

1 **ENGROSSED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 4002**

5 (By Perry, Lawrence, Marshall, Morgan,
6 Barrett, Barill, Lynch, Fleischauer, Craig,
7 Eldridge and Barker)

8 (Originating in the Committee on Finance)

9 [January 23, 2014]

10

11 A BILL to repeal §11-1C-5b of the Code of West Virginia, 1931, as
12 amended; to repeal §18-9A-2a of said code; and to amend and
13 reenact §18-9A-2 and §18-9A-11 of said code, all relating to
14 the computation of local share for public school support
15 purposes; repealing, retrospectively to June 30, 2013,
16 provisions requiring the use of assumed assessed real property
17 values that are based upon an assessment ratio study instead
18 of actual real property values for the purpose of the
19 computation of local share for public school support purposes;
20 repealing, retrospectively to June 30, 2013, provisions that
21 require that the annual amount of local share for which a
22 county board of education is responsible be increased where,
23 during the prior year, the real property assessments in that
24 county were not at least fifty-four percent of market value as
25 indicated by the assessment ratio study; revising definitions;
26 reducing the amount deducted as an allowance for usual losses

1 in collections, due to discounts, exonerations, delinquencies
2 and the like, for purposes of calculating local share;
3 expressing legislative intent to continue the computation of
4 local share for public school support based upon actual real
5 property values rather assumed assessed real property values;
6 expressing legislative intent that the annual amount of local
7 share for which a county board of education is responsible
8 continue to be computed without reference to whether the real
9 property assessments in that county were at least fifty-four
10 percent of market value in the prior year; and removing
11 provisions requiring county school boards to provide funding
12 for public libraries from local share.

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

14 That §11-1C-5b of the Code of West Virginia, 1931, as amended,
15 be repealed; that §18-9A-2a of said code be repealed; and that
16 §18-9A-2 and §18-9A-11 of said code be amended and reenacted, all
17 to read as follows:

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

19 **§18-9A-2. Definitions.**

20 For the purpose of this article:

21 (a) "State board" means the West Virginia Board of Education.

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

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

1 (d) "Professional educator" shall be synonymous with and shall
2 have the same meaning as "teacher" as defined in section one,
3 article one of this chapter, and includes technology integration
4 specialists.

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

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

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

25 (h) "Service personnel" means all personnel as provided in
26 section eight, article four, chapter eighteen-a of this code. For

1 the purpose of computations under this article of ratios of service
2 personnel to net enrollment, a service employee shall be counted as
3 that number found by dividing his or her number of employment days
4 in a fiscal year by two hundred: *Provided*, That the computation
5 for any service person employed for three and one-half hours or
6 less per day as provided in section eight-a, article four, chapter
7 eighteen-a of this code shall be calculated as one-half an
8 employment day.

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

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

16 (A) Net enrollment includes no more than one thousand of those
17 adults counted on the basis of full-time equivalency and
18 apportioned annually to each county in proportion to the adults
19 participating in regular secondary vocational programs in the prior
20 year counted on the basis of full-time equivalency; and

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

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

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

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

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

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

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

19 (C) If the increase in net enrollment as determined under this
20 subdivision plus the county's net enrollment as determined under
21 all other provisions of this subsection is greater than one
22 thousand four hundred, the increase in net enrollment shall be
23 reduced so that the total does not exceed one thousand four
24 hundred; and

25 (D) During the 2008-2009 interim period and every three
26 interim periods thereafter, the Legislative Oversight Commission on

1 Education Accountability shall review ~~the provisions~~ of this
2 subdivision to determine whether or not ~~they~~ these provisions
3 properly address the needs of counties with low enrollment and a
4 sparse population density.

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

9 (k) "Low-density county" means a county whose ratio of net
10 enrollment, excluding any increase in the net enrollment of
11 counties pursuant to subdivision (5) of the definition of net
12 enrollment, to the square miles of the county is equal to or
13 greater than five but less than ten.

14 (l) "Medium-density county" means a county whose ratio of net
15 enrollment, excluding any increase in the net enrollment of
16 counties pursuant to subdivision (5) of the definition of net
17 enrollment, to the square miles of the county is equal to or
18 greater than ten but less than twenty.

19 (m) "High-density county" means a county whose ratio of net
20 enrollment, excluding any increase in the net enrollment of
21 counties pursuant to subdivision (5) of the definition of net
22 enrollment, to the square miles of the county is equal to or
23 greater than twenty.

24 (n) "Levies for general current expense purposes" means
25 ~~ninety-four~~ ninety percent of the levy rate for county boards of
26 education calculated or set by the Legislature pursuant to ~~the~~

1 ~~provisions of section six-f, article eight, chapter eleven of this~~
2 ~~code. *Provided, That beginning July 1, 2008, "levies for general*~~
3 ~~*current expense purposes"* means ninety percent of the levy rate for~~
4 ~~county boards of education calculated or set by the Legislature~~
5 ~~pursuant to the provisions of section six-f, article eight, chapter~~
6 ~~eleven of this code: *Provided, however, That effective July 1,*~~
7 ~~2010, the definitions set forth in this subsection are subject to~~
8 ~~the provisions of section two-a of this article~~

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

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

20 **§18-9A-11. Computation of local share; appraisal and assessment**
21 **of property; valuations for tax increment financing**
22 **purposes; computations in growth counties; public**
23 **library support.**

24 (a) On the basis of each county's certificates of valuation as
25 to all classes of property as determined and published by the

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

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

16 (2) ~~The~~ For each fiscal year beginning before July 1, 2014,
17 the state board shall then apply these rates to the assessed
18 taxable value of other property in each classification in the
19 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. For each fiscal year beginning after June 30, 2014, the state
23 board shall then apply these rates to the assessed taxable value of
24 other property in each classification in the county as determined
25 by the Tax Commissioner and shall deduct therefrom four percent as
26 an allowance for the usual losses in collections due to discounts,

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

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

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

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

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

26 ~~(3) The amount calculated in subdivision (2) of this~~

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

5 (b) It is the intent of the Legislature that the computation
6 of local share for public school support continue to be based upon
7 actual real property values rather assumed assessed real property
8 values that are based upon an assessment ratio study, and that the
9 annual amount of local share for which a county board of education
10 is responsible continue to be computed without reference to whether
11 the real property assessments in that county were at least
12 fifty-four percent of market value in the prior year as indicated
13 by the assessment ratio study. Accordingly, the effective date of
14 the operation of this section as amended and reenacted during 2014,
15 and the effective date of the operation of the repeal of section
16 two-a of this article and the operation of the repeal of section
17 five-b, article one-c, chapter eleven of this code, all as provided
18 under this enactment, are expressly made retrospective to June 30,
19 2013.

20 (c) Whenever in any year a county assessor or a county
21 commission fails or refuses to comply with ~~the provisions of this~~
22 section in setting the valuations of property for assessment
23 purposes in any class or classes of property in the county, the
24 State Tax Commissioner shall review the valuations for assessment
25 purposes made by the county assessor and the county commission and
26 shall direct the county assessor and the county commission to make

1 corrections in the valuations as necessary so that they comply with
2 the requirements of chapter eleven of this code and this section
3 and the Tax Commissioner shall enter the county and fix the
4 assessments at the required ratios. Refusal of the assessor or the
5 county commission to make the corrections constitutes grounds for
6 removal from office.

7 (d) For the purposes of any computation made in accordance
8 with ~~the provisions of~~ this section, in any taxing unit in which
9 tax increment financing is in effect pursuant to ~~the provisions of~~
10 article eleven-b, chapter seven of this code, the assessed value of
11 a related private project shall be the base-assessed value as
12 defined in section two of said article.

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

25 (f) The Legislature finds that public school systems
26 throughout the state provide support in varying degrees to public

1 libraries through a variety of means including budgeted
2 allocations, excess levy funds and portions of their regular school
3 board levies. ~~as may be provided by special act~~ A number of public
4 libraries are situated on the campuses of public schools and
5 several are within public school buildings serving both the
6 students and public patrons. To the extent that public schools
7 recognize and choose to avail the resources of public libraries
8 toward developing within their students such legally recognized
9 elements of a thorough and efficient education as literacy,
10 interests in literature, knowledge of government and the world
11 around them and preparation for advanced academic training, work
12 and citizenship, public libraries serve a legitimate school purpose
13 and may do so economically. ~~For the purposes of any computation~~
14 ~~made in accordance with the provisions of this section, the library~~
15 ~~funding obligation on the regular school board levies which is~~
16 ~~created by a special act and is due and payable from the levy~~
17 ~~revenues to a library shall be paid from the county school board's~~
18 ~~discretionary retainage, which is hereby defined as the amount by~~
19 ~~which the regular school board levies exceeds the local share as~~
20 ~~determined hereunder. If the library funding obligation which is~~
21 ~~created by a special act and is due and payable to a library is~~
22 ~~greater than the county school board's discretionary retainage, the~~
23 ~~library funding obligation created by the special act is amended~~
24 ~~and is reduced to the amount of the discretionary retainage,~~
25 ~~notwithstanding any provisions of the special act to the contrary.~~
26 ~~Any excess of the discretionary retainage over the library funding~~

1 ~~obligation shall be available for expenditure by the county board~~
2 ~~in its discretion for its properly budgeted purposes. Therefore,~~
3 county boards are encouraged to support public libraries within
4 their counties.

5 ~~(g) It is the intent of the Legislature that whenever a~~
6 ~~provision of subsection (f) of this section is contrary to any~~
7 ~~special act of the Legislature which has been or may in the future~~
8 ~~be enacted by the Legislature that creates a library funding~~
9 ~~obligation on the regular school board levy of a county, subsection~~
10 ~~(f) of this section controls over the special act. Specifically,~~
11 ~~the special acts which are subject to said subsection upon the~~
12 ~~enactment of this section during the 2007 regular session of the~~
13 ~~Legislature include:~~

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

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

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

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

23 ~~(5) Enrolled Senate Bill No. 313, passed on March 12, 1937, as~~
24 ~~amended by Enrolled House Bill No. 1074, passed on March 8, 1967,~~
25 ~~and as amended by Enrolled House Bill No. 1195, passed on January~~
26 ~~18, 1982, applicable to the Ohio County Board of Education;~~

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

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

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

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

10 ~~(h) Notwithstanding any provision of any special act set forth~~
11 ~~in subsection (g) of this section to the contrary, the county board~~
12 ~~of any county with a special act creating a library obligation out~~
13 ~~of the county's regular school levy revenues may transfer that~~
14 ~~library obligation so that it becomes a continuing obligation of~~
15 ~~its excess levy revenues instead of an obligation of its regular~~
16 ~~school levy revenues, subject to the following:~~

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

23 ~~(2) If a county board chooses to transfer the library~~
24 ~~obligation pursuant to this subsection, the county board shall~~
25 ~~include the funding of the public library obligation in the same~~
26 ~~amount as its library funding obligation which exists or had~~

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

13 ~~(3) If a county board chooses to transfer the library~~
14 ~~obligation pursuant to this subsection, regardless of whether or~~
15 ~~not the excess levy passes, effective the fiscal year in which the~~
16 ~~excess levy is effective or would have been effective if it had~~
17 ~~been passed by the voters, a county's library obligation on its~~
18 ~~regular levy revenues is void notwithstanding any provision of the~~
19 ~~special acts set forth in subsection (g) of this section to the~~
20 ~~contrary; and~~

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