

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2360**

4 (By Delegate Poling, M.)

5 (Originating in the Committee on Finance)

6 [March 19, 2013]

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9
10 A BILL to repeal §11-1C-5b of the Code of West Virginia, 1931, as
11 amended; to repeal §18-9A-2a of said code; and to amend and
12 reenact §18-9A-2 and §18-9A-11 of said code, all relating to
13 public school support computation of local share; removing
14 provisions for using assumed assessed values for the purpose
15 of computation; removing provisions for increasing counties'
16 local share responsibility for funding basic foundation
17 education formula when property assessments are not at least
18 fifty-four percent of market value as indicated by assessment
19 ratio study; revising definitions; removing certain provisions
20 relating to obligations created in special acts for certain
21 counties to provide funding for public libraries; and
22 encouraging county boards to support public libraries within
23 their counties.

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

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26 be repealed; that §18-9A-2a of said code be repealed; and that

1 §18-9A-2 and §18-9A-11 of said code be amended and reenacted, all
2 to read as follows:

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

4 **§18-9A-2. Definitions.**

5 For the purpose of this article:

6 (a) "State board" means the West Virginia Board of Education.

7 (b) "County board" or "board" means a county board of
8 education.

9 (c) "Professional salaries" means the state legally mandated
10 salaries of the professional educators as provided in article four,
11 chapter eighteen-a of this code.

12 (d) "Professional educator" shall be synonymous with and shall
13 have the same meaning as "teacher" as defined in section one,
14 article one of this chapter, and includes technology integration
15 specialists.

16 (e) "Professional instructional personnel" means a
17 professional educator whose regular duty is as that of a classroom
18 teacher, librarian, attendance director or school psychologist. A
19 professional educator having both instructional and administrative
20 or other duties shall be included as professional instructional
21 personnel for that ratio of the school day for which he or she is
22 assigned and serves on a regular full-time basis in appropriate
23 instruction, library, attendance, or psychologist duties.

24 (f) "Professional student support personnel" means a "teacher"
25 as defined in section one, article one of this chapter who is
26 assigned and serves on a regular full-time basis as a counselor or

1 as a school nurse with a bachelor's degree and who is licensed by
2 the West Virginia Board of Examiners for Registered Professional
3 Nurses. For all purposes except for the determination of the
4 allowance for professional educators pursuant to section four of
5 this article, professional student support personnel are
6 professional educators.

7 (g) "Service personnel salaries" means the state legally
8 mandated salaries for service personnel as provided in section
9 eight-a, article four, chapter eighteen-a of this code.

10 (h) "Service personnel" means all personnel as provided in
11 section eight, article four, chapter eighteen-a of this code. For
12 the purpose of computations under this article of ratios of service
13 personnel to net enrollment, a service employee shall be counted as
14 that number found by dividing his or her number of employment days
15 in a fiscal year by two hundred: *Provided*, That the computation
16 for any service person employed for three and one-half hours or
17 less per day as provided in section eight-a, article four, chapter
18 eighteen-a of this code shall be calculated as one-half an
19 employment day.

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

24 (1) Adults enrolled in regular secondary vocational programs
25 existing as of the effective date of this section, subject to the
26 following:

1 (A) Net enrollment includes no more than one thousand of those
2 adults counted on the basis of full-time equivalency and
3 apportioned annually to each county in proportion to the adults
4 participating in regular secondary vocational programs in the prior
5 year counted on the basis of full-time equivalency; and

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

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

12 (3) No pupil shall be counted more than once by reason of
13 transfer within the county or from another county within the state,
14 and no pupil shall be counted who attends school in this state from
15 another state;

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

19 (5) For the purposes of determining the county's basic
20 foundation program, only, for any county whose net enrollment as
21 determined under all other provisions of this definition is less
22 than one thousand four hundred, the net enrollment of the county
23 shall be increased by an amount to be determined in accordance with
24 the following:

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

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

4 (C) If the increase in net enrollment as determined under this
5 subdivision plus the county's net enrollment as determined under
6 all other provisions of this subsection is greater than one
7 thousand four hundred, the increase in net enrollment shall be
8 reduced so that the total does not exceed one thousand four
9 hundred; and

10 (D) During the 2008-2009 interim period and every three
11 interim periods thereafter, the Legislative Oversight Commission on
12 Education Accountability shall review ~~the provisions of~~ this
13 subdivision to determine whether or not ~~they~~ these provisions
14 properly address the needs of counties with low enrollment and a
15 sparse population density.

16 (j) "Sparse-density county" means a county whose ratio of net
17 enrollment, excluding any increase in the net enrollment of
18 counties pursuant to subdivision (5) of the definition of net
19 enrollment, to the square miles of the county is less than five.

20 (k) "Low-density county" means a county whose ratio of net
21 enrollment, excluding any increase in the net enrollment of
22 counties pursuant to subdivision (5) of the definition of net
23 enrollment, to the square miles of the county is equal to or
24 greater than five but less than ten.

25 (l) "Medium-density county" means a county whose ratio of net
26 enrollment, excluding any increase in the net enrollment of

1 counties pursuant to subdivision (5) of the definition of net
2 enrollment, to the square miles of the county is equal to or
3 greater than ten but less than twenty.

4 (m) "High-density county" means a county whose ratio of net
5 enrollment, excluding any increase in the net enrollment of
6 counties pursuant to subdivision (5) of the definition of net
7 enrollment, to the square miles of the county is equal to or
8 greater than twenty.

9 (n) "Levies for general current expense purposes" means
10 ~~ninety-four~~ ninety percent of the levy rate for county boards of
11 education calculated or set by the Legislature pursuant to ~~the~~
12 ~~provisions of section six-f, article eight, chapter eleven of this~~
13 ~~code: *Provided, That beginning July 1, 2008, "levies for general*~~
14 ~~current expense purposes" means ninety percent of the levy rate for~~
15 ~~county boards of education calculated or set by the Legislature~~
16 ~~pursuant to the provisions of section six-f, article eight, chapter~~
17 ~~eleven of this code: *Provided, however, That effective July 1,*~~
18 ~~2010, the definitions set forth in this subsection are subject to~~
19 ~~the provisions of section two-a of this article.~~

20 (o) "Technology integration specialist" means a professional
21 educator who has expertise in the technology field and is assigned
22 as a resource teacher to provide information and guidance to
23 classroom teachers on the integration of technology into the
24 curriculum.

25 (p) "State aid eligible personnel" means all professional
26 educators and service personnel employed by a county board in

1 positions that are eligible to be funded under this article and
2 whose salaries are not funded by a specific funding source such as
3 a federal or state grant, donation, contribution or other specific
4 funding source not listed.

5 **§18-9A-11. Computation of local share; appraisal and assessment**
6 **of property; public library support encouraged;**
7 **modifications for tax increment financing county**
8 **school facilities.**

9 (a) On the basis of each county's certificates of valuation as
10 to all classes of property as determined and published by the
11 assessors pursuant to section six, article three, chapter eleven of
12 this code for the next ensuing fiscal year in reliance upon the
13 assessed values annually developed by each county assessor pursuant
14 to ~~the provisions of~~ articles one-c and three of ~~said~~ that chapter,
15 the state board shall for each county compute by application of the
16 levies for general current expense purposes, as defined in section
17 two of this article, the amount of revenue which the levies would
18 produce if levied upon one hundred percent of the assessed value of
19 each of the several classes of property contained in the report or
20 revised report of the value, made to it by the Tax Commissioner as
21 follows:

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

1 (2) The state board shall then apply these rates to the
2 assessed taxable value of other property in each classification in
3 the county as determined by the Tax Commissioner and shall deduct
4 therefrom five percent as an allowance for the usual losses in
5 collections due to discounts, exonerations, delinquencies and the
6 like. All of the amount so determined shall be added to the
7 ninety-five percent of public utility taxes computed as provided in
8 subdivision (1) of this subsection and this total shall be further
9 reduced by the amount due each county assessor's office pursuant to
10 ~~the provisions of section eight, article one-c, chapter eleven of~~
11 this code and this amount shall be the local share of the
12 particular county.

13 As to any estimations or preliminary computations of local
14 share required prior to the report to the Legislature by the Tax
15 Commissioner, the state shall use the most recent projections or
16 estimations that may be available from the Tax Department for that
17 purpose.

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

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

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

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

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

23 ~~(d)~~ (c) For the purposes of any computation made in accordance
24 with ~~the provisions of this section,~~ in any taxing unit in which
25 tax increment financing is in effect pursuant to ~~the provisions of~~
26 article eleven-b, chapter seven of this code, the assessed value of

1 a related private project shall be the base-assessed value as
2 defined in section two of said article.

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

15 ~~(f)~~ (e) The Legislature finds that public school systems
16 throughout the state provide support in varying degrees to public
17 libraries through a variety of means including budgeted
18 allocations, excess levy funds and portions of their regular school
19 board levies. ~~as may be provided by special act.~~ A number of
20 public libraries are situated on the campuses of public schools and
21 several are within public school buildings serving both the
22 students and public patrons. To the extent that public schools
23 recognize and choose to avail the resources of public libraries
24 toward developing within their students such legally recognized
25 elements of a thorough and efficient education as literacy,
26 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. Therefore, county boards are
4 encouraged to support public libraries within their counties. For
5 ~~the purposes of any computation made in accordance with the~~
6 ~~provisions of this section, the library funding obligation on the~~
7 ~~regular school board levies which is created by a special act and~~
8 ~~is due and payable from the levy revenues to a library shall be~~
9 ~~paid from the county school board's discretionary retainage, which~~
10 ~~is hereby defined as the amount by which the regular school board~~
11 ~~levies exceeds the local share as determined hereunder. If the~~
12 ~~library funding obligation which is created by a special act and is~~
13 ~~due and payable to a library is greater than the county school~~
14 ~~board's discretionary retainage, the library funding obligation~~
15 ~~created by the special act is amended and is reduced to the amount~~
16 ~~of the discretionary retainage, notwithstanding any provisions of~~
17 ~~the special act to the contrary. Any excess of the discretionary~~
18 ~~retainage over the library funding obligation shall be available~~
19 ~~for expenditure by the county board in its discretion for its~~
20 ~~properly budgeted purposes.~~

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

1 ~~the special acts which are subject to said subsection upon the~~
2 ~~enactment of this section during the 2007 regular session of the~~
3 ~~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,~~
25 ~~applicable to the Wood County Board of Education.~~

26 ~~—— (h) Notwithstanding any provision of any special act set forth~~

~~1 in subsection (g) of this section to the contrary, the county board
2 of any county with a special act creating a library obligation out
3 of the county's regular school levy revenues may transfer that
4 library obligation so that it becomes a continuing obligation of
5 its excess levy revenues instead of an obligation of its regular
6 school levy revenues, subject to the following:~~

~~7 — (1) If a county board chooses to transfer the library
8 obligation pursuant to this subsection, the library funding
9 obligation shall remain an obligation of the regular school levy
10 revenues until the fiscal year in which the excess levy is
11 effective or would have been effective if it had been passed by the
12 voters;~~

~~13 — (2) If a county board chooses to transfer the library
14 obligation pursuant to this subsection, the county board shall
15 include the funding of the public library obligation in the same
16 amount as its library funding obligation which exists or had
17 existed on its regular levy revenues as one of the purposes for the
18 excess levy to be voted on as a specifically described line item of
19 the excess levy: *Provided,* That if the county board has
20 transferred the library obligation to the excess levy and the
21 excess levy fails to be passed by the voters or the excess levy
22 passes and thereafter expires upon the time limit for continuation
23 as set forth in section sixteen, article eight, chapter eleven of
24 this code, then in any subsequent excess levy which the county
25 board thereafter submits to the voters the library funding
26 obligation again shall be included as one of the purposes of the~~

1 ~~subsequent excess levy as a specifically described line item of the~~
2 ~~excess levy;~~

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

11 ~~—— (4) Nothing in subdivision (3) of this subsection prohibits a~~
12 ~~county board from funding its public library obligation~~
13 ~~voluntarily.~~