

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 575**

4 (By Senators McCabe, Edgell, Walters, Wells, Kessler (Mr.
5 President), Unger and Miller)

6 _____
7 [Originating in the Committee on Education;
8 reported March 28, 2013.]

**FISCAL
NOTE**

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10 _____
11
12 A BILL to amend and reenact §18-9A-11 of the Code of West Virginia,
13 1931, as amended, relating to providing for equal treatment of
14 county boards of education in funding public libraries as a
15 part of the system of public education; modifying legislative
16 findings; removing provisions pertaining to certain library
17 funding obligations being paid from the county board's
18 discretionary retainage; requiring that any additional levy of
19 a county board include a public library funding allocation
20 equal to at least one percent of the county board's annual
21 general current expense budget; adding special acts that
22 create a library funding obligation on an additional levy to
23 those special acts that are subject to certain provisions
24 pertaining to the additional levy; and removing provisions

1 pertaining to the transfer of a library obligation so that it
2 becomes an excess levy obligation.

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

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

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

7 **§18-9A-11. Computation of local share; appraisal and assessment**
8 **of property; public library support.**

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 chapter, the
15 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

1 property in the county; and

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

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

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

22 (1) The state board shall for each county compute by
23 application of the levies for general current expense purposes, as
24 defined in sections two and two-a of this article, the amount of

1 revenue which the levies would produce if levied upon one hundred
2 percent of the assessed value calculated pursuant to section five-
3 b, article one-c, chapter eleven of this code;

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

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

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

1 removal from office.

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

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

20 (f) The Legislature finds that public libraries are present in
21 every county in the state and have been, are, and should continue
22 to be a part of the system of education in the state. Public
23 school systems throughout the state provide support in varying
24 degrees to public libraries through a variety of means including

1 budgeted allocations, excess levy funds and portions of their
2 regular school board levies as may be provided by special act. A
3 number of public libraries are situated on the campuses of public
4 schools and several are within public school buildings serving both
5 the students and public patrons. ~~To the extent that public schools~~
6 ~~recognize and choose to avail the resources of~~ Within the system of
7 education, public libraries ~~toward developing~~ develop within their
8 students such legally recognized elements of a thorough and
9 efficient education as literacy, interests in literature, knowledge
10 of government and the world around them and preparation for
11 advanced academic training, work and citizenship, and public
12 libraries serve a legitimate school purpose and do so economically.
13 Public libraries should therefore be forever encouraged within the
14 entire scope of a thorough and efficient system of education with
15 continuing and equal public support by the dedication of public
16 levy funds. ~~For the purposes of any computation made in accordance~~
17 ~~with the provisions of this section the library funding obligation~~
18 ~~on the regular school board levies which is created by a special~~
19 ~~act and is due and payable from the levy revenues to a library~~
20 ~~shall be paid from the county school board's discretionary~~
21 ~~retainage, which is hereby defined as the amount by which the~~
22 ~~regular school board levies exceeds the local share as determined~~
23 ~~hereunder. If the library funding obligation which is created by~~
24 ~~a special act and is due and payable to a library is greater than~~

~~1 the county school board's discretionary retainage, the library
2 funding obligation created by the special act is amended and is
3 reduced to the amount of the discretionary retainage,
4 notwithstanding any provisions of the special act to the contrary.
5 Any excess of the discretionary retainage over the library funding
6 obligation shall be available for expenditure by the county board
7 in its discretion for its properly budgeted purposes
8 Notwithstanding any other provision in this chapter to the
9 contrary, if any county board shall, on or after July 1, 2013,
10 provide and present to the voters an additional levy for any school
11 purpose or purposes under the provisions of section sixteen,
12 article eight, chapter eleven of this code, the county board shall
13 include as a specifically described line item of the additional
14 levy a public library funding allocation which shall be in an
15 amount equal to no less than one percent of the county board's
16 annual general current expense budget of the current fiscal year.
17 If more than one public library is located in the county, the
18 public library funding allocation on the additional levy shall be
19 allocable and payable to the public libraries of the county in
20 proportion to the ratio which the service population of the
21 particular public library bears to the total service population of
22 all public libraries in the county, as determined, calculated, and
23 declared from time to time by the West Virginia Library Commission.~~

24 (g) It is the intent of the Legislature that whenever a

1 provision of subsection (f) of this section is contrary to any
2 special act of the Legislature which has been or may in the future
3 be enacted by the Legislature that creates a library funding
4 obligation on the regular school board levy or on the additional
5 levy of a county board, subsection (f) of this section controls
6 over the special act. Specifically, the special acts which are
7 subject to said subsection upon the enactment of this section
8 during the ~~2007~~ 2013 regular session of the Legislature include:

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

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

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

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

18 (5) Enrolled Senate Bill No. 313, passed on March 12, 1937, as
19 amended by Enrolled House Bill No. 1074, passed on March 8, 1967,
20 and as amended by Enrolled House Bill No. 1195, passed on January
21 18, 1982, applicable to the Ohio County Board of Education;

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

24 (7) Enrolled House Bill No. 398, passed on March 1, 1935, and

1 amended by Enrolled House Bill No. 279, passed on February 27,
2 1953, applicable to the Tyler County Board of Education;

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

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

8 (10) Enrolled House Bill No. 801, passed on March 9, 1967,
9 applicable to the Cabell County Board of Education; and

10 (11) Enrolled Senate Bill No. 20, passed on May 20, 1986,
11 applicable to the Lincoln County Board of Education.

12 ~~(h) Notwithstanding any provision of any special act set forth~~
13 ~~in subsection (g) of this section to the contrary, the county board~~
14 ~~of any county with a special act creating a library obligation out~~
15 ~~of the county's regular school levy revenues may transfer that~~
16 ~~library obligation so that it becomes a continuing obligation of~~
17 ~~its excess levy revenues instead of an obligation of its regular~~
18 ~~school levy revenues, subject to the following:~~

19 ~~(1) If a county board chooses to transfer the library~~
20 ~~obligation pursuant to this subsection, the library funding~~
21 ~~obligation shall remain an obligation of the regular school levy~~
22 ~~revenues until the fiscal year in which the excess levy is~~
23 ~~effective or would have been effective if it had been passed by the~~
24 ~~voters;~~

1 ~~(2) If a county board chooses to transfer the library~~
2 ~~obligation pursuant to this subsection, the county board shall~~
3 ~~include the funding of the public library obligation in the same~~
4 ~~amount as its library funding obligation which exists or had~~
5 ~~existed on its regular levy revenues as one of the purposes for the~~
6 ~~excess levy to be voted on as a specifically described line item of~~
7 ~~the excess levy: *Provided, That if the county board has*~~
8 ~~transferred the library obligation to the excess levy and the~~
9 ~~excess levy fails to be passed by the voters or the excess levy~~
10 ~~passes and thereafter expires upon the time limit for continuation~~
11 ~~as set forth in section sixteen, article eight, chapter eleven of~~
12 ~~this code, then in any subsequent excess levy which the county~~
13 ~~board thereafter submits to the voters the library funding~~
14 ~~obligation again shall be included as one of the purposes of the~~
15 ~~subsequent excess levy as a specifically described line item of the~~
16 ~~excess levy;~~

17 ~~(3) If a county board chooses to transfer the library~~
18 ~~obligation pursuant to this subsection, regardless of whether or~~
19 ~~not the excess levy passes, effective the fiscal year in which the~~
20 ~~excess levy is effective or would have been effective if it had~~
21 ~~been passed by the voters, a county's library obligation on its~~
22 ~~regular levy revenues is void notwithstanding any provision of the~~
23 ~~special acts set forth in subsection (g) of this section to the~~
24 ~~contrary; and~~

1 ~~(4)~~ Nothing in ~~subdivision (3) of this subsection~~ this chapter
2 prohibits a county board from funding ~~it's~~ a public library
3 ~~obligation~~ voluntarily in any amount in its budget through regular
4 levy revenues or in an amount greater than that provided for herein
5 through additional levy revenues.