

COMMITTEE SUBSTITUTE

FOR

H. B. 2360

(BY DELEGATE POLING, M.)

(Originating in the Committee on Finance)

[March 19, 2013]

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; 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; removing certain provisions relating to

obligations created in special acts for certain counties to provide funding for public libraries; and encouraging county boards to support public libraries within their counties.

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That §11-1C-5b of the Code of West Virginia, 1931, as amended, be repealed; that §18-9A-2a of said code be repealed; and that §18-9A-2 and §18-9A-11 of said code be amended and reenacted, all to read as follows: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 mandated
7 salaries of the professional educators as provided in article four,
8 chapter eighteen-a of this code.

9 (d) “Professional educator” shall be synonymous with and
10 shall have the same meaning as “teacher” as defined in section

11 one, article one of this chapter, and includes technology
12 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 instructional
17 and administrative or other duties shall be included as
18 professional instructional personnel for that ratio of the school
19 day for which he or she is assigned and serves on a regular
20 full-time basis in appropriate instruction, library, attendance, or
21 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 who
26 is licensed by the West Virginia Board of Examiners for
27 Registered Professional Nurses. For all purposes except for the
28 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 in
35 section eight, article four, chapter eighteen-a of this code. For the
36 purpose of computations under this article of ratios of service
37 personnel to net enrollment, a service employee shall be counted
38 as that number found by dividing his or her number of
39 employment days in a fiscal year by two hundred: *Provided,*
40 That the computation for any service person employed for three
41 and one-half hours or less per day as provided in section eight-a,
42 article four, chapter eighteen-a of this code shall be calculated as
43 one-half an employment day.

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

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

51 (A) Net enrollment includes no more than one thousand of
52 those adults counted on the basis of full-time equivalency and
53 apportioned annually to each county in proportion to the adults
54 participating in regular secondary vocational programs in the
55 prior year counted on the basis of full-time equivalency; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

111 (n) “Levies for general current expense purposes” means
112 ~~ninety-four~~ ninety percent of the levy rate for county boards of

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

122 (o) “Technology integration specialist” means a professional
123 educator who has expertise in the technology field and is
124 assigned as a resource teacher to provide information and
125 guidance to classroom teachers on the integration of technology
126 into the curriculum.

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

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

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

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

18 (2) The state board shall then apply these rates to the
19 assessed taxable value of other property in each classification in

20 the county as determined by the Tax Commissioner and shall
21 deduct therefrom five percent as an allowance for the usual
22 losses in collections due to discounts, exonerations,
23 delinquencies and the like. All of the amount so determined shall
24 be added to the ninety-five percent of public utility taxes
25 computed as provided in subdivision (1) of this subsection and
26 this total shall be further reduced by the amount due each county
27 assessor's office pursuant to ~~the provisions of~~ section eight,
28 article one-c, chapter eleven of this code and this amount shall
29 be the local share of the particular county.

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

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

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

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

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

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

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

61 so that they comply with the requirements of chapter eleven of
62 this code and this section and the Tax Commissioner shall enter
63 the county and fix the assessments at the required ratios. Refusal
64 of the assessor or the county commission to make the corrections
65 constitutes grounds for removal from office.

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

72 ~~(e)~~ (d) For purposes of any computation made in accordance
73 with ~~the provisions of~~ this section, in any county where the
74 county board of education has adopted a resolution choosing to
75 use ~~the provisions of~~ the Growth County School Facilities Act
76 set forth in section six-f, article eight, chapter eleven of this
77 code, estimated school board revenues generated from
78 application of the regular school board levy rate to new property
79 values, as that term is designated in said section, may not be
80 considered local share funds and shall be subtracted before the

81 computations in subdivisions (1) and (2), subsection (a) of this
82 section ~~or in subdivisions (2) and (3), subsection (b) of this~~
83 ~~section, as applicable,~~ are made.

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

~~101 accordance with the provisions of this section, the library
102 funding obligation on the regular school board levies which is
103 created by a special act and is due and payable from the levy
104 revenues to a library shall be paid from the county school
105 board's discretionary retainage, which is hereby defined as the
106 amount by which the regular school board levies exceeds the
107 local share as determined hereunder. If the library funding
108 obligation which is created by a special act and is due and
109 payable to a library is greater than the county school board's
110 discretionary retainage, the library funding obligation created by
111 the special act is amended and is reduced to the amount of the
112 discretionary retainage, notwithstanding any provisions of the
113 special act to the contrary. Any excess of the discretionary
114 retainage over the library funding obligation shall be available
115 for expenditure by the county board in its discretion for its
116 properly budgeted purposes.~~

~~117 (g) It is the intent of the Legislature that whenever a
118 provision of subsection (f) of this section is contrary to any
119 special act of the Legislature which has been or may in the future
120 be enacted by the Legislature that creates a library funding~~

121 ~~obligation on the regular school board levy of a county,~~
122 ~~subsection (f) of this section controls over the special act.~~
123 ~~Specifically, the special acts which are subject to said subsection~~
124 ~~upon the enactment of this section during the 2007 regular~~
125 ~~session of the Legislature include:~~

126 (1) ~~Enrolled Senate Bill No. 11, passed on February 12,~~
127 ~~1970, applicable to the Berkeley County Board of Education;~~

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

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

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

135 (5) ~~Enrolled Senate Bill No. 313, passed on March 12, 1937,~~
136 ~~as amended by Enrolled House Bill No. 1074, passed on March~~
137 ~~8, 1967, and as amended by Enrolled House Bill No. 1195,~~
138 ~~passed on January 18, 1982, applicable to the Ohio County~~
139 ~~Board of Education;~~

140 (6) ~~Enrolled House Bill No. 938, passed on February 28,~~
141 ~~1969, applicable to the Raleigh County Board of Education;~~

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

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

147 ~~(9) Enrolled House Bill No. 2994, passed on March 13,~~
148 ~~1987, applicable to the Wood County Board of Education.~~

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

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

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

178 ~~(3) If a county board chooses to transfer the library~~
179 ~~obligation pursuant to this subsection, regardless of whether or~~
180 ~~not the excess levy passes, effective the fiscal year in which the~~
181 ~~excess levy is effective or would have been effective if it had~~

182 ~~been passed by the voters, a county's library obligation on its~~
183 ~~regular levy revenues is void notwithstanding any provision of~~
184 ~~the special acts set forth in subsection (g) of this section to the~~
185 ~~contrary; and~~

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

