

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 432**

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

7 _____
8 [Originating in the Committee on Education;
9 reported January 29, 2014.]
10 _____

11
12 A BILL to amend and reenact §11-1C-5b of the Code of West Virginia,
13 1931, as amended; and to amend and reenact §18-9A-2, §18-9A-2a
14 and §18-9A-11 of said code, all relating to calculating local
15 share; changing the deadline for Tax Commissioner to report
16 the total assessed values to the State Board of Education;
17 delaying use of assessment ratio study for calculating local
18 share until the second consecutive year, and consecutive years
19 thereafter, that assessments are below sixty percent of market
20 value including the ten-percent variance; creating assumption
21 that all property in a county is assessed at sixty percent for
22 the purpose of determining whether to use the sales ratio
23 analysis in the calculation of local share when a valid sales
24 ratio analysis cannot be obtained due to a lack of arm's-

1 length sales of property in a county; allowing Tax
2 Commissioner to waive the use of the sales ratio analysis for
3 calculating local share upon a showing by the assessor of that
4 county that the preliminary sales ratio for the next
5 succeeding year would meet the minimum ratio; delaying the
6 increase in the percent of local levy rate for county boards
7 of education used for calculating local share until the second
8 consecutive year, and consecutive years thereafter, that
9 assessments are below sixty percent of market value including
10 the ten-percent variance; clarifying language pertaining to
11 the amount that assumed assessed values is to be added to for
12 the purpose of calculating local share; and requiring the
13 state to use the most recent projections or estimations that
14 may be available from the Tax Department for any estimation or
15 preliminary computations of local share required prior to the
16 report to the state board by the Tax Commissioner.

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

18 That §11-1C-5b of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted; and that §18-9A-2, §18-9A-2a and
20 §18-9A-11 of said code be amended and reenacted, all to read as
21 follows:

22 **CHAPTER 11. TAXATION.**

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

24 **§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 pursuant
3 to this section shall occur during the 2014-2015 fiscal year and
4 all fiscal years thereafter.

5 (b) The Tax Commissioner shall calculate the total assessed
6 values for the purpose of calculating local share for each county
7 each year pursuant to this section and report the total assessed
8 values to the State Board of Education on or before ~~December 1~~
9 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 share,
12 as set forth in section eleven, article nine-a, chapter eighteen of
13 this code, be calculated assuming that the types of property
14 included in the assessment ratio study in each county are assessed
15 at a level in which the assessment ratio study indicates would be
16 sixty percent of market value.

17 (d) For each of lasses 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 sold
20 is assumed for the purpose of calculating local share to be
21 assessed at the amount the property would be assessed at if all the
22 property in the class were adjusted under the assumption that,
23 using a ratio of sixty percent, all the property were ~~under or over~~
24 ~~assessed~~ under assessed or over assessed to the same extent as that

1 property included in the assessment ratio study so that using the
2 assessment ratio study as an indicator all the property in the
3 class would be assessed at the ratio of sixty percent of market
4 value, subject to the following:

5 (1) ~~Provided, That~~ If the sales ratio analysis indicates that
6 assessments are within ten percent of sixty percent of market
7 value, assessments are considered to be sixty percent of market
8 value for the purposes of this section;

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

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

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

22 (3) For the second consecutive year that assessments are below
23 sixty percent of market value including the ten-percent variance,
24 the use of the assumed assessed values shall be used for the

1 purposes of calculating local share in the next succeeding tax year
2 after the first tax year when a county's assessments are below
3 sixty percent of market value, including the ten-percent variance,
4 and for succeeding consecutive years thereafter until such time as
5 assessments are not below sixty percent of market value, including
6 the ten-percent variance. For the purposes of this subsection,
7 only tax years beginning on or after the July 1, 2013, assessment
8 date may count as the first year;

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

15 (5) Should a county fail in any year to meet the minimum sales
16 ratio required by this section, the county may, upon express
17 written waiver of the Tax Commissioner, be relieved of the
18 penalties imposed by this section upon a showing by the assessor of
19 that county that the preliminary sales ratio for the next
20 succeeding year would meet the minimum ratio.

21 (e) The amount of the assumed assessed values determined
22 pursuant to subsection (d) of this section shall be added to the
23 actual assessed values of personal property, farmland, managed
24 timberland, public utility property or any other centrally assessed

1 appraised property provided in paragraphs (A), (B), (C) and (D),
2 subdivision (2), subsection (a), section five of this article and
3 the sum of these values is the total assessed value for the purpose
4 of calculating local share.

5 **CHAPTER 18. EDUCATION.**

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

7 **§18-9A-2. Definitions.**

8 For the purpose of this article:

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

10 (b) "County board" or "board" means a county board of
11 education.

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

15 (d) "Professional educator" shall be synonymous with and shall
16 have the same meaning as "teacher" as defined in section one,
17 article one of this chapter, and includes technology integration
18 specialists.

19 (e) "Professional instructional personnel" means a
20 professional educator whose regular duty is as that of a classroom
21 teacher, librarian, attendance director or school psychologist. A
22 professional educator having both instructional and administrative
23 or other duties shall be included as professional instructional
24 personnel for that ratio of the school day for which he or she is

1 assigned and serves on a regular full-time basis in appropriate
2 instruction, library, attendance or psychologist duties.

3 (f) "Professional student support personnel" means a "teacher"
4 as defined in section one, article one of this chapter who is
5 assigned and serves on a regular full-time basis as a counselor or
6 as a school nurse with a bachelor's degree and who is licensed by
7 the West Virginia Board of Examiners for Registered Professional
8 Nurses. For all purposes except for the determination of the
9 allowance for professional educators pursuant to section four of
10 this article, professional student support personnel are
11 professional educators.

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

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

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

5 (1) Adults enrolled in regular secondary vocational programs
6 existing as of the effective date of this section, subject to the
7 following:

8 (A) Net enrollment includes no more than one thousand of those
9 adults counted on the basis of full-time equivalency and
10 apportioned annually to each county in proportion to the adults
11 participating in regular secondary vocational programs in the prior
12 year counted on the basis of full-time equivalency; and

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

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

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

23 (4) The enrollment shall be modified to the equivalent of the
24 instructional term and in accordance with the eligibility

1 requirements and rules established by the state board; and

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

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

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

13 (C) If the increase in net enrollment as determined under this
14 subdivision plus the county's net enrollment as determined under
15 all other provisions of this subsection is greater than one
16 thousand four hundred, the increase in net enrollment shall be
17 reduced so that the total does not exceed one thousand four
18 hundred; and

19 (D) During the 2008-2009 interim period and every three
20 interim periods thereafter, the Legislative Oversight Commission on
21 Education Accountability shall review the provisions of this
22 subdivision to determine whether or not they properly address the
23 needs of counties with low enrollment and a sparse population
24 density.

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

5 (k) "Low-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 equal to or
9 greater than five but less than ten.

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

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

20 (n) "Levies for general current expense purposes" means
21 ~~ninety-four percent of the levy rate for county boards of education~~
22 ~~calculated or set by the Legislature pursuant to the provisions of~~
23 ~~section six-f, article eight, chapter eleven of this code:~~
24 ~~Provided, That beginning July 1, 2008, "levies for general current~~

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

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

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

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

20 (a) For the purposes of this section only, "property" means
21 only Class II, III and IV properties exclusive of natural resources
22 property as defined in section ten, article one-c, chapter eleven
23 of this code, personal property, farmland, managed timberland,
24 public utility property or any other centrally assessed property

1 provided in paragraphs (A), (B), (C) and (D), subdivision (2),
2 subsection (a), section five, article one-c, chapter eleven of this
3 code: *Provided*, That nothing in this subsection may be construed
4 to require that levies for general current expense purposes be
5 applied only to those properties that are included in this
6 definition.

7 (b) For the purposes of this section only, the median ratio of
8 the assessed values to actual selling prices in the assessment
9 ratio study applicable to the immediately preceding fiscal year
10 shall be used as the indicator to determine the percentage market
11 value that properties are being assessed at.

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

18 ~~(c)~~ (d) Notwithstanding any other provision of this section or
19 section two of this article, ~~effective July 1, 2013 for any county~~
20 ~~that is not assessing property at least at fifty-four percent of~~
21 ~~market value~~ for the second consecutive year that a county's
22 assessments are below sixty percent of market value including the
23 ten-percent variance and for any next succeeding consecutive years
24 thereafter that assessments remain below that level, "levies for

1 general current expense purposes" means ninety-eight percent of the
2 levy rate for county boards of education set by the Legislature
3 pursuant to section six-f, article eight, chapter eleven of this
4 code. For the purposes of this subsection, only tax years
5 beginning on or after the July 1, 2013, assessment date may count
6 as the first year.

7 ~~(d)~~ (e) Any county that receives additional state aid due to
8 its using a percentage less than ninety-eight percent in the
9 calculation of levies for general current expense purposes, shall
10 report to the state board how the additional state aid was used.
11 The state board shall compile the reports from all the county
12 boards into a single report, and shall report to the Legislative
13 Oversight Commission on Education Accountability how the county
14 boards used this additional state aid. The report shall be made
15 annually as soon as practical after the end of each fiscal year.

16 **§18-9A-11. Computation of local share; appraisal and assessment of**
17 **property; public library support.**

18 (a) On the basis of each county's certificates of valuation as
19 to all classes of property as determined and published by the
20 assessors pursuant to section six, article three, chapter eleven of
21 this code for the next ensuing fiscal year in reliance upon the
22 assessed values annually developed by each county assessor pursuant
23 to the provisions of articles one-c and three of said chapter, the
24 state board shall for each county compute by application of the

1 levies for general current expense purposes, as defined in section
2 two of this article, the amount of revenue which the levies would
3 produce if levied upon one hundred percent of the assessed value of
4 each of the several classes of property contained in the report or
5 revised report of the value, made to it by the Tax Commissioner as
6 follows:

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

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

23 As to any estimations or preliminary computations of local
24 share required prior to the report to the Legislature by the Tax

1 Commissioner, the state shall use the most recent projections or
2 estimations that may be available from the Tax Department for that
3 purpose.

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

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

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

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

22 As to any estimations or preliminary computations of local
23 share required prior to the report to the state board by the Tax
24 Commissioner pursuant to section five-b, article one-c, chapter

1 eleven of this code, including computations necessary for the
2 Governor's proposed budget, the state shall use the most recent
3 projections or estimations that may be available from the Tax
4 Department for that purpose.

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

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

24 (e) For purposes of any computation made in accordance with

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

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

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

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

1 enactment of this section during the 2007 regular session of the
2 Legislature include:

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

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

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

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

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

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

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

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

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

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

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

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

1 this code, then in any subsequent excess levy which the county
2 board thereafter submits to the voters the library funding
3 obligation again shall be included as one of the purposes of the
4 subsequent excess levy as a specifically described line item of the
5 excess levy;

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

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