

1 **H. B. 2360**

2
3 (By Delegate M. Poling)

4 [Introduced February 13, 2013; referred to the
5 Committee on Education then Finance.]

6 **FISCAL**
7 **NOTE**

8
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 certain provisions for increasing
16 counties' local share responsibility; revising a definition;
17 making legislative findings on the effect that under assessed
18 property values has on school funding; setting forth the duty
19 of county assessors to accurately assess property taxes; and
20 setting forth the duty of the Tax Commissioner to ensure a
21 thorough and efficient education of the state's children is
22 not to be diminished by the under assessment of property
23 taxes.

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

1 That §11-1C-5b of the Code of West Virginia, 1931, as amended,
2 be repealed; that §18-9A-2a of said code be repealed; and that
3 §18-9A-2 and §18-9A-11 of said code be amended and reenacted, all
4 to read as follows:

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

6 **§18-9A-2. Definitions.**

7 For the purpose of this article:

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

9 (b) "County board" or "board" means a county board of
10 education.

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

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

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

1 instruction, library, attendance, or psychologist duties.

2 (f) "Professional student support personnel" means a "teacher"
3 as defined in section one, article one of this chapter who is
4 assigned and serves on a regular full-time basis as a counselor or
5 as a school nurse with a bachelor's degree and who is licensed by
6 the West Virginia Board of Examiners for Registered Professional
7 Nurses. For all purposes except for the determination of the
8 allowance for professional educators pursuant to section four of
9 this article, professional student support personnel are
10 professional educators.

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

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

24 (i) "Net enrollment" means the number of pupils enrolled in

1 special education programs, kindergarten programs and grades one to
2 twelve, inclusive, of the public schools of the county. Net
3 enrollment further shall include:

4 (1) Adults enrolled in regular secondary vocational programs
5 existing as of the effective date of this section, subject to the
6 following:

7 (A) Net enrollment includes no more than one thousand of those
8 adults counted on the basis of full-time equivalency and
9 apportioned annually to each county in proportion to the adults
10 participating in regular secondary vocational programs in the prior
11 year counted on the basis of full-time equivalency; and

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

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

18 (3) No pupil shall be counted more than once by reason of
19 transfer within the county or from another county within the state,
20 and no pupil shall be counted who attends school in this state from
21 another state;

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

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

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

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

12 (C) If the increase in net enrollment as determined under this
13 subdivision plus the county's net enrollment as determined under
14 all other provisions of this subsection is greater than one
15 thousand four hundred, the increase in net enrollment shall be
16 reduced so that the total does not exceed one thousand four
17 hundred; and

18 (D) During the 2008-2009 interim period and every three
19 interim periods thereafter, the Legislative Oversight Commission on
20 Education Accountability shall review ~~the provisions of~~ this
21 subdivision to determine whether or not they properly address the
22 needs of counties with low enrollment and a sparse population
23 density.

24 (j) "Sparse-density county" means a county whose ratio of net

1 enrollment, excluding any increase in the net enrollment of
2 counties pursuant to subdivision (5) of the definition of net
3 enrollment, to the square miles of the county is less than five.

4 (k) "Low-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 five but less than ten.

9 (l) "Medium-density county" means a county whose ratio of net
10 enrollment, excluding any increase in the net enrollment of
11 counties pursuant to subdivision (5) of the definition of net
12 enrollment, to the square miles of the county is equal to or
13 greater than ten but less than twenty.

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

19 (n) "Levies for general current expense purposes" means
20 ~~ninety-four~~ ninety percent of the levy rate for county boards of
21 education calculated or set by the Legislature pursuant to ~~the~~
22 ~~provisions of~~ section six-f, article eight, chapter eleven of this
23 code. ~~Provided, That beginning July 1, 2008, "levies for general~~
24 ~~current expense purposes" means ninety percent of the levy rate for~~

1 ~~county boards of education calculated or set by the Legislature~~
 2 ~~pursuant to the provisions of section six-f, article eight, chapter~~
 3 ~~eleven of this code: *Provided, however, That effective July 1,*~~
 4 ~~2010, the definitions set forth in this subsection are subject to~~
 5 ~~the provisions of section two-a of this article.~~

6 (o) "Technology integration specialist" means a professional
 7 educator who has expertise in the technology field and is assigned
 8 as a resource teacher to provide information and guidance to
 9 classroom teachers on the integration of technology into the
 10 curriculum.

11 (p) "State aid eligible personnel" means all professional
 12 educators and service personnel employed by a county board in
 13 positions that are eligible to be funded under this article and
 14 whose salaries are not funded by a specific funding source such as
 15 a federal or state grant, donation, contribution or other specific
 16 funding source not listed.

17 **§18-9A-11. Computation of local share; appraisal and assessment**
 18 **of property; modifications for tax increment**
 19 **financing county school facilities; public library**
 20 **support.**

21 (a) On the basis of each county's certificates of valuation as
 22 to all classes of property as determined and published by the
 23 assessors pursuant to section six, article three, chapter eleven of

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

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

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

1 this code and this amount shall be the local share of the
2 particular county.

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

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

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

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

21 ~~(3) The amount calculated in subdivision (2) of this~~
22 ~~subsection shall further be reduced by the sum of money due each~~
23 ~~assessor's office pursuant to the provisions of section eight,~~
24 ~~article one-c, chapter eleven of this code and this reduced amount~~

1 ~~shall be the local share of the particular county.~~

2 ~~(c)~~ (b) (1) The Legislature finds that when property taxes for
3 public school purposes are under assessed in a county, the local
4 share obligation of the county for funding its basic foundation
5 program is undervalued, resulting in added cost to the state's
6 general revenue to compensate for the under assessment and fully
7 fund the county's basic foundation. The Legislature further finds
8 that the amount of property tax revenues available for support of
9 the county's school system above its basic foundation obligation
10 are also less than would be the case if the property taxes of the
11 county were assessed at the Constitutionally required uniform
12 percentage. Therefore, the Legislature finds that it is the duty
13 of county assessors to assess property taxes as required by law and
14 it is the duty of the Tax Commissioner to oversee them to ensure
15 that the obligations for providing a thorough and efficient
16 education for the children of the county are not diminished by the
17 under assessment of property taxes.

18 (2) Whenever in any year a county assessor or a county
19 commission fails or refuses to comply with ~~the provisions of this~~
20 section in setting the valuations of property for assessment
21 purposes in any class or classes of property in the county, the
22 State Tax Commissioner shall review the valuations for assessment
23 purposes made by the county assessor and the county commission and
24 shall direct the county assessor and the county commission to make

1 corrections in the valuations as necessary so that they comply with
2 the requirements of chapter eleven of this code and this section
3 and the Tax Commissioner shall enter the county and fix the
4 assessments at the required ratios. Refusal of the assessor or the
5 county commission to make the corrections constitutes grounds for
6 removal from office.

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

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

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

1 library funding obligation created by the special act is amended
2 and is reduced to the amount of the discretionary retainage,
3 notwithstanding ~~any provisions of~~ the special act to the contrary.
4 Any excess of the discretionary retainage over the library funding
5 obligation shall be available for expenditure by the county board
6 in its discretion for its properly budgeted purposes.

7 ~~(g)~~ (f) It is the intent of the Legislature that whenever a
8 ~~provision of~~ subsection ~~(f)~~ (e) of this section is contrary to any
9 special act of the Legislature which has been or may in the future
10 be enacted by the Legislature that creates a library funding
11 obligation on the regular school board levy of a county, subsection
12 ~~(f)~~ (e) of this section controls over the special act.
13 Specifically, the special acts which are subject to said subsection
14 upon the enactment of this section during the 2007 regular session
15 of the Legislature include:

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

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

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

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

1 (5) Enrolled Senate Bill No. 313, passed on March 12, 1937, as
2 amended by Enrolled House Bill No. 1074, passed on March 8, 1967,
3 and as amended by Enrolled House Bill No. 1195, passed on January
4 18, 1982, applicable to the Ohio County Board of Education;

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

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

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

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

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

21 (1) If a county board chooses to transfer the library
22 obligation pursuant to this subsection, the library funding
23 obligation shall remain an obligation of the regular school levy
24 revenues until the fiscal year in which the excess levy is

1 effective or would have been effective if it had been passed by the
2 voters;

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

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

1 special acts set forth in subsection ~~(g)~~ (f) of this section to the
2 contrary; and

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

NOTE: The purpose of this bill concerns public school support computation of local share. The bill removes provisions for using assumed assessed values for the purpose of computation. The bill removes provisions for increasing counties' local share responsibility for funding basic foundation education formula. The bill revises a definition. The bill makes legislative findings on the effect that under assessed property values has on school funding. The bill sets forth that it is the duty of county assessors to accurately assess property taxes. The bill establishes the duty of the Tax Commissioner to ensure a thorough and efficient education of the state's children is not diminished by the under assessment of property taxes.

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.