

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2809

FISCAL
NOTE

BY DELEGATES STATLER, MOYE, HILL AND KESSINGER

[Introduced March 7, 2017; Referred
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-9A-12 of the Code of West Virginia, 1931, as amended, relating
2 to basic state aid to public education: providing an adjustment to the allocated state aid
3 share to any county on account of, and in the amount of, payments or contributions in lieu
4 of property tax distributed from the sheriff to the county board of education as a result of
5 payment in lieu of tax agreements first entered into on or after July 1, 2016.

Be it enacted by the Legislature of West Virginia:

1 That §18-9A-12 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-12. County basic foundation; total basic state aid allowance.

1 (a) The basic foundation program for each county for the fiscal year shall be the sum of
2 the amounts computed in accordance with the provisions of sections four, five, six, seven, eight,
3 nine and ten of this article. On the first working day of July in each year, the state board shall
4 determine the basic foundation program for each county for that fiscal year. Data used in the
5 computations relating to net and adjusted enrollment, and the number of professional educators,
6 shall be for the second month of the prior school term. Transportation expenditures used in these
7 computations shall be for the most recent year in which data are available. The allocated state
8 aid share of the county's basic foundation program shall be the difference between the cost of its
9 basic foundation program and the county's local share as determined in section eleven of this
10 article except as provided in subsection (b) of this section.

11 (b) The allocated state aid share shall be adjusted in the following circumstances in the
12 following manner: *Provided*, That prior to such adjustment, the State Tax Commissioner shall
13 provide the state board, by January 15 of each year, a certified listing of those counties in which
14 such adjustment shall be made pursuant to this subsection, together with the amount of revenue
15 which will not be available to each county board in the ensuing fiscal year as a result of the
16 circumstance:

17 (1) In those instances where the local share as computed under section eleven of this
18 article is not reflective of local funds available because the county is under a final court order, or
19 a final decision of a board of assessment appeals under section twenty-four-b, article three,
20 chapter eleven of this code, to refund or credit property taxes paid in prior years, the allocated
21 state aid share shall be the county's basic foundation program, minus the local share as computed
22 under section eleven of this article, plus the amount of property tax the county is unable to collect
23 or must refund due to the final court order or final decision of a board of assessment appeals:
24 *Provided*, That said adjustment shall not be made or shall only be made proportionately when the
25 Legislature fails to fund or funds only in part the public school basic foundation support plan state
26 share at a level sufficient to cover the reduction in state share: *Provided, however*, That nothing
27 herein provided shall be construed to require or mandate any level of funding by the Legislature.

28 (2) In those instances where the local share as computed under section eleven of this
29 article is not reflective of local funds available because the county is collecting tax based upon an
30 assessed value which is less than that determined by the Tax Commissioner in the most recent
31 published survey of property valuations in the state due to an error in the published survey, which
32 error is certified to by the Tax Commissioner, the allocated state aid share shall be the county's
33 basic foundation program, minus the local share as computed under section eleven of this article,
34 plus the amount of property tax the county is unable to collect based on differences in the
35 assessed valuation between those in the most recent published survey of valuation and the
36 corrected assessed value actually levied upon by the county: *Provided*, That said adjustment shall
37 not be made or shall only be made proportionately when the Legislature fails to fund or funds only
38 in part the public school basic foundation support plan state share at a level sufficient to cover the
39 reduction in state share: *Provided, however*, That nothing herein provided shall be construed to
40 require or mandate any level of funding by the Legislature.

41 (3) In instances where a county is unable to collect property taxes from a taxpayer during
42 the pendency of any court proceeding, the allocated state aid share shall be the county's basic

43 foundation program minus the local share as computed under section eleven of this article, plus
44 the amount the county is unable to collect as a result of the pending court proceedings as certified
45 by the Tax Commissioner: *Provided*, That the county is required to reimburse the amount of
46 allocated state aid share attributable to the amount of property tax it later receives upon
47 completion of court proceedings, which shall be paid into the General Revenue Fund of the state:
48 *Provided, however*, That said adjustment shall not be made or shall only be made proportionately
49 when the Legislature fails to fund or funds only in part the public school basic foundation support
50 plan state share at a level sufficient to cover the reduction in state share: *Provided further*, That
51 nothing herein provided shall be construed to require or mandate any level of funding by the
52 Legislature.

53 (c) The allocated state aid share shall be adjusted in any county receiving payments or
54 contributions in lieu of property taxes pursuant to any agreement first entered into on or after July
55 1, 2016. In instances where a county receives payments or contributions in lieu of property taxes,
56 the allocated state aid share shall be the county's basic foundation program minus the local share
57 as computed under section eleven of this article, plus any amounts added pursuant to subsection
58 (b) of this section minus the payments or contributions in lieu of property taxes which are
59 distributed by the sheriff to the county board of education. In determining the amount of such
60 contribution or payment in lieu of taxes, each county commission shall provide to the State Tax
61 Commissioner, by January 1 of each year, the total amount of such payments or contributions
62 paid to the county and the proportion of the total amount that has been or will be distributed to the
63 county board of education. The State Tax Commissioner then shall provide the state board, by
64 January 15 of each year, a certified listing of those counties in which an adjustment pursuant to
65 this section shall be made, together with the amount of revenue which will be available to each
66 county board in the ensuing fiscal year as a result of contribution or payment in lieu of taxes.

67 (d) Total basic state aid to the county shall be the computed state share of basic foundation
68 support. After such computation is completed, the state board shall immediately certify to each

- 69 county board the amount of state aid allocated to the county for that fiscal year, subject to any
70 qualifying provisions of this article.

NOTE: The purpose of this bill is to provide an adjustment to the allocated state aid share to any county on account of, and in the amount of, payments or contributions in lieu of property tax distributed from the sheriff to the county board of education as a result of payment in lieu of tax agreements first entered into on or after July 1, 2016.

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