

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 432**

(By Senators Plymale, Kessler (Mr. President), Kirkendoll,  
Prezioso, Stollings, Edgell, Beach, Fitzsimmons, D. Hall,  
Williams, Yost and Wells)

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[Originating in the Committee on Education;  
reported January 29, 2014.]

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A BILL to amend and reenact §11-1C-5b of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-2, §18-9A-2a and §18-9A-11 of said code, all relating to calculating local share; changing the deadline for Tax Commissioner to report the total assessed values to the State Board of Education; delaying use of assessment ratio study for calculating local share until the second consecutive year, and consecutive years thereafter, that assessments are below sixty percent of market value including the ten-percent variance;

creating assumption that all property in a county is assessed at sixty percent for the purpose of determining whether to use the sales ratio analysis in the calculation of local share when a valid sales ratio analysis cannot be obtained due to a lack of arm's-length sales of property in a county; allowing Tax Commissioner to waive the use of the sales ratio analysis for calculating local share upon a showing by the assessor of that county that the preliminary sales ratio for the next succeeding year would meet the minimum ratio; delaying the increase in the percent of local levy rate for county boards of education used for calculating local share until the second consecutive year, and consecutive years thereafter, that assessments are below sixty percent of market value including the ten-percent variance; clarifying language pertaining to the amount that assumed assessed values is to be added to for the purpose of calculating local share; and requiring the state to use the most recent projections or estimations that may be available from the Tax Department for any estimation or preliminary computations of local share required prior to the report to the

state board by the Tax Commissioner.

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

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

**CHAPTER 11. TAXATION.**

**ARTICLE 1C. FAIR AND EQUITABLE PROPERTY  
VALUATION.**

**§11-1C-5b. Assessment for purpose of calculating local share.**

1 (a) This section is effective July 1, 2013, and distribution  
2 of state aid pursuant to the local share calculations made  
3 pursuant to this section shall occur during the 2014-2015  
4 fiscal year and all fiscal years thereafter.

5 (b) The Tax Commissioner shall calculate the total  
6 assessed values for the purpose of calculating local share for  
7 each county each year pursuant to this section and report the  
8 total assessed values to the State Board of Education on or  
9 before ~~December 1~~ March 3 of each year.

10 (c) To provide for assessors to assess at sixty percent of  
11 market value, it is the intent of the Legislature that local  
12 share, as set forth in section eleven, article nine-a, chapter  
13 eighteen of this code, be calculated assuming that the types  
14 of property included in the assessment ratio study in each  
15 county are assessed at a level in which the assessment ratio  
16 study indicates would be sixty percent of market value.

17 (d) For each of classes II, III and IV as set forth in section  
18 five, article eight of this chapter, all real property of the type  
19 that is or would be included in the assessment ratio study if  
20 sold is assumed for the purpose of calculating local share to  
21 be assessed at the amount the property would be assessed at  
22 if all the property in the class were adjusted under the  
23 assumption that, using a ratio of sixty percent, all the  
24 property were ~~under or over assessed~~ under assessed or over  
25 assessed to the same extent as that property included in the  
26 assessment ratio study so that using the assessment ratio  
27 study as an indicator all the property in the class would be  
28 assessed at the ratio of sixty percent of market value, subject

29 to the following:

30 (1) ~~Provided, That~~ If the sales ratio analysis indicates that  
31 assessments are within ten percent of sixty percent of market  
32 value, assessments are considered to be sixty percent of  
33 market value for the purposes of this section;

34 (2) For tax years beginning on and after the July 1, 2013,  
35 assessment date, for the first tax year when a county's  
36 assessments are below sixty percent of market value,  
37 including the ten-percent variance:

38 (A) The actual assessed values of the properties to which  
39 this subsection applies shall be used for the purposes of  
40 calculating local share; and

41 (B) In addition to any other sanctions and notices the  
42 Property Valuation Training and Procedures Commission  
43 may elect to adopt or apply, the commission shall, at a  
44 minimum, notify the county assessor that the sales ratio study  
45 indicates that assessments are below sixty percent of market  
46 value including the ten-percent variance;

47 (3) For the second consecutive year that assessments are

48 below sixty percent of market value including the ten-percent  
49 variance, the use of the assumed assessed values shall be  
50 used for the purposes of calculating local share in the next  
51 succeeding tax year after the first tax year when a county's  
52 assessments are below sixty percent of market value,  
53 including the ten-percent variance, and for succeeding  
54 consecutive years thereafter until such time as assessments  
55 are not below sixty percent of market value, including the  
56 ten-percent variance. For the purposes of this subsection,  
57 only tax years beginning on or after the July 1, 2013,  
58 assessment date may count as the first year;

59 (4) In any county for which a valid sales ratio analysis  
60 cannot be obtained, owing to a lack of arm's-length sales of  
61 property in the county, it shall be assumed, for purposes of  
62 this section, that all property in that county is assessed at  
63 sixty percent of the appraised value, as determined by the  
64 Tax Commissioner; and

65 (5) Should a county fail in any year to meet the minimum  
66 sales ratio required by this section, the county may, upon

67 express written waiver of the Tax Commissioner, be relieved  
68 of the penalties imposed by this section upon a showing by  
69 the assessor of that county that the preliminary sales ratio for  
70 the next succeeding year would meet the minimum ratio.

71 (e) The amount of the assumed assessed values  
72 determined pursuant to subsection (d) of this section shall be  
73 added to the actual assessed values of personal property,  
74 farmland, managed timberland, public utility property or any  
75 other centrally ~~assessed~~ appraised property provided in  
76 paragraphs (A), (B), (C) and (D), subdivision (2), subsection  
77 (a), section five of this article and the sum of these values is  
78 the total assessed value for the purpose of calculating local  
79 share.

## **CHAPTER 18. EDUCATION.**

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

#### **§18-9A-2. Definitions.**

1 For the purpose of this article:

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

4 (b) “County board” or “board” means a county board of  
5 education.

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

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

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

22 (f) “Professional student support personnel” means a

23 “teacher” as defined in section one, article one of this chapter  
24 who is assigned and serves on a regular full-time basis as a  
25 counselor or as a school nurse with a bachelor’s degree and  
26 who is licensed by the West Virginia Board of Examiners for  
27 Registered Professional Nurses. For all purposes except for  
28 the determination of the allowance for professional educators  
29 pursuant to section four of this article, professional student  
30 support personnel are professional educators.

31 (g) “Service personnel salaries” means the state legally  
32 mandated salaries for service personnel as provided in  
33 section eight-a, article four, chapter eighteen-a of this code.

34 (h) “Service personnel” means all personnel as provided  
35 in section eight, article four, chapter eighteen-a of this code.  
36 For the purpose of computations under this article of ratios of  
37 service personnel to net enrollment, a service employee shall  
38 be counted as that number found by dividing his or her  
39 number of employment days in a fiscal year by two hundred:  
40 *Provided*, That the computation for any service person  
41 employed for three and one-half hours or less per day as

42 provided in section eight-a, article four, chapter eighteen-a of  
43 this code shall be calculated as one half an employment day.

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

48 (1) Adults enrolled in regular secondary vocational  
49 programs existing as of the effective date of this section,  
50 subject to the following:

51 (A) Net enrollment includes no more than one thousand  
52 of those adults counted on the basis of full-time equivalency  
53 and apportioned annually to each county in proportion to the  
54 adults participating in regular secondary vocational programs  
55 in the prior year counted on the basis of full-time  
56 equivalency; and

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

60 (2) Students enrolled in early childhood education

61 programs as provided in section forty-four, article five of this  
62 chapter, counted on the basis of full-time equivalency;

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

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

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

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

78 (B) Multiply the amount derived from the calculation in  
79 paragraph (A) of this subdivision by the difference between

80 one thousand four hundred and the county's actual net  
81 enrollment;

82 (C) If the increase in net enrollment as determined under  
83 this subdivision plus the county's net enrollment as  
84 determined under all other provisions of this subsection is  
85 greater than one thousand four hundred, the increase in net  
86 enrollment shall be reduced so that the total does not exceed  
87 one thousand four hundred; and

88 (D) During the 2008-2009 interim period and every three  
89 interim periods thereafter, the Legislative Oversight  
90 Commission on Education Accountability shall review the  
91 provisions of this subdivision to determine whether or not  
92 they properly address the needs of counties with low  
93 enrollment and a sparse population density.

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

99 (k) “Low-density county” means a county whose ratio of  
100 net enrollment, excluding any increase in the net enrollment  
101 of counties pursuant to subdivision (5) of the definition of net  
102 enrollment, to the square miles of the county is equal to or  
103 greater than five but less than ten.

104 (l) “Medium-density county” means a county whose ratio  
105 of net enrollment, excluding any increase in the net  
106 enrollment of counties pursuant to subdivision (5) of the  
107 definition of net enrollment, to the square miles of the county  
108 is equal to or greater than ten but less than twenty.

109 (m) “High-density county” means a county whose ratio  
110 of net enrollment, excluding any increase in the net  
111 enrollment of counties pursuant to subdivision (5) of the  
112 definition of net enrollment, to the square miles of the county  
113 is equal to or greater than twenty.

114 (n) “Levies for general current expense purposes” means  
115 ~~ninety-four percent of the levy rate for county boards of~~  
116 ~~education calculated or set by the Legislature pursuant to the~~  
117 ~~provisions of section six-f, article eight, chapter eleven of this~~

118 code: ~~Provided, That beginning July 1, 2008, “levies for~~  
119 ~~general current expense purposes”~~ means ninety percent of  
120 the levy rate for county boards of education calculated or set  
121 by the Legislature pursuant to the provisions of section six-f,  
122 article eight, chapter eleven of this code: ~~Provided, however,~~  
123 ~~That effective July 1, 2010, the definitions~~ definition set forth  
124 in this subsection ~~are~~ is subject to the provisions of section  
125 two-a of this article.

126 (o) “Technology integration specialist” means a  
127 professional educator who has expertise in the technology  
128 field and is assigned as a resource teacher to provide  
129 information and guidance to classroom teachers on the  
130 integration of technology into the curriculum.

131 (p) “State-aid eligible personnel” means all professional  
132 educators and service personnel employed by a county board  
133 in positions that are eligible to be funded under this article  
134 and whose salaries are not funded by a specific funding  
135 source such as a federal or state grant, donation, contribution  
136 or other specific funding source not listed.

**§18-9A-2a. Definition of levies for general current expense purposes.**

1 (a) For the purposes of this section only, “property”  
2 means only Class II, III and IV properties exclusive of  
3 natural resources property as defined in section ten, article  
4 one-c, chapter eleven of this code, personal property,  
5 farmland, managed timberland, public utility property or any  
6 other centrally assessed property provided in paragraphs (A),  
7 (B), (C) and (D), subdivision (2), subsection (a), section five,  
8 article one-c, chapter eleven of this code: *Provided*, That  
9 nothing in this subsection may be construed to require that  
10 levies for general current expense purposes be applied only  
11 to those properties that are included in this definition.

12 (b) For the purposes of this section only, the median ratio  
13 of the assessed values to actual selling prices in the  
14 assessment ratio study applicable to the immediately  
15 preceding fiscal year shall be used as the indicator to  
16 determine the percentage market value that properties are  
17 being assessed at.

18 (c) For tax years beginning on and after the July 1, 2013,  
19 assessment date, for the first tax year when a county's  
20 assessments are below sixty percent of market value,  
21 including the ten-percent variance, the requirements of  
22 subdivision (2), subsection (d), section five-b, article one-c,  
23 chapter eleven of this code shall apply.

24 ~~(c)~~ (d) Notwithstanding any other provision of this  
25 section or section two of this article, ~~effective July 1, 2013~~  
26 ~~for any county that is not assessing property at least at~~  
27 ~~fifty-four percent of market value~~ for the second consecutive  
28 year that a county's assessments are below sixty percent of  
29 market value including the ten-percent variance and for any  
30 next succeeding consecutive years thereafter that assessments  
31 remain below that level, "levies for general current expense  
32 purposes" means ninety-eight percent of the levy rate for  
33 county boards of education set by the Legislature pursuant to  
34 section six-f, article eight, chapter eleven of this code. For  
35 the purposes of this subsection, only tax years beginning on  
36 or after the July 1, 2013, assessment date may count as the

37 first year.

38 (†) (e) Any county that receives additional state aid due  
39 to its using a percentage less than ninety-eight percent in the  
40 calculation of levies for general current expense purposes,  
41 shall report to the state board how the additional state aid was  
42 used. The state board shall compile the reports from all the  
43 county boards into a single report, and shall report to the  
44 Legislative Oversight Commission on Education  
45 Accountability how the county boards used this additional  
46 state aid. The report shall be made annually as soon as  
47 practical after the end of each fiscal year.

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

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

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

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

18 (2) The state board shall then apply these rates to the  
19 assessed taxable value of other property in each classification  
20 in the county as determined by the Tax Commissioner and  
21 shall deduct therefrom five percent as an allowance for the  
22 usual losses in collections due to discounts, exonerations,  
23 delinquencies and the like. All of the amount so determined  
24 shall be added to the ninety-five percent of public utility

25 taxes computed as provided in subdivision (1) of this  
26 subsection and this total shall be further reduced by the  
27 amount due each county assessor's office pursuant to the  
28 provisions of section eight, article one-c, chapter eleven of  
29 this code and this amount shall be the local share of the  
30 particular county.

31 As to any estimations or preliminary computations of  
32 local share required prior to the report to the Legislature by  
33 the Tax Commissioner, the state shall use the most recent  
34 projections or estimations that may be available from the Tax  
35 Department for that purpose.

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

39 (1) The state board shall for each county compute by  
40 application of the levies for general current expense  
41 purposes, as defined in sections two and two-a of this article,  
42 the amount of revenue which the levies would produce if  
43 levied upon one hundred percent of the assessed value

44 calculated pursuant to section five-b, article one-c, chapter  
45 eleven of this code;

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

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

56 As to any estimations or preliminary computations of  
57 local share required prior to the report to the state board by  
58 the Tax Commissioner pursuant to section five-b, article  
59 one-c, chapter eleven of this code, including computations  
60 necessary for the Governor's proposed budget, the state shall  
61 use the most recent projections or estimations that may be  
62 available from the Tax Department for that purpose.

63 (c) Whenever in any year a county assessor or a county  
64 commission fails or refuses to comply with the provisions of  
65 this section in setting the valuations of property for  
66 assessment purposes in any class or classes of property in the  
67 county, the State Tax Commissioner shall review the  
68 valuations for assessment purposes made by the county  
69 assessor and the county commission and shall direct the  
70 county assessor and the county commission to make  
71 corrections in the valuations as necessary so that they comply  
72 with the requirements of chapter eleven of this code and this  
73 section and the Tax Commissioner shall enter the county and  
74 fix the assessments at the required ratios. Refusal of the  
75 assessor or the county commission to make the corrections  
76 constitutes grounds for removal from office.

77 (d) For the purposes of any computation made in  
78 accordance with the provisions of this section, in any taxing  
79 unit in which tax increment financing is in effect pursuant to  
80 the provisions of article eleven-b, chapter seven of this code,  
81 the assessed value of a related private project shall be the

82 base-assessed value as defined in section two of said article.

83 (e) For purposes of any computation made in accordance  
84 with the provisions of this section, in any county where the  
85 county board of education has adopted a resolution choosing  
86 to use the provisions of the Growth County School Facilities  
87 Act set forth in section six-f, article eight, chapter eleven of  
88 this code, estimated school board revenues generated from  
89 application of the regular school board levy rate to new  
90 property values, as that term is designated in said section,  
91 may not be considered local share funds and shall be  
92 subtracted before the computations in subdivisions (1) and  
93 (2), subsection (a) of this section or in subdivisions (2) and  
94 (3), subsection (b) of this section, as applicable, are made.

95 (f) The Legislature finds that public school systems  
96 throughout the state provide support in varying degrees to  
97 public libraries through a variety of means including  
98 budgeted allocations, excess levy funds and portions of their  
99 regular school board levies as may be provided by special  
100 act. A number of public libraries are situated on the

101 campuses of public schools and several are within public  
102 school buildings serving both the students and public patrons.  
103 To the extent that public schools recognize and choose to  
104 avail the resources of public libraries toward developing  
105 within their students such legally recognized elements of a  
106 thorough and efficient education as literacy, interests in  
107 literature, knowledge of government and the world around  
108 them and preparation for advanced academic training, work  
109 and citizenship, public libraries serve a legitimate school  
110 purpose and may do so economically. For the purposes of  
111 any computation made in accordance with the provisions of  
112 this section, the library funding obligation on the regular  
113 school board levies which is created by a special act and is  
114 due and payable from the levy revenues to a library shall be  
115 paid from the county school board's discretionary retainage,  
116 which is hereby defined as the amount by which the regular  
117 school board levies exceeds the local share as determined  
118 hereunder. If the library funding obligation which is created  
119 by a special act and is due and payable to a library is greater

120 than the county school board's discretionary retainage, the  
121 library funding obligation created by the special act is  
122 amended and is reduced to the amount of the discretionary  
123 retainage, notwithstanding any provisions of the special act  
124 to the contrary. Any excess of the discretionary retainage  
125 over the library funding obligation shall be available for  
126 expenditure by the county board in its discretion for its  
127 properly budgeted purposes.

128 (g) It is the intent of the Legislature that whenever a  
129 provision of subsection (f) of this section is contrary to any  
130 special act of the Legislature which has been or may in the  
131 future be enacted by the Legislature that creates a library  
132 funding obligation on the regular school board levy of a  
133 county, subsection (f) of this section controls over the special  
134 act. Specifically, the special acts which are subject to said  
135 subsection upon the enactment of this section during the 2007  
136 regular session of the Legislature include:

137 (1) Enrolled Senate Bill No. 11, passed on February 12,  
138 1970, applicable to the Berkeley County Board of Education;

139 (2) Enrolled House Bill No. 1352, passed on April 7,  
140 1981, applicable to the Hardy County Board of Education;

141 (3) Enrolled Committee Substitute for House Bill No.  
142 2833, passed on March 14, 1987, applicable to the Harrison  
143 County Board of Education;

144 (4) Enrolled House Bill No. 161, passed on March 6,  
145 1957, applicable to the Kanawha County Board of Education;

146 (5) Enrolled Senate Bill No. 313, passed on March 12,  
147 1937, as amended by Enrolled House Bill No. 1074, passed  
148 on March 8, 1967, and as amended by Enrolled House Bill  
149 No. 1195, passed on January 18, 1982, applicable to the Ohio  
150 County Board of Education;

151 (6) Enrolled House Bill No. 938, passed on February 28,  
152 1969, applicable to the Raleigh County Board of Education;

153 (7) Enrolled House Bill No. 398, passed on March 1,  
154 1935, applicable to the Tyler County Board of Education;

155 (8) Enrolled Committee Substitute for Senate Bill No.  
156 450, passed on March 11, 1994, applicable to the Upshur  
157 County Board of Education; and

158 (9) Enrolled House Bill No. 2994, passed on March 13,  
159 1987, applicable to the Wood County Board of Education.

160 (h) Notwithstanding any provision of any special act set  
161 forth in subsection (g) of this section to the contrary, the  
162 county board of any county with a special act creating a  
163 library obligation out of the county's regular school levy  
164 revenues may transfer that library obligation so that it  
165 becomes a continuing obligation of its excess levy revenues  
166 instead of an obligation of its regular school levy revenues,  
167 subject to the following:

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

174 (2) If a county board chooses to transfer the library  
175 obligation pursuant to this subsection, the county board shall

176 include the funding of the public library obligation in the  
177 same amount as its library funding obligation which exists or  
178 had existed on its regular levy revenues as one of the  
179 purposes for the excess levy to be voted on as a specifically  
180 described line item of the excess levy: *Provided*, That if the  
181 county board has transferred the library obligation to the  
182 excess levy and the excess levy fails to be passed by the  
183 voters or the excess levy passes and thereafter expires upon  
184 the time limit for continuation as set forth in section sixteen,  
185 article eight, chapter eleven of this code, then in any  
186 subsequent excess levy which the county board thereafter  
187 submits to the voters the library funding obligation again  
188 shall be included as one of the purposes of the subsequent  
189 excess levy as a specifically described line item of the excess  
190 levy;

191 (3) If a county board chooses to transfer the library  
192 obligation pursuant to this subsection, regardless of whether  
193 or not the excess levy passes, effective the fiscal year in  
194 which the excess levy is effective or would have been

195 effective if it had been passed by the voters, a county's  
196 library obligation on its regular levy revenues is void  
197 notwithstanding any provision of the special acts set forth in  
198 subsection (g) of this section to the contrary; and

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