

**Senate Bill No. 575**

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

[Introduced March 20, 2013; referred to the Committee on Education; and then to the Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §18-9A-11 of the Code of West Virginia, 1931, as amended, relating to computing local share of public education support; finding the benefit of public libraries as a part of the system of public education; and providing for equal treatment of county boards of education in funding public libraries as a part of the system of public education.

*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

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

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

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

1 subdivision (1) of this subsection and this total shall be further  
2 reduced by the amount due each county assessor's office pursuant to  
3 the provisions of section eight, article one-c, chapter eleven of  
4 this code and this amount shall be the local share of the  
5 particular county.

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

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

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

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

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

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

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

1 defined in section two of said article.

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

14       (f) The Legislature finds that public libraries are present in  
15 every county in the state and have been, are, and should continue  
16 to be a part of the system of education in the state. Public  
17 school systems throughout the state provide support in varying  
18 degrees to public libraries through a variety of means including  
19 budgeted allocations, excess levy funds and portions of their  
20 regular school board levies as may be provided by special act. A  
21 number of public libraries are situated on the campuses of public  
22 schools and several are within public school buildings serving both  
23 the students and public patrons. ~~To the extent that public schools~~

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

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

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

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

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

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

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

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

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

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

23 (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~~

1 voters;

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

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

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

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

NOTE: The purpose of this bill is to provide for equal treatment of county boards of education in funding public libraries as a part of the system of public education by requiring any future excess levies to include an allocation for public libraries in the county.

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