

WEST VIRGINIA LEGISLATURE
2019 FIRST EXTRAORDINARY SESSION

Introduced
House Bill 180

BY DELEGATE ESPINOSA

[Introduced June 17, 2019; Referred
to the Select Committee on Education Reform C]

1 A BILL to amend and reenact §11-8-6f of the Code of the West Virginia, 1931, as amended; and
 2 to amend and reenact §18-9A-2 of said code as contained in Chapter 133, Acts of the
 3 Legislature, Regular Session, 2019, all relating to school board levy rates; modifying
 4 regular levy rates; and allowing county boards of education to increase their regular levy
 5 rates to the statutory maximum.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 8. LEVIES.

§11-8-6f. Regular school board levy rate; creation and implementation of Growth County School Facilities Act; creation of Growth County School Facilities Act Fund.

1 (a) Notwithstanding any other provision of law except subsection (c) of this section, where
 2 any annual appraisal, triennial appraisal, or general valuation of property would produce a
 3 statewide aggregate assessment that would cause an increase of two percent or more in the total
 4 property tax revenues that would be realized were the then current regular levy rates of the county
 5 boards of education to be imposed, the rate of levy for county boards of education shall be
 6 reduced uniformly statewide and proportionately for all classes of property for the forthcoming tax
 7 year so as to cause the rate of levy to produce no more than 102 percent of the previous year's
 8 projected statewide aggregate property tax revenues from extending the county board of
 9 education levy rate, unless subsection (b) of this section is complied with. The reduced rates of
 10 levy shall be calculated in the following manner: (1) The total assessed value of each class of
 11 property as it is defined by §11-8-5 of this code for the assessment period just concluded shall be
 12 reduced by deducting the total assessed value of newly created properties not assessed in the
 13 previous year's tax book for each class of property; (2) the resulting net assessed value of Class
 14 I property shall be multiplied by .01; the value of Class II by .02; and the values of Classes III and
 15 IV, each by .04; (3) total the current year's property tax revenue resulting from regular levies for

16 the boards of education throughout this state and multiply the resulting sum by 102 percent:
17 *Provided*, That the 102 percent figure shall be increased by the amount the boards of education's
18 increased levy provided for in §11-1C-8(b) of this code; (4) divide the total regular levy tax
19 revenues, thus increased in subdivision (3) of this subsection, by the total weighted net assessed
20 value as calculated in subdivision (2) of this subsection and multiply the resulting product by 100;
21 the resulting number is the Class I regular levy rate, stated as cents-per-100 of assessed value;
22 and (5) the Class II rate is two times the Class I rate; Classes III and IV, four times the Class I
23 rate as calculated in the preceding subdivision.

24 An additional appraisal or valuation due to new construction or improvements, including
25 beginning recovery of natural resources, to existing real property or newly acquired personal
26 property shall not be an annual appraisal or general valuation within the meaning of this section,
27 nor shall the assessed value of the improvements be included in calculating the new tax levy for
28 purposes of this section. Special levies shall not be included in any calculations under this section.

29 (b) After conducting a public hearing, the Legislature may, by act, increase the rate above
30 the reduced rate required in subsection (a) of this section if an increase is determined to be
31 necessary.

32 (c) Beginning with the 2020 fiscal year and the 2019 tax year, §11-8-6f(a) and (b) of this
33 code shall expire and the regular levy rates for the county boards of education shall be the
34 following: (1) For Class I property, 19.4 cents per \$100; (2) for Class II property, 38.8 cents per
35 \$100; and (3) for Class III and Class IV property, 77.6 cents per \$100: *Provided*, That county
36 boards of education may increase their regular levy rates through a majority vote of their members
37 up to the sum of the levy rates set forth in subdivisions (1), (2), and (3), section six-c of this article
38 for each class of property, which are: (1) For Class I property, 22.95 cents per \$100; (2) for Class
39 II property, 45.9 cents per \$100; and (3) for Class III and Class IV property, 91.8 cents per \$100:
40 *Provided, however*, That prior to any regular levy rate increase, such increase must be approved
41 by a majority vote of the voters of the county at a general election.

42 ~~(c)~~ (d) The State Tax Commissioner shall report to the Joint Committee on Government
43 and Finance and the Legislative Oversight Commission on Education Accountability by March 1
44 of each year on the progress of assessors in each county in assessing properties at the
45 Constitutionally required 60 percent of market value and the effects of increasing the limit on the
46 increase in total property tax revenues set forth in this section to two percent.

47 ~~(d)~~ (e) *Growth County School Facilities Act. — Legislative findings. —*

48 The Legislature finds and declares that there has been, overall, a statewide decline in
49 enrollment in the public schools of this state; due to this decline, most public schools have ample
50 space for students, teachers, and administrators; however, some counties of this state have
51 experienced significant increases in enrollment due to significant growth in those counties; that
52 those counties experiencing significant increases do not have adequate facilities to accommodate
53 students, teachers, and administrators. Therefore, the Legislature finds that county boards of
54 education in those high-growth counties should have the authority to designate revenues
55 generated from the application of the regular school board levy due to new construction or
56 improvements placed in a Growth County School Facilities Act Fund be used for school facilities
57 in those counties to promote the best interests of this state's students.

58 (1) For the purposes of this subsection, “growth county” means any county that has
59 experienced an increase in second month net enrollment of 50 or more during any three of the
60 last five years, as determined by the state Department of Education.

61 (2) The provisions of this subsection shall only apply to any growth county, as defined in
62 subdivision (1) of this subsection, that, by resolution of its county board of education, chooses to
63 use the provisions of this subsection.

64 (3) For any growth county, as defined in subdivision (1) of this subsection, that adopts a
65 resolution choosing to use the provisions of this subsection, pursuant to subdivision (2) of this
66 subsection, assessed values resulting from additional appraisal or valuation due to new
67 construction or improvements to existing real property shall be designated as new property values

68 and identified by the county assessor. The statewide regular school board levy rate as established
69 by the Legislature shall be applied to the assessed value designated as new property values and
70 the resulting property tax revenues collected from application of the regular school board levy rate
71 shall be placed in a separate account designated as the Growth County School Facilities Act
72 Fund. Revenues deposited in the Growth County School Facilities Act Fund shall be appropriated
73 by the county board of education for construction, maintenance or repair of school facilities.
74 Revenues in the fund may be carried over for an indefinite length of time and may be used as
75 matching funds for the purpose of obtaining funds from the School Building Authority or for the
76 payment of bonded indebtedness incurred for school facilities. For any growth county choosing
77 to use the provisions of this subsection, estimated school board revenues generated from
78 application of the regular school board levy rate to new property values are not to be considered
79 as local funds for purposes of the computation of local share under the provisions of §18-9A-11
80 of this code.

81 ~~(e)~~ (f) This section, as amended during the legislative session in the year 2004, shall be
82 effective as to any regular levy rate imposed for the county boards of education for taxes due and
83 payable on or after July 1, 2004. If any provision of this section is held invalid, the invalidity shall
84 not affect other provisions or applications of this section which can be given effect without the
85 invalid provision or its application and to this end the provisions of this section are declared to be
86 severable.

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 Education.

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

4 (c) "Professional salaries" means the state legally mandated salaries of the professional
5 educators as provided in §18A-4-1 *et seq.* of this code.

6 (d) "Professional educator" shall be synonymous with and shall have the same meaning
7 as "teacher" as defined in §18-1-1 of this code, and includes technology integration specialists.

8 (e) "Professional instructional personnel" means a professional educator whose regular
9 duty is as that of a classroom teacher, librarian, attendance director or school psychologist. A
10 professional educator having both instructional and administrative or other duties shall be
11 included as professional instructional personnel for that ratio of the school day for which he or she
12 is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance
13 or psychologist duties.

14 (f) "Professional student support personnel" means a "teacher" as defined in §18-1-1 of
15 this code who is assigned and serves on a regular full-time basis as a counselor or as a school
16 nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for
17 Registered Professional Nurses. For all purposes except for the determination of the allowance
18 for professional educators pursuant to §18-4-1 *et seq.* of this code, professional student support
19 personnel are professional educators.

20 (g) "Service personnel salaries" means the state legally mandated salaries for service
21 personnel as provided in section §18A-4-8a of this code.

22 (h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the
23 purpose of computations under this article of ratios of service personnel to net enrollment, a
24 service employee shall be counted as that number found by dividing his or her number of
25 employment days in a fiscal year by 200: *Provided,* That the computation for any service person
26 employed for three and one-half hours or less per day as provided in §18A-4-8a of this code shall
27 be calculated as one half an employment day.

28 (i) "Net enrollment" means the number of pupils enrolled in special education programs,
29 kindergarten programs and grades one to twelve, inclusive, of the public schools of the county.

30 Net enrollment further shall include:

31 (1) Adults enrolled in regular secondary vocational programs, subject to the following:

32 (A) Net enrollment includes no more than 2,500 of those adults counted on the basis of
33 full-time equivalency and apportioned annually to each county to support Advanced Career
34 Education programs, as provided in §18-2E-11 of this code, in proportion to the adults
35 participating in regular secondary vocational programs in the prior year counted on the basis of
36 full-time equivalency: *Provided*, That beginning with the 2021 fiscal year and every year
37 thereafter, a career technical education center may only receive the funding for enrollment as
38 authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this
39 code; and

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

42 (2) Students enrolled in early childhood education programs as provided in §18-5-44 of
43 this code, counted on the basis of full-time equivalency;

44 (3) A pupil may not be counted more than once by reason of transfer within the county or
45 from another county within the state, and a pupil may not be counted who attends school in this
46 state from another state;

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

49 (5) For the purposes of determining the county's basic foundation program only, for any
50 county whose net enrollment as determined under all other provisions of this definition is less than
51 1,400, the net enrollment of the county shall be increased by an amount to be determined in
52 accordance with the following:

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

55 (B) Multiply the amount derived from the calculation in paragraph (A) of this subdivision

56 by the difference between 1,400 and the county's actual net enrollment;

57 (C) If the increase in net enrollment as determined under this subdivision plus the county's
58 net enrollment as determined under all other provisions of this subsection is greater than 1,400,
59 the increase in net enrollment shall be reduced so that the total does not exceed 1,400; and

60 (D) During the 2008-2009 interim period and every three interim periods thereafter, the
61 Legislative Oversight Commission on Education Accountability shall review this subdivision to
62 determine whether or not these provisions properly address the needs of counties with low
63 enrollment and a sparse population density.

64 (j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any
65 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this
66 section, of the definition of "net enrollment", to the square miles of the county is less than five.

67 (k) "Low-density county" means a county whose ratio of net enrollment, excluding any
68 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this
69 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater
70 than five but less than 10.

71 (l) "Medium-density county" means a county whose ratio of net enrollment, excluding any
72 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this
73 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater
74 than 10 but less than 20.

75 (m) "High-density county" means a county whose ratio of net enrollment, excluding any
76 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this
77 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater
78 than 20.

79 (n) "Levies for general current expense purposes" means 90 percent of the levy rate for
80 county boards of education ~~calculated or set by the Legislature pursuant to~~ as established in §11-
81 8-6f of this code. The levy rate shall be assumed to be the rate established in that section and not

82 an increased rate established by a county board.

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

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

NOTE: The purpose of this bill is to modify regular school board levy rates and allow county boards of education to increase their regular levy rates to the statutory maximum.

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