

SB 408

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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED

Committee Substitute for Committee Substitute for
SENATE BILL NO. 408

(By Senator Snyder, et al)

PASSED March 13, 2004

In Effect From Passage

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COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 408

(BY SENATORS SNYDER, HELMICK,
ROSS AND UNGER, *original sponsors*)

[Passed march 13, 2004; in effect from passage.]

AN ACT to amend and reenact §11-8-6f of the code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-11 of said code, all relating generally to levies by county boards of education and expenditure of property taxes collected from the levies; allowing growth counties to use provisions of growth county school facilities act; providing that high-growth counties may place certain property tax revenues in a growth county school facilities act fund to be used for the benefit of school facilities in the high-growth county; allowing moneys in the fund to be carried over from year to year; and providing that revenues deposit in a growth

county school facilities act fund are not considered local share for purposes of the state aid formula.

Be it enacted by the Legislature of West Virginia:

That §11-8-6f of the code of West Virginia, 1931, as amended, be amended and reenacted; and that §18-9A-11 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 8. LEVIES.

§11-8-6f. Effect on regular school board levy rate when appraisal results in tax increase; creation and implementation of growth county school facilities act; creation of growth county school facilities act fund.

1 (a) Notwithstanding any other provision of law, where
2 any annual appraisal, triennial appraisal or general
3 valuation of property would produce a statewide aggregate
4 assessment that would cause an increase of one
5 percent or more in the total property tax revenues that
6 would be realized were the then current regular levy rates
7 of the county boards of education to be imposed, the rate
8 of levy for county boards of education shall be reduced
9 uniformly statewide and proportionately for all classes of
10 property for the forthcoming tax year so as to cause the
11 rate of levy to produce no more than one hundred one
12 percent of the previous year's projected statewide aggregate
13 property tax revenues from extending the county
14 board of education levy rate, unless subsection (b) of this
15 section is complied with. The reduced rates of levy shall
16 be calculated in the following manner: (1) The total
17 assessed value of each class of property as it is defined by
18 section five, article eight of this chapter for the assessment
19 period just concluded shall be reduced by deducting the
20 total assessed value of newly created properties not
21 assessed in the previous year's tax book for each class of
22 property; (2) the resulting net assessed value of Class I
23 property shall be multiplied by .01; the value of Class II by

24 .02; and the values of Class III and IV, each by .04; (3) total
25 the current year's property tax revenue resulting from
26 regular levies for the boards of education throughout this
27 state and multiply the resulting sum by one hundred one
28 percent: *Provided*, That the one hundred one percent
29 figure shall be increased by the amount the boards of
30 educations' increased levy provided for in subsection (b),
31 section eight, article one-c of this chapter; (4) divide the
32 total regular levy tax revenues, thus increased in subdivi-
33 sion (3), of this subsection, by the total weighted net
34 assessed value as calculated in subdivision (2) of this
35 subsection and multiply the resulting product by one
36 hundred; the resulting number is the Class I regular levy
37 rate, stated as cents-per-one hundred dollars of assessed
38 value; and (5) the Class II rate is two times the Class I rate;
39 Classes III and IV, four times the Class I rate as calculated
40 in the preceding subdivision.

41 An additional appraisal or valuation due to new con-
42 struction or improvements, including beginning recovery
43 of natural resources, to existing real property or newly
44 acquired personal property shall not be an annual ap-
45 praisal or general valuation within the meaning of this
46 section, nor shall the assessed value of the improvements
47 be included in calculating the new tax levy for purposes of
48 this section. Special levies shall not be included in any
49 calculations under this section.

50 (b) After conducting a public hearing, the Legislature
51 may, by act, increase the rate above the reduced rate
52 required in subsection (a) of this section if an increase is
53 determined to be necessary.

54 (c) *Growth county school facilities act. - Legislative*
55 *Findings. -*

56 The Legislature finds and declares that there has been,
57 overall, a statewide decline in enrollment in the public
58 schools of this state; due to this decline, most public
59 schools have ample space for students, teachers and

60 administrators; however, some counties of this state have
61 experienced significant increases in enrollment due to
62 significant growth in those counties; that those counties
63 experiencing significant increases do not have adequate
64 facilities to accommodate students, teachers and adminis-
65 trators. Therefore, the Legislature finds that county
66 commissions in those high-growth counties should have
67 the authority to designate revenues generated from the
68 application of the regular school board levy due to new
69 construction or improvements placed in a growth county
70 school facilities act fund be used to for school facilities in
71 those counties to promote the best interests of this state's
72 students.

73 (1) For the purposes of this subsection, "growth county"
74 means any county that has experienced an increase in
75 second month net enrollment, excluding kindergarten
76 students less than five years of age without an individual-
77 ized education program, of fifty or more during any three
78 of the last five years, as determined by the department of
79 education.

80 (2) The provisions of this subsection shall only apply to
81 any growth county, as defined in subdivision (1) of this
82 subsection, that, by resolution of its county board of
83 education, chooses to use the provisions of this subsection.

84 (3) For any growth county, as defined in subdivision (1)
85 of this subsection, that adopts a resolution choosing to use
86 the provisions of this subsection, pursuant to subdivision
87 (2) of this subsection, assessed values resulting from
88 additional appraisal or valuation due to new construction
89 or improvements, including beginning recovery of natural
90 resources, to existing real property or newly acquired
91 personal property, shall be designated as new property
92 values and identified by the county assessor. The state-
93 wide regular school board levy rate as established by the
94 Legislature shall be applied to the assessed value desig-
95 nated as new property values and the resulting property
96 tax revenues collected from application of the regular

97 school board levy rate shall be placed in a separate
98 account, designated as the growth counties school facilities
99 act fund. Revenues deposited in the growth counties
100 school facilities act fund shall be appropriated by the
101 county board of education for construction, maintenance
102 or repair of school facilities. Revenues in the fund may be
103 carried over for an indefinite length of time and may be
104 used as matching funds for the purpose of obtaining funds
105 from the school building authority or for the payment of
106 bonded indebtedness incurred for school facilities.
107 Estimated school board revenues generated from applica-
108 tion of the regular school board levy rate to new property
109 values are not to be considered as local funds for purposes
110 of the computation of local share under the provisions of
111 section eleven, article nine-a, chapter eighteen of this code.

112 (d) This section, as amended during the legislative
113 session in the year two thousand four, shall be effective as
114 to any regular levy rate imposed for the county boards of
115 education for taxes due and payable on or after the first
116 day of July, two thousand four. If any provision of this
117 section is held invalid, the invalidity shall not affect other
118 provisions or applications of this section which can be
119 given effect without the invalid provision or its applica-
120 tion and to this end the provisions of this section are
121 declared to be severable.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-11. Computation of local share; appraisal and assessment of property.

1 (a) On the basis of each county's certificates of valuation
2 as to all classes of property as determined and published
3 by the assessors pursuant to section six, article three,
4 chapter eleven of this code for the next ensuing fiscal year
5 in reliance upon the assessed values annually developed by
6 each county assessor pursuant to the provisions of articles
7 one-c and three of said chapter, the state board shall for

8 each county compute by application of the levies for
9 general current expense purposes, as defined in section
10 two of this article, the amount of revenue which the levies
11 would produce if levied upon one hundred percent of the
12 assessed value of each of the several classes of property
13 contained in the report or revised report of the value, made
14 to it by the tax commissioner as follows:

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

19 (2) The state board shall then apply these rates to the
20 assessed taxable value of other property in each classifica-
21 tion in the county as determined by the tax commissioner
22 and shall deduct therefrom five percent as an allowance
23 for the usual losses in collections due to discounts, exoner-
24 ations, delinquencies and the like. All of the amount so
25 determined shall be added to the ninety-five percent of
26 public utility taxes computed as provided in subdivision
27 (1) of this subsection and this total shall be further re-
28 duced by the amount due each county assessor's office
29 pursuant to the provisions of section eight, article one-c,
30 chapter eleven of this code and this amount shall be the
31 local share of the particular county.

32 As to any estimations or preliminary computations of
33 local share that may be required prior to the report to the
34 Legislature by the tax commissioner, the state board of
35 education shall use the most recent projections or estima-
36 tions that may be available from the tax department for
37 that purpose.

38 (b) Whenever in any year a county assessor or a county
39 commission shall fail or refuse to comply with the provi-
40 sions of this section in setting the valuations of property
41 for assessment purposes in any class or classes of property
42 in the county, the state tax commissioner shall review the
43 valuations for assessment purposes made by the county

44 assessor and the county commission and shall direct the
45 county assessor and the county commission to make
46 corrections in the valuations as necessary so that they shall
47 comply with the requirements of chapter eleven of this
48 code and this section and the tax commissioner shall enter
49 the county and fix the assessments at the required ratios.
50 Refusal of the assessor or the county commission to make
51 the corrections constitutes grounds for removal from
52 office.

53 (c) For the purposes of any computation made in accor-
54 dance with the provisions of this section, in any taxing
55 unit in which tax increment financing is in effect pursuant
56 to the provisions of article eleven-b, chapter seven of this
57 code, the assessed value of a related private project shall
58 be the base assessed value as defined in section two of said
59 article.

60 (d) For purposes of any computation made in accordance
61 with the provisions of this section, in any county where the
62 county board of education has adopted a resolution
63 choosing to use the provisions of the growth county school
64 facilities act set forth in section six-f, article eight, chapter
65 eleven of this code, estimated school board revenues
66 generated from application of the regular school board
67 levy rate to new property values, as that term is designated
68 in said section, may not be considered local share funds
69 and shall be subtracted before the computations in subdivi-
70 sions (1) and (2), subsection (a) of this section are made.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within *is approved* this the *6th*
Day of *April*, 2004.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

DATE 3/27/84
TIME 4:00 pm