

H. B. 3111

(By Delegates Guthrie, Wells, Poore, Skaff,
Walters, Romine, Armstead, E. Nelson, McCuskey,
Raines and Hunt)

[Introduced March 25, 2013; referred to the
Committee on Education then Finance.]

A BILL to amend and reenact §18-9A-11 of the Code of West Virginia, 1931, as amended, relating to computing local share of public education support; finding the benefit of public libraries as a part of the system of public education; and providing for equal treatment of county boards of education in funding public libraries as a part of the system of public education.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

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

(a) On the basis of each county's certificates of valuation as to all classes of property as determined and published by the assessors pursuant to section six, article three, chapter eleven of this code for the next ensuing fiscal year in reliance upon the

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

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

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

1 particular county.

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

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

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

16 (2) Five percent shall be deducted from the revenue calculated
17 pursuant to subdivision (1) of this subsection as an allowance for
18 the usual losses in collections due to discounts, exonerations,
19 delinquencies and the like; and

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

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

14 (d) For the purposes of any computation made in accordance
15 with the provisions of this section, in any taxing unit in which
16 tax increment financing is in effect pursuant to the provisions of
17 article eleven-b, chapter seven of this code, the assessed value of
18 a related private project shall be the base-assessed value as
19 defined in section two of said article.

20 (e) For purposes of any computation made in accordance with
21 the provisions of this section, in any county where the county
22 board of education has adopted a resolution choosing to use the
23 provisions of the Growth County School Facilities Act set forth in
24 section six-f, article eight, chapter eleven of this code,

1 estimated school board revenues generated from application of the
2 regular school board levy rate to new property values, as that term
3 is designated in said section, may not be considered local share
4 funds and shall be subtracted before the computations in
5 subdivisions (1) and (2), subsection (a) of this section or in
6 subdivisions (2) and (3), subsection (b) of this section, as
7 applicable, are made.

8 (f) The Legislature finds that public libraries are present in
9 every county in the state and have been, are, and should continue
10 to be a part of the system of education in the state. Public school
11 systems throughout the state provide support in varying degrees to
12 public libraries through a variety of means including budgeted
13 allocations, excess levy funds and portions of their regular school
14 board levies as may be provided by special act. A number of public
15 libraries are situated on the campuses of public schools and
16 several are within public school buildings serving both the
17 students and public patrons. ~~To the extent that public schools~~
18 ~~recognize and choose to avail the resources of~~ Within the system
19 of education, public libraries ~~toward developing~~ develop within
20 ~~their~~ students such legally recognized elements of a thorough and
21 efficient education as literacy, interests in literature, knowledge
22 of government and the world around them and preparation for
23 advanced academic training, work and citizenship, and public
24 libraries serve a legitimate school purpose and may do so

1 economically. Public libraries should therefore be forever
2 encouraged within the entire scope of a thorough and efficient
3 system of education with continuing and equal public support by the
4 dedication of public levy funds. For the purposes of any
5 computation made in accordance with the provisions of this section
6 ~~the library funding obligation on the regular school board levies~~
7 ~~which is created by a special act and is due and payable from the~~
8 ~~levy revenues to a library shall be paid from the county school~~
9 ~~board's discretionary retainage, which is hereby defined as the~~
10 ~~amount by which the regular school board levies exceeds the local~~
11 ~~share as determined hereunder. If the library funding obligation~~
12 ~~which is created by a special act and is due and payable to a~~
13 ~~library is greater than the county school board's discretionary~~
14 ~~retainage, the library funding obligation created by the special~~
15 ~~act is amended and is reduced to the amount of the discretionary~~
16 ~~retainage, notwithstanding any provisions of the special act to the~~
17 ~~contrary. Any excess of the discretionary retainage over the~~
18 ~~library funding obligation shall be available for expenditure by~~
19 ~~the county board in its discretion for its properly budgeted~~
20 ~~purposes~~ and notwithstanding any other provision in this chapter to
21 the contrary, effective July 1, 2014, each county board of
22 education shall allocate in its annual general current expense
23 budget an amount equal to no less than one percent thereof and
24 shall pay such amount as its library funding obligation to the

1 public library or public libraries located in the county. If more
2 than one public library is located in the county, the library
3 funding obligation as created herein shall be paid by the county
4 board of education to the public libraries of such county in
5 proportion to the ratio which the service population of the
6 particular public library bears to the total service population of
7 all public libraries in the county, as determined, calculated, and
8 declared from time to time by the West Virginia Library Commission.

9 (g) It is the intent of the Legislature that whenever a
10 provision of subsection (f) of this section is contrary to any
11 special act of the Legislature which has been or may in the future
12 be enacted by the Legislature that creates a library funding
13 obligation on the regular school board levy or on the excess levy
14 of a county board of education, subsection (f) of this section
15 controls over the special act. Specifically, the special acts
16 which are subject to said subsection upon the enactment of this
17 section during the ~~2007~~ 2013 regular session of the Legislature
18 include:

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

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

23 (3) Enrolled Committee Substitute for House Bill No. 2833,
24 passed on March 14, 1987, applicable to the Harrison County Board

1 of Education;

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

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

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

10 (7) Enrolled House Bill No. 398, passed on March 1, 1935, and
11 amended by Enrolled House Bill No. 279, passed on February 27,
12 1953, applicable to the Tyler County Board of Education;

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

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

18 (10) Enrolled House Bill No. 801, passed on March 9, 1967,
19 applicable to the Cabell County Board of Education; and

20 (11) Enrolled Senate Bill No. 20, passed on May 20, 1986,
21 applicable to the Lincoln County Board of Education.

22 ~~(h) Notwithstanding any provision of any special act set forth~~
23 ~~in subsection (g) of this section to the contrary, the county board~~
24 ~~of any county with a special act creating a library obligation out~~

1 of the county's regular school levy revenues may transfer that
2 library obligation so that it becomes a continuing obligation of
3 its excess levy revenues instead of an obligation of its regular
4 school levy revenues, subject to the following:

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

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

1 ~~subsequent excess levy as a specifically described line item of the~~
2 ~~excess levy;~~

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

11 ~~(4) Nothing in subdivision (3) of this subsection~~ this chapter
12 prohibits a county board from funding its public library obligation
13 voluntarily in an amount greater than that provided for herein.

NOTE: The purpose of this bill is to provide for equal treatment of county boards of education in funding public libraries as a part of the system of public education.

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