropriate instruction, library,  
21 attendance, or psychologist duties.

22 (f) “Professional student support personnel” means a  
23 “teacher” as defined in section one, article one of this chapter  
24 who is assigned and serves on a regular full-time basis as a  
25 counselor or as a school nurse with a bachelor’s degree and  
26 who is licensed by the West Virginia Board of Examiners for  
27 Registered Professional Nurses. For all purposes except for  
28 the determination of the allowance for professional educators  
29 pursuant to section four of this article, professional student  
30 support personnel are professional educators.

31 (g) “Service personnel salaries” means the state legally  
32 mandated salaries for service personnel as provided in section  
33 eight-a, article four, chapter eighteen-a of this code.

34 (h) "Service personnel" means all personnel as provided  
35 in section eight, article four, chapter eighteen-a of this code.  
36 For the purpose of computations under this article of ratios of  
37 service personnel to net enrollment, a service employee shall  
38 be counted as that number found by dividing his or her  
39 number of employment days in a fiscal year by two hundred:  
40 *Provided*, That the computation for any service person  
41 employed for three and one-half hours or less per day as  
42 provided in section eight-a, article four, chapter eighteen-a of  
43 this code shall be calculated as one-half an employment day.

44 (i) "Net enrollment" means the number of pupils enrolled  
45 in special education programs, kindergarten programs and  
46 grades one to twelve, inclusive, of the public schools of the  
47 county. Net enrollment further shall include:

48 (1) Adults enrolled in regular secondary vocational  
49 programs existing as of the effective date of this section,  
50 subject to the following:

51 (A) Net enrollment includes no more than one thousand  
52 of those adults counted on the basis of full-time equivalency

53 and apportioned annually to each county in proportion to the  
54 adults participating in regular secondary vocational programs  
55 in the prior year counted on the basis of full-time  
56 equivalency; and

57 (B) Net enrollment does not include any adult charged  
58 tuition or special fees beyond that required of the regular  
59 secondary vocational student;

60 (2) Students enrolled in early childhood education  
61 programs as provided in section forty-four, article five of this  
62 chapter, counted on the basis of full-time equivalency;

63 (3) No pupil shall be counted more than once by reason  
64 of transfer within the county or from another county within  
65 the state, and no pupil shall be counted who attends school in  
66 this state from another state;

67 (4) The enrollment shall be modified to the equivalent of  
68 the instructional term and in accordance with the eligibility  
69 requirements and rules established by the state board; and

70 (5) For the purposes of determining the county's basic  
71 foundation program, only, for any county whose net

72 enrollment as determined under all other provisions of this  
73 definition is less than one thousand four hundred, the net  
74 enrollment of the county shall be increased by an amount to  
75 be determined in accordance with the following:

76 (A) Divide the state's lowest county student population  
77 density by the county's actual student population density;

78 (B) Multiply the amount derived from the calculation in  
79 paragraph (A) of this subdivision by the difference between  
80 one thousand four hundred and the county's actual net  
81 enrollment;

82 (C) If the increase in net enrollment as determined under  
83 this subdivision plus the county's net enrollment as  
84 determined under all other provisions of this subsection is  
85 greater than one thousand four hundred, the increase in net  
86 enrollment shall be reduced so that the total does not exceed  
87 one thousand four hundred; and

88 (D) During the 2008-2009 interim period and every three  
89 interim periods thereafter, the Legislative Oversight  
90 Commission on Education Accountability shall review the

91 provisions of this subdivision to determine whether or not  
92 they properly address the needs of counties with low  
93 enrollment and a sparse population density.

94 (j) “Sparse-density county” means a county whose ratio  
95 of net enrollment, excluding any increase in the net  
96 enrollment of counties pursuant to subdivision (5) of the  
97 definition of net enrollment, to the square miles of the county  
98 is less than five.

99 (k) “Low-density county” means a county whose ratio of  
100 net enrollment, excluding any increase in the net enrollment  
101 of counties pursuant to subdivision (5) of the definition of net  
102 enrollment, to the square miles of the county is equal to or  
103 greater than five but less than ten.

104 (l) “Medium-density county” means a county whose ratio  
105 of net enrollment, excluding any increase in the net  
106 enrollment of counties pursuant to subdivision (5) of the  
107 definition of net enrollment, to the square miles of the county  
108 is equal to or greater than ten but less than twenty.

109 (m) “High-density county” means a county whose ratio  
110 of net enrollment, excluding any increase in the net  
111 enrollment of counties pursuant to subdivision (5) of the  
112 definition of net enrollment, to the square miles of the county  
113 is equal to or greater than twenty.

114 (n) “Levies for general current expense purposes” means  
115 ~~ninety-four~~ ninety percent of the levy rate for county boards  
116 of education calculated or set by the Legislature pursuant to  
117 the provisions of section six-f, article eight, chapter eleven of  
118 this code. ~~Provided, That beginning July 1, 2008, “levies for~~  
119 ~~general current expense purposes” means ninety percent of~~  
120 ~~the levy rate for county boards of education calculated or set~~  
121 ~~by the Legislature pursuant to the provisions of section six-f,~~  
122 ~~article eight, chapter eleven of this code. *Provided, however,*~~  
123 ~~That effective July 1, 2010, the definitions set forth in this~~  
124 ~~subsection are subject to the provisions of section two-a of~~  
125 ~~this article.~~

126 (o) “Technology integration specialist” means a  
127 professional educator who has expertise in the technology



128 field and is assigned as a resource teacher to provide  
129 information and guidance to classroom teachers on the  
130 integration of technology into the curriculum.

131 (p) “State aid eligible personnel” means all professional  
132 educators and service personnel employed by a county board  
133 in positions that are eligible to be funded under this article  
134 and whose salaries are not funded by a specific funding  
135 source such as a federal or state grant, donation, contribution  
136 or other specific funding source not listed.

**§18-9A-11. Computation of local share; appraisal and  
assessment of property; modifications for tax  
increment financing and growth county school  
facilities; public library support.**

1 (a) On the basis of each county’s certificates of valuation  
2 as to all classes of property as determined and published by  
3 the assessors pursuant to section six, article three, chapter  
4 eleven of this code for the next ensuing fiscal year in reliance  
5 upon the assessed values annually developed by each county  
6 assessor pursuant to the provisions of articles one-c and three  
7 of said chapter, the state board shall for each county compute

8 by application of the levies for general current expense  
9 purposes, as defined in section two of this article, the amount  
10 of revenue which the levies would produce if levied upon one  
11 hundred percent of the assessed value of each of the several  
12 classes of property contained in the report or revised report  
13 of the value, made to it by the Tax Commissioner as follows:

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

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

27 amount due each county assessor's office pursuant to the  
28 provisions of section eight, article one-c, chapter eleven of  
29 this code and this amount shall be the local share of the  
30 particular county.

31 As to any estimations or preliminary computations of  
32 local share required prior to the report to the Legislature by  
33 the Tax Commissioner, the state shall use the most recent  
34 projections or estimations that may be available from the Tax  
35 Department for that purpose.

36 ~~(b) Effective the first day of July, two thousand thirteen,~~  
37 ~~subsection (a) of this section is void and local share shall be~~  
38 ~~calculated in accordance with the following:~~

39 ~~(1) The state board shall for each county compute by~~  
40 ~~application of the levies for general current expense purposes,~~  
41 ~~as defined in sections two and two-a of this article, the~~  
42 ~~amount of revenue which the levies would produce if levied~~  
43 ~~upon one hundred percent of the assessed value calculated~~  
44 ~~pursuant to section five-b, article one-c, chapter eleven of this~~  
45 ~~code;~~

46       ~~(2) Five percent shall be deducted from the revenue~~  
47       ~~calculated pursuant to subdivision (1) of this subsection as an~~  
48       ~~allowance for the usual losses in collections due to discounts,~~  
49       ~~exonerations, delinquencies and the like; and~~

50       ~~(3) The amount calculated in subdivision (2) of this~~  
51       ~~subsection shall further be reduced by the sum of money due~~  
52       ~~each assessor's office pursuant to the provisions of section~~  
53       ~~eight, article one-c, chapter eleven of this code and this~~  
54       ~~reduced amount shall be the local share of the particular~~  
55       ~~county.~~

56       ~~(c)~~ (b) Whenever in any year a county assessor or a  
57       county commission fails or refuses to comply with the  
58       provisions of this section in setting the valuations of property  
59       for assessment purposes in any class or classes of property in  
60       the county, the State Tax Commissioner shall review the  
61       valuations for assessment purposes made by the county  
62       assessor and the county commission and shall direct the  
63       county assessor and the county commission to make  
64       corrections in the valuations as necessary so that they comply

65 with the requirements of chapter eleven of this code and this  
66 section and the Tax Commissioner shall enter the county and  
67 fix the assessments at the required ratios. Refusal of the  
68 assessor or the county commission to make the corrections  
69 constitutes grounds for removal from office.

70 ~~(d)~~ (c) For the purposes of any computation made in  
71 accordance with the provisions of this section, in any taxing  
72 unit in which tax increment financing is in effect pursuant to  
73 the provisions of article eleven-b, chapter seven of this code,  
74 the assessed value of a related private project shall be the  
75 base-assessed value as defined in section two of said article.

76 ~~(e)~~ (d) For purposes of any computation made in  
77 accordance with the provisions of this section, in any county  
78 where the county board of education has adopted a resolution  
79 choosing to use the provisions of the Growth County School  
80 Facilities Act set forth in section six-f, article eight, chapter  
81 eleven of this code, estimated school board revenues  
82 generated from application of the regular school board levy  
83 rate to new property values, as that term is designated in said

84 section, may not be considered local share funds and shall be  
85 subtracted before the computations in subdivisions (1) and  
86 (2), subsection (a) of this section ~~or in subdivisions (2) and~~  
87 ~~(3), subsection (b) of this section, as applicable~~ are made.

88 (f) (e) The Legislature finds that public school systems  
89 throughout the state provide support in varying degrees to  
90 public libraries through a variety of means including  
91 budgeted allocations, excess levy funds and portions of their  
92 regular school board levies as may be provided by special act.  
93 A number of public libraries are situated on the campuses of  
94 public schools and several are within public school buildings  
95 serving both the students and public patrons. To the extent  
96 that public schools recognize and choose to avail the  
97 resources of public libraries toward developing within their  
98 students such legally recognized elements of a thorough and  
99 efficient education as literacy, interests in literature,  
100 knowledge of government and the world around them and  
101 preparation for advanced academic training, work and  
102 citizenship, public libraries serve a legitimate school purpose

103 and may do so economically. For the purposes of any  
104 computation made in accordance with the provisions of this  
105 section, the library funding obligation on the regular school  
106 board levies which is created by a special act and is due and  
107 payable from the levy revenues to a library shall be paid from  
108 the county school board's discretionary retainage, which is  
109 hereby defined as the amount by which the regular school board  
110 levies exceeds the local share as determined hereunder. If the  
111 library funding obligation which is created by a special act and  
112 is due and payable to a library is greater than the county school  
113 board's discretionary retainage, the library funding obligation  
114 created by the special act is amended and is reduced to the  
115 amount of the discretionary retainage, notwithstanding any  
116 provisions of the special act to the contrary. Any excess of the  
117 discretionary retainage over the library funding obligation shall  
118 be available for expenditure by the county board in its discretion  
119 for its properly budgeted purposes.

120       ~~(g)~~ (f) It is the intent of the Legislature that whenever a  
121 provision of subsection ~~(f)~~ (e) of this section is contrary to

122 any special act of the Legislature which has been or may in  
123 the future be enacted by the Legislature that creates a library  
124 funding obligation on the regular school board levy of a  
125 county, subsection~~(f)~~ (e) of this section controls over the  
126 special act. Specifically, the special acts which are subject to  
127 said subsection upon the enactment of this section during the  
128 2007 regular session of the Legislature include:

129 (1) Enrolled Senate Bill No. 11, passed on February 12,  
130 1970, applicable to the Berkeley County Board of Education;

131 (2) Enrolled House Bill No. 1352, passed on April 7,  
132 1981, applicable to the Hardy County Board of Education;

133 (3) Enrolled Committee Substitute for House Bill No.  
134 2833, passed on March 14, 1987, applicable to the Harrison  
135 County Board of Education;

136 (4) Enrolled House Bill No. 161, passed on March 6,  
137 1957, applicable to the Kanawha County Board of Education;

138 (5) Enrolled Senate Bill No. 313, passed on March 12,  
139 1937, as amended by Enrolled House Bill No. 1074, passed  
140 on March 8, 1967, and as amended by Enrolled House Bill



141 No. 1195, passed on January 18, 1982, applicable to the Ohio  
142 County Board of Education;

143 (6) Enrolled House Bill No. 938, passed on February 28,  
144 1969, applicable to the Raleigh County Board of Education;

145 (7) Enrolled House Bill No. 398, passed on March 1,  
146 1935, applicable to the Tyler County Board of Education;

147 (8) Enrolled Committee Substitute for Senate Bill No.  
148 450, passed on March 11, 1994, applicable to the Upshur  
149 County Board of Education; and

150 (9) Enrolled House Bill No. 2994, passed on March 13,  
151 1987, applicable to the Wood County Board of Education.

152 ~~(h)~~ (g) Notwithstanding any provision of any special act  
153 set forth in subsection ~~(g)~~ (f) of this section to the contrary,  
154 the county board of any county with a special act creating a  
155 library obligation out of the county's regular school levy  
156 revenues may transfer that library obligation so that it  
157 becomes a continuing obligation of its excess levy revenues  
158 instead of an obligation of its regular school levy revenues,  
159 subject to the following:

160 (1) If a county board chooses to transfer the library  
161 obligation pursuant to this subsection, the library funding  
162 obligation shall remain an obligation of the regular school  
163 levy revenues until the fiscal year in which the excess levy is  
164 effective or would have been effective if it had been passed  
165 by the voters;

166 (2) If a county board chooses to transfer the library  
167 obligation pursuant to this subsection, the county board shall  
168 include the funding of the public library obligation in the same  
169 amount as its library funding obligation which exists or had  
170 existed on its regular levy revenues as one of the purposes for  
171 the excess levy to be voted on as a specifically described line  
172 item of the excess levy: *Provided*, That if the county board has  
173 transferred the library obligation to the excess levy and the  
174 excess levy fails to be passed by the voters or the excess levy  
175 passes and thereafter expires upon the time limit for continuation  
176 as set forth in section sixteen, article eight, chapter eleven of this  
177 code, then in any subsequent excess levy which the county board  
178 thereafter submits to the voters the library funding obligation

179 again shall be included as one of the purposes of the subsequent  
180 excess levy as a specifically described line item of the excess  
181 levy;

182 (3) If a county board chooses to transfer the library  
183 obligation pursuant to this subsection, regardless of whether  
184 or not the excess levy passes, effective the fiscal year in  
185 which the excess levy is effective or would have been  
186 effective if it had been passed by the voters, a county's  
187 library obligation on its regular levy revenues is void  
188 notwithstanding any provision of the special acts set forth in  
189 subsection ~~(g)~~(f) of this section to the contrary; and

190 (4) Nothing in subdivision (3) of this subsection prohibits  
191 a county board from funding its public library obligation  
192 voluntarily.

NOTE: The purpose of this bill is to remove provisions for using assumed assessed values for the purpose of computation of local share public school support. The bill removes provisions for increasing counties' local share responsibility for funding basic foundation education formula when property assessments are not at least fifty-four percent of market value as indicated by assessment ratio study.

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

The bill repeals §11-1C-5b and §18-9A-2a.