

1 **H. B. 4653**

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3 (By Delegates White, T. Campbell, Cann, Guthrie, Iaquinta, Mahan,  
4 Marshall, Perdue, Skaff, Stowers and Cowles)

5 (Originating in the Committee on Finance)

6

7 [February 23, 2011]

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; and removing provisions for increasing  
16 counties' local share responsibility for funding basic  
17 foundation education formula when property assessments are not  
18 at least fifty-four percent of market value as indicated by  
19 assessment ratio study; revising definitions.

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

21 That §11-1C-5b of the Code of West Virginia, 1931, as amended,  
22 be repealed; that §18-9A-2a of said code be repealed; and that §18-  
23 9A-2 and §18-9A-11 of said code be amended and reenacted, all to  
24 read as follows:

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

26 **§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  
4 education.

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

8 (d) "Professional educator" shall be synonymous with and shall  
9 have the same meaning as "teacher" as defined in section one,  
10 article one of this chapter, and includes technology integration  
11 specialists.

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

20 (f) "Professional student support personnel" means a "teacher"  
21 as defined in section one, article one of this chapter who is  
22 assigned and serves on a regular full-time basis as a counselor or  
23 as a school nurse with a bachelor's degree and who is licensed by  
24 the West Virginia Board of Examiners for Registered Professional  
25 Nurses. For all purposes except for the determination of the  
26 allowance for professional educators pursuant to section four of

1 this article, professional student support personnel are  
2 professional educators.

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

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

16 (i) "Net enrollment" means the number of pupils enrolled in  
17 special education programs, kindergarten programs and grades one to  
18 twelve, inclusive, of the public schools of the county. Net  
19 enrollment further shall include:

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

23 (A) Net enrollment includes no more than one thousand of those  
24 adults counted on the basis of full-time equivalency and  
25 apportioned annually to each county in proportion to the adults  
26 participating in regular secondary vocational programs in the prior

1 year counted on the basis of full-time equivalency; and

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

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

8 (3) No pupil shall be counted more than once by reason of  
9 transfer within the county or from another county within the state,  
10 and no pupil shall be counted who attends school in this state from  
11 another state;

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

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

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

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

26 (C) If the increase in net enrollment as determined under this

1 subdivision plus the county's net enrollment as determined under  
2 all other provisions of this subsection is greater than one  
3 thousand four hundred, the increase in net enrollment shall be  
4 reduced so that the total does not exceed one thousand four  
5 hundred; and

6 (D) During the 2008-2009 interim period and every three  
7 interim periods thereafter, the Legislative Oversight Commission on  
8 Education Accountability shall review the provisions of this  
9 subdivision to determine whether or not they properly address the  
10 needs of counties with low enrollment and a sparse population  
11 density.

12 (j) "Sparse-density county" means a county whose ratio of net  
13 enrollment, excluding any increase in the net enrollment of  
14 counties pursuant to subdivision (5) of the definition of net  
15 enrollment, to the square miles of the county is less than five.

16 (k) "Low-density county" means a county whose ratio of net  
17 enrollment, excluding any increase in the net enrollment of  
18 counties pursuant to subdivision (5) of the definition of net  
19 enrollment, to the square miles of the county is equal to or  
20 greater than five but less than ten.

21 (l) "Medium-density county" means a county whose ratio of net  
22 enrollment, excluding any increase in the net enrollment of  
23 counties pursuant to subdivision (5) of the definition of net  
24 enrollment, to the square miles of the county is equal to or  
25 greater than ten but less than twenty.

26 (m) "High-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 equal to or  
4 greater than twenty.

5 (n) "Levies for general current expense purposes" means  
6 ~~ninety-four~~ ninety percent of the levy rate for county boards of  
7 education calculated or set by the Legislature pursuant to the  
8 provisions of section six-f, article eight, chapter eleven of this  
9 code. ~~Provided, That beginning July 1, 2008, "levies for general~~  
10 ~~current expense purposes" means ninety percent of the levy rate for~~  
11 ~~county boards of education calculated or set by the Legislature~~  
12 ~~pursuant to the provisions of section six-f, article eight, chapter~~  
13 ~~eleven of this code: Provided, however, That effective July 1,~~  
14 ~~2010, the definitions set forth in this subsection are subject to~~  
15 ~~the provisions of section two a of this article.~~

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

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

1 **§18-9A-11. Computation of local share; appraisal and assessment of**  
2 **property; modifications for tax increment financing**  
3 **and growth county school facilities; public library**  
4 **support.**

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

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

22 (2) The state board shall then apply these rates to the  
23 assessed taxable value of other property in each classification in  
24 the county as determined by the Tax Commissioner and shall deduct  
25 therefrom five percent as an allowance for the usual losses in

1 collections due to discounts, exonerations, delinquencies and the  
2 like. All of the amount so determined shall be added to the  
3 ninety-five percent of public utility taxes computed as provided in  
4 subdivision (1) of this subsection and this total shall be further  
5 reduced by the amount due each county assessor's office pursuant to  
6 the provisions of section eight, article one-c, chapter eleven of  
7 this code and this amount shall be the local share of the  
8 particular county.

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

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

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

23 ~~(2) Five percent shall be deducted from the revenue calculated~~  
24 ~~pursuant to subdivision (1) of this subsection as an allowance for~~  
25 ~~the usual losses in collections due to discounts, exonerations,~~  
26 ~~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)~~ (b) 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)~~ (c) 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  
24 defined in section two of said article.

25       ~~(e)~~ (d) For purposes of any computation made in accordance  
26 with the provisions of this section, in any county where the county

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

11       ~~(f)~~ (e) The Legislature finds that public school systems  
12 throughout the state provide support in varying degrees to public  
13 libraries through a variety of means including budgeted  
14 allocations, excess levy funds and portions of their regular school  
15 board levies as may be provided by special act. A number of public  
16 libraries are situated on the campuses of public schools and  
17 several are within public school buildings serving both the  
18 students and public patrons. To the extent that public schools  
19 recognize and choose to avail the resources of public libraries  
20 toward developing within their students such legally recognized  
21 elements of a thorough and efficient education as literacy,  
22 interests in literature, knowledge of government and the world  
23 around them and preparation for advanced academic training, work  
24 and citizenship, public libraries serve a legitimate school purpose  
25 and may do so economically. For the purposes of any computation  
26 made in accordance with the provisions of this section, the library

1 funding obligation on the regular school board levies which is  
2 created by a special act and is due and payable from the levy  
3 revenues to a library shall be paid from the county school board's  
4 discretionary retainage, which is hereby defined as the amount by  
5 which the regular school board levies exceeds the local share as  
6 determined hereunder. If the library funding obligation which is  
7 created by a special act and is due and payable to a library is  
8 greater than the county school board's discretionary retainage, the  
9 library funding obligation created by the special act is amended  
10 and is reduced to the amount of the discretionary retainage,  
11 notwithstanding any provisions of the special act to the contrary.  
12 Any excess of the discretionary retainage over the library funding  
13 obligation shall be available for expenditure by the county board  
14 in its discretion for its properly budgeted purposes.

15 ~~(g)~~ (f) It is the intent of the Legislature that whenever a  
16 provision of subsection ~~(f)~~ (e) of this section is contrary to any  
17 special act of the Legislature which has been or may in the future  
18 be enacted by the Legislature that creates a library funding  
19 obligation on the regular school board levy of a county, subsection  
20 ~~(f)~~ (e) of this section controls over the special act.  
21 Specifically, the special acts which are subject to said subsection  
22 upon the enactment of this section during the 2007 regular session  
23 of the Legislature include:

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

26 (2) Enrolled House Bill No. 1352, passed on April 7, 1981,

1 applicable to the Hardy County Board of Education;

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

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

7 (5) Enrolled Senate Bill No. 313, passed on March 12, 1937, as  
8 amended by Enrolled House Bill No. 1074, passed on March 8, 1967,  
9 and as amended by Enrolled House Bill No. 1195, passed on January  
10 18, 1982, applicable to the Ohio County Board of Education;

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

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to remove provisions for using assumed assessed values for the purpose of computation of local share public school support. The bill removes 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.

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.