

WEST VIRGINIA LEGISLATURE
2019 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 165

BY DELEGATE C. THOMPSON

[Introduced June 17, 2019; Referred
to the Select Committee on Education A]

1 A BILL to amend and reenact §18-9A-2, §18-9A-8, and §18-9A-12 of the Code of West Virginia,
2 1931, as amended, all relating to public school support funding; revising definition of
3 professional student support personnel; increasing the maximum number of personnel
4 attributable to Advanced Career Education programs; providing for subsequent review of
5 this maximum number; adjusting the calculation formula for the professional student
6 support personnel component; establishing effective dates; and revising the calculation of
7 the county local share.

Be it enacted by the Legislature of West Virginia:

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 Education.

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

4 (c) "Professional salaries" means the state legally mandated salaries of the professional
5 educators as provided in §18-4-1 *et seq.* of this code.

6 (d) "Professional educator" shall be synonymous with and shall have the same meaning
7 as "teacher" as defined in §18-1-1 of this code, and includes technology integration specialists.

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

14 (f) "Professional student support personnel" means a "teacher" as defined in §18-1-1 of
15 this code who is assigned and serves on a regular full-time basis as a counselor or as a school
16 nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for

17 Registered Professional Nurses. Professional student support personnel shall also include
18 professional personnel, employed by or under contract with the county board, providing direct
19 social and emotional support services to students, including, but not limited to, social workers and
20 psychologists. For all purposes except for the determination of the allowance for professional
21 educators pursuant to section four of this article, professional student support personnel are
22 professional educators.

23 (g) "Service personnel salaries" means the state legally mandated salaries for service
24 personnel as provided in §18A-4-8a of this code.

25 (h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the
26 purpose of computations under this article of ratios of service personnel to net enrollment, a
27 service employee shall be counted as that number found by dividing his or her number of
28 employment days in a fiscal year by 200: *Provided*, That the computation for any service person
29 employed for three and one-half hours or less per day as provided in §18A-4-8a of this code shall
30 be calculated as one half an employment day.

31 (i) "Net enrollment" means the number of pupils enrolled in special education programs,
32 kindergarten programs, and grades one to 12, inclusive, of the public schools of the county. Net
33 enrollment further shall include:

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

36 (A) Net enrollment includes no more than ~~4,000~~ 2,500 of those adults counted on the basis
37 of full-time equivalency and apportioned annually to each county to support Advanced Career
38 Education programs, as provided in §18-2E-11 of this code, in proportion to the adults
39 participating in regular secondary vocational programs in the prior year counted on the basis of
40 full-time equivalency: Provided, That beginning with the 2021 fiscal year and every year
41 thereafter, a career technical education center may only receive the funding for enrollment as
42 authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this

43 code; and

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

46 (2) Students enrolled in early childhood education programs as provided in §18-5-44 of
47 this code, counted on the basis of full-time equivalency;

48 (3) ~~No pupil shall~~ A pupil may not be counted more than once by reason of transfer within
49 the county or from another county within the state, and no pupil shall be counted who attends
50 school in this state from another state;

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

53 (5) ~~For the purposes of determining the county's basic foundation program only~~ For any
54 county whose net enrollment as determined under all other provisions of this definition is less than
55 1,400, the net enrollment of the county shall be increased by an amount to be determined in
56 ~~accordance with the following~~ considered to be 1,400 for the purposes of determining the county's
57 basic foundation program only. During the 2019-2020 interim period and every three interim
58 periods thereafter, the Legislative Oversight Commission on Education Accountability shall review
59 this subdivision to determine whether or not these provisions properly address the needs of
60 counties with low enrollment and sparse population density.

61 (A) ~~Divide the state's lowest county student population density by the county's actual~~
62 ~~student population density;~~

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

65 (C) ~~If the increase in net enrollment as determined under this subdivision plus the county's~~
66 ~~net enrollment as determined under all other provisions of this subsection is greater than one~~
67 ~~thousand four hundred, the increase in net enrollment shall be reduced so that the total does not~~
68 ~~exceed one thousand four hundred; and~~

69 ~~(D) During the 2008-2009 interim period and every three interim periods thereafter, the~~
70 ~~Legislative Oversight Commission on Education Accountability shall review this subdivision to~~
71 ~~determine whether or not these provisions properly address the needs of counties with low~~
72 ~~enrollment and a sparse population density~~

73 (j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any
74 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this
75 section, of the definition of "net enrollment", to the square miles of the county is less than five.

76 (k) "Low-density county" means a county whose ratio of net enrollment, excluding any
77 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this
78 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater
79 than five but less than 10.

80 (l) "Medium-density county" means a county whose ratio of net enrollment, excluding any
81 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this
82 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater
83 than 10 but less than 20.

84 (m) "High-density county" means a county whose ratio of net enrollment, excluding any
85 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this
86 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater
87 than 20.

88 (n) "Levies for general current expense purposes" means 90 percent of the levy rate for
89 county boards of education ~~calculated or set by the Legislature~~ as determined pursuant to §11-8-
90 6f of this code. The levy rate shall be assumed to be the rate established in that section and not
91 an increased rate established by a county board.

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

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

99 (g) The amendments to this section during the 2019 regular session of the Legislature
100 shall be effective for school years beginning on or after July 1, 2019, and the provisions of this
101 section existing immediately prior to the 2019 regular session of the Legislature remain in effect
102 for school years beginning prior to July 1, 2019.

§18-9A-8. Foundation allowance for professional student support services.

1 (a) The basic foundation allowance to the county for professional student support
2 personnel shall be the amount of money determined in accordance with the following:

3 (1) The sum of the state minimum salaries, as determined in accordance with the
4 provisions of §18-4-1 *et seq* of this code, for all state aid eligible school nurse and counselor
5 positions in the county during the 2008 fiscal year which number shall be reduced in the same
6 proportion as the number of professional educators allowed to be funded under §18-9A-4 of this
7 code to the total number of professional educators employed that are state aid eligible. In
8 performing this calculation, the numerator shall be the number of professional educators actually
9 funded under section four of this article and the denominator shall be the total number of
10 professional educators employed that are eligible to be funded under §18-9A-4 of this code;

11 (2) The amount derived from the calculation in §18-9A-8(a)(1) of this code is increased by
12 one half percent;

13 (3) The amount derived from the calculation in §18-9A-8(a)(2) of this code is the basic
14 foundation allowance to the county for professional student support personnel for the 2009 fiscal
15 year;

16 (4) For fiscal years 2010, 2011, 2012 and 2013, the basic foundation allowance to the
17 county for professional student support personnel increases by one-half percent per year over

18 the allowance for the previous year; and

19 (5) For all fiscal years thereafter until fiscal year 2020, the basic foundation allowance to
20 the county for professional student support personnel remains the same amount as in the 2013
21 fiscal year, plus any additional amount of funding necessary to cover the increases in the State
22 Minimum Salary Schedule set forth in §18A-4-2 of this code effective for the fiscal year beginning
23 July 1, 2018, and thereafter.

24 (b) The additional positions for counselors that may be created as a result of the one
25 percent increase provided pursuant to this section shall be assigned to schools where the
26 counselor can:

27 (1) Enhance student achievement;

28 (2) Provide early intervention for students in grades prekindergarten through five; and

29 (3) Enhance student development and career readiness.

30 (c) Effective for the 2019-20 fiscal year and thereafter, the basic foundation allowance to
31 the county for professional student support personnel is the amount of money required to pay the
32 state minimum salaries, in accordance with provisions of §18A-4-1 et seq. of this code, subject to
33 the following:

34 (1) In making this computation, each county shall receive an allowance for four and
35 seventy hundredths state aid eligible professional student support personnel positions to each
36 1,000 students in net enrollment;

37 (2) For any professional student support personnel positions, or fraction thereof,
38 determined for a county pursuant to §18-9A-8(c)(1) of this code that exceed the number
39 employed, the county's allowance for these positions shall be determined using the average state
40 funded salary of professional student support personnel for the county;

41 (3) The number of and the allowance for personnel paid in part by state and county funds
42 shall be prorated; and

43 (4) Where two or more counties join together in support of a vocational or comprehensive

44 high school or any other program or service, the professional student support personnel for the
45 school or program may be prorated among the participating counties on the basis of each one's
46 enrollment therein and the personnel shall be considered within the above-stated limit.

47 (5) For the 2019-20 fiscal year only, the number of positions funded for each county by
48 subdivision (1) cannot be less than the number of positions that would have been funded in
49 accordance with the previous methodology for determining the number of professional student
50 support personnel positions funded for each county.

§18-9A-12. County basic foundation; total basic state aid allowance.

1 (a) The basic foundation program for each county for the fiscal year shall be the sum of
2 the amounts computed in accordance with the provisions of sections four, five, six, seven, eight,
3 nine, and 10 of this article. On the first working day of July in each year, the state board shall
4 determine the basic foundation program for each county for that fiscal year. Data used in the
5 computations relating to net and adjusted enrollment, and the number of professional educators,
6 shall be for the second month of the prior school term. Transportation expenditures used in these
7 computations shall be for the most recent year in which data are available. The allocated state
8 aid share of the county's basic foundation program shall be the difference between the cost of its
9 basic foundation program and the county's local share as determined in §18-9A-11 of this code
10 except as provided in subsection (b) of this section: Provided, That for all years after 2018, in
11 calculating the allocated state aid share of the county's basic foundation program, when
12 subtracting the amount of the county's local share, if the county's local share as determined in
13 §18-9A-11 of this code is greater than the county's local share was determined to be for fiscal
14 year 2015-2016, then the allocated state aid share of the county's basic foundation program shall
15 be the difference between the cost of its basic foundation program and the county's 2015-2016
16 determined local share.

17 (b) The allocated state aid share shall be adjusted in the following circumstances in the
18 following manner: *Provided*, That prior to such adjustment, the State Tax Commissioner shall

19 provide the state board, by January 15 of each year, a certified listing of those counties in which
20 such adjustment shall be made pursuant to this subsection, together with the amount of revenue
21 which will not be available to each county board in the ensuing fiscal year as a result of the
22 circumstance:

23 (1) In those instances where the local share as computed under §18-9A-11 of this code is
24 not reflective of local funds available because the county is under a final court order, or a final
25 decision of a board of assessment appeals under §11-3-24b of this code, to refund or credit
26 property taxes paid in prior years, the allocated state aid share shall be the county's basic
27 foundation program, minus the local share as computed under §18-9A-11 of this code, plus the
28 amount of property tax the county is unable to collect or must refund due to the final court order
29 or final decision of a board of assessment appeals: *Provided*, That said adjustment shall not be
30 made or shall only be made proportionately when the Legislature fails to fund, or funds only in
31 part, the public school basic foundation support plan state share at a level sufficient to cover the
32 reduction in state share: *Provided, however*, That nothing herein provided shall be construed to
33 require or mandate any level of funding by the Legislature.

34 (2) In those instances where the local share as computed under §18-9A-11 of this code is
35 not reflective of local funds available because the county is collecting tax based upon an assessed
36 value which is less than that determined by the tax commissioner in the most recent published
37 survey of property valuations in the state due to an error in the published survey, which error is
38 certified to by the tax commissioner, the allocated state aid share shall be the county's basic
39 foundation program, minus the local share as computed under §18-9A-11 of this code, plus the
40 amount of property tax the county is unable to collect based on differences in the assessed
41 valuation between those in the most recent published survey of valuation and the corrected
42 assessed value actually levied upon by the county: *Provided*, That said adjustment shall not be
43 made or shall only be made proportionately when the Legislature fails to fund or funds only in part
44 the public school basic foundation support plan state share at a level sufficient to cover the

45 reduction in state share: *Provided, however,* That nothing herein provided shall be construed to
46 require or mandate any level of funding by the Legislature.

47 (3) In instances where a county is unable to collect property taxes from a taxpayer during
48 the pendency of any court proceeding, the allocated state aid share shall be the county's basic
49 foundation program minus the local share as computed under §18-9A-11 of this code, plus the
50 amount the county is unable to collect as a result of the pending court proceedings as certified by
51 the tax commissioner: *Provided,* That the county is required to reimburse the amount of allocated
52 state aid share attributable to the amount of property tax it later receives upon completion of court
53 proceedings, which shall be paid into the General Revenue Fund of the state: *Provided, however,*
54 That said adjustment shall not be made or shall only be made proportionately when the
55 Legislature fails to fund or funds only in part the public school basic foundation support plan state
56 share at a level sufficient to cover the reduction in state share: *Provided further,* That nothing
57 herein provided shall be construed to require or mandate any level of funding by the Legislature.

58 (c) The allocated state aid share shall be adjusted in any county receiving payments or
59 contributions in lieu of property taxes. In instances where a county receives payments or
60 contributions in lieu of property taxes, the allocated state aid share shall be the county's basic
61 foundation program minus the local share as computed under §18-9A-11 of this code, plus any
62 amounts added pursuant to subsection (b) of this section minus the payments or contributions in
63 lieu of property taxes which are distributed by the sheriff to the county board of education. In
64 determining the amount of such contribution or payment in lieu of taxes, each county commission
65 shall provide to the State Tax Commissioner, by January 1 of each year, the total amount of such
66 payments or contributions paid to the county and the proportion of the total amount that has been
67 or will be distributed to the county board of education. The State Tax Commissioner then shall
68 provide the state board, by January 15 of each year, a certified listing of those counties in which
69 an adjustment pursuant to this section shall be made, together with the amount of revenue which
70 will be available to each county board in the ensuing fiscal year as a result of contribution or

71 payment in lieu of taxes.

72 (d) Total basic state aid to the county shall be the computed state share of basic foundation
73 support. After such computation is completed, the state board shall immediately certify to each
74 county board the amount of state aid allocated to the county for that fiscal year, subject to any
75 qualifying provisions of this article.

NOTE: The purpose of this bill is to modify the school aid formula to allow for a greater number of counselors and other professional support personnel in county schools.

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