

1 **H. B. 4160**

2  
3 (By Mr. Speaker, (Mr. Miley) and Delegate Armstead)

4 [By Request of the Executive]

5 [Introduced January 14, 2014; referred to the  
6 Committee on Education then Finance.]

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10 A BILL to amend and reenact §18-9A-11 of the Code of West Virginia,  
11 1931, as amended, relating to reducing the amount deducted as  
12 an allowance for usual losses in collections, due to  
13 discounts, exonerations, delinquencies and the like, for  
14 purposes of calculating local share.

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

16 That §18-9A-11 of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

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

19 **§18-9A-11. Computation of local share; appraisal and assessment of**  
20 **property; public library support.**

21 (a) On the basis of each county's certificates of valuation as  
22 to all classes of property as determined and published by the  
23 assessors pursuant to section six, article three, chapter eleven of

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

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

15       (2) The state board shall then apply these rates to the  
16 assessed taxable value of other property in each classification in  
17 the county as determined by the Tax Commissioner and shall deduct  
18 therefrom five percent as an allowance for the usual losses in  
19 collections due to discounts, exonerations, delinquencies and the  
20 like. All of the amount so determined shall be added to the  
21 ninety-five percent of public utility taxes computed as provided in  
22 subdivision (1) of this subsection and this total shall be further  
23 reduced by the amount due each county assessor's office pursuant to  
24 the provisions of section eight, article one-c, chapter eleven of

1 this code and this amount shall be the local share of the  
2 particular county.

3 As to any estimations or preliminary computations of local  
4 share required prior to the report to the Legislature by the Tax  
5 Commissioner, the state shall use the most recent projections or  
6 estimations that may be available from the Tax Department for that  
7 purpose.

8 (b) Effective July 1, 2013, subsection (a) of this section is  
9 void and local share shall be calculated in accordance with the  
10 following:

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

17 (2) Five percent shall be deducted from the revenue calculated  
18 pursuant to subdivision (1) of this subsection as an allowance for  
19 the usual losses in collections due to discounts, exonerations,  
20 delinquencies and the like: Provided, That for the fiscal year  
21 beginning on July 1, 2014, and for each fiscal year thereafter,  
22 four percent shall be deducted from the revenue calculated pursuant  
23 to subdivision (1) of this subsection as an allowance for the usual  
24 losses in collections due to discounts, exonerations, delinquencies

1 and the like; and

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

7       (c) Whenever in any year a county assessor or a county  
8 commission fails or refuses to comply with the provisions of this  
9 section in setting the valuations of property for assessment  
10 purposes in any class or classes of property in the county, the  
11 State Tax Commissioner shall review the valuations for assessment  
12 purposes made by the county assessor and the county commission and  
13 shall direct the county assessor and the county commission to make  
14 corrections in the valuations as necessary so that they comply with  
15 the requirements of chapter eleven of this code and this section  
16 and the Tax Commissioner shall enter the county and fix the  
17 assessments at the required ratios. Refusal of the assessor or the  
18 county commission to make the corrections constitutes grounds for  
19 removal from office.

20       (d) For the purposes of any computation made in accordance  
21 with the provisions of this section, in any taxing unit in which  
22 tax increment financing is in effect pursuant to the provisions of  
23 article eleven-b, chapter seven of this code, the assessed value of  
24 a related private project shall be the base-assessed value as

1 defined in section two of said article.

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

14       (f) The Legislature finds that public school systems  
15 throughout the state provide support in varying degrees to public  
16 libraries through a variety of means including budgeted  
17 allocations, excess levy funds and portions of their regular school  
18 board levies as may be provided by special act. A number of public  
19 libraries are situated on the campuses of public schools and  
20 several are within public school buildings serving both the  
21 students and public patrons. To the extent that public schools  
22 recognize and choose to avail the resources of public libraries  
23 toward developing within their students such legally recognized  
24 elements of a thorough and efficient education as literacy,

1 interests in literature, knowledge of government and the world  
2 around them and preparation for advanced academic training, work  
3 and citizenship, public libraries serve a legitimate school purpose  
4 and may do so economically. For the purposes of any computation  
5 made in accordance with the provisions of this section, the library  
6 funding obligation on the regular school board levies which is  
7 created by a special act and is due and payable from the levy  
8 revenues to a library shall be paid from the county school board's  
9 discretionary retainage, which is hereby defined as the amount by  
10 which the regular school board levies exceeds the local share as  
11 determined hereunder. If the library funding obligation which is  
12 created by a special act and is due and payable to a library is  
13 greater than the county school board's discretionary retainage, the  
14 library funding obligation created by the special act is amended  
15 and is reduced to the amount of the discretionary retainage,  
16 notwithstanding any provisions of the special act to the contrary.  
17 Any excess of the discretionary retainage over the library funding  
18 obligation shall be available for expenditure by the county board  
19 in its discretion for its properly budgeted purposes.

20 (g) It is the intent of the Legislature that whenever a  
21 provision of subsection (f) of this section is contrary to any  
22 special act of the Legislature which has been or may in the future  
23 be enacted by the Legislature that creates a library funding  
24 obligation on the regular school board levy of a county, subsection

1 (f) of this section controls over the special act. Specifically,  
2 the special acts which are subject to said subsection upon the  
3 enactment of this section during the 2007 regular session of the  
4 Legislature include:

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

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

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

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

14 (5) Enrolled Senate Bill No. 313, passed on March 12, 1937, as  
15 amended by Enrolled House Bill No. 1074, passed on March 8, 1967,  
16 and as amended by Enrolled House Bill No. 1195, passed on January  
17 18, 1982, applicable to the Ohio County Board of Education;

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

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

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

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

3           (h) Notwithstanding any provision of any special act set forth  
4 in subsection (g) of this section to the contrary, the county board  
5 of any county with a special act creating a library obligation out  
6 of the county's regular school levy revenues may transfer that  
7 library obligation so that it becomes a continuing obligation of  
8 its excess levy revenues instead of an obligation of its regular  
9 school levy revenues, subject to the following:

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

16          (2) If a county board chooses to transfer the library  
17 obligation pursuant to this subsection, the county board shall  
18 include the funding of the public library obligation in the same  
19 amount as its library funding obligation which exists or had  
20 existed on its regular levy revenues as one of the purposes for the  
21 excess levy to be voted on as a specifically described line item of  
22 the excess levy:     *Provided*, That if the county board has  
23 transferred the library obligation to the excess levy and the  
24 excess levy fails to be passed by the voters or the excess levy



1 passes and thereafter expires upon the time limit for continuation  
2 as set forth in section sixteen, article eight, chapter eleven of  
3 this code, then in any subsequent excess levy which the county  
4 board thereafter submits to the voters the library funding  
5 obligation again shall be included as one of the purposes of the  
6 subsequent excess levy as a specifically described line item of the  
7 excess levy;

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

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

NOTE: The purpose of this bill is to reduce the amount deducted from revenue as a county allowance for purposes of computation of local share.

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