WEST VIRGINIA CODE CHAPTER 18 ARTICLE 9B

WV Legislature

§18-9B-1. Purpose and construction of article.

Because of the adoption of the "Tax Limitation Amendment," it has become necessary for the state to participate, to an increasing degree, in the financing of the free public schools. In the fiscal year 1938-1939, this participation aggregated 55 percent of the total expended by county boards of education for the operation of the schools of the state, and in 17 counties state aid represented in excess of 70 percent of the total amounts spent for public education in those counties. In consequence of this state investment in local education, the state has acquired a paramount interest in the sound and stable management of the financial affairs of county school districts so that the maximum effectiveness of education may be obtained from the expenditure of the limited funds available.

With the foregoing purposes in view, this article is enacted to develop improved methods of financial administration and to bring increased financial guidance and assistance to the management of county school affairs.

The provisions of this article shall be construed to be in addition to the authority now exercised by the State Auditor as chief inspector and supervisor of public offices under §6-9-1 *et seq*. of the code for the purposes of fidelity accounting and auditing. The intent of the Legislature is that the powers granted by this article to the State Superintendent of Schools over financial management shall in administration be fully coordinated with those of the State Auditor over the legality and fidelity of public expenditures.

The provisions of this article shall be liberally construed to give effect to the purposes stated.

WV Legislature

§18-9B-2. Definitions.

For the purposes of this article:

“State superintendent” means the State Superintendent of Schools.

“Budget” means the annual budget of school revenues and expenditures prepared and adopted by a county board of education in accordance with this article.

“Levy estimate” means the summary statement of the total budgeted school requirements prepared and adopted by a county board of education in accordance with law, in justification of the amount levied upon taxable property within the county for the support of the local schools.

“Appropriation” means an item, or the amount of an item, budgeted by a county board of education for expenditure during the fiscal year.

“Expenditure schedule” means a schedule for the expenditure of amounts budgeted throughout the fiscal year and adopted in conjunction with the annual budget.

“County board” means a county board of education.

WV Legislature

§18-9B-3. State Superintendent of Schools.

The State Superintendent of Schools shall exercise the powers and perform the duties conferred upon him or her by this article.

WV Legislature

§18-9B-4. Powers and duties of State Superintendent of Schools.

The State Superintendent of Schools, in addition to the specific powers and duties conferred upon him or her, shall advise and assist county boards of education and county superintendents in the planning and management of school finances to the end that the most effective program of public education be realized from the funds available for expenditure by the several counties.

In the exercise of the powers granted under this article, the state superintendent shall not substitute his or her discretion and judgment for that of a county board of education with respect to the desirability or reasonability of a lawful school expenditure if the provisions of law and the orders of the state superintendent are complied with by the county board. If, however, a county board fails or refuses to provide for the support of the standard school term, to adhere to the budget and the expenditure schedule, or to comply with other provisions of this article, the state superintendent may require such action on the part of the county board, not in violation of law, as the state superintendent may find to be best calculated to restore the financial affairs of the county board to a proper and lawful basis.

WV Legislature

§18-9B-5. School district budgeting.

The state superintendent shall formulate and prescribe a uniform system of school district budgeting for the use of all county school districts to include, at least:

(1) Itemization schedules for estimating anticipated revenues and receipts of all kinds;

(2) Itemization schedules for estimating anticipated requirements for expenditure during the fiscal year;

(3) The form, classification and itemization of budget items for appropriation purposes;

(4) Expenditure schedules for the allotment of amounts of proposed expenditures throughout the fiscal year;

(5) A budget calendar fixing the dates by or upon which schedules shall be prepared, budgets adopted, and reports made to the state superintendent;

(6) Methods and procedures of budgeting to be followed in the use of the uniform system.

WV Legislature

§18-9B-6. Submission and approval of budget.

A county board of education shall, on or before the day fixed by the budget calendar, submit its proposed budget to the state superintendent together with such supporting schedules as the state superintendent may require.

A county board shall not finally adopt its budget until after the written approval of the state superintendent has been received, and the levy estimate has been approved by the State Auditor as required by law. If the State Auditor finds that the levy estimate, based upon the budget, does not conform to the requirements of law, the board shall authorize and require such further revision of the budget as may be necessary for the correction of the levy estimate as required by the State Auditor.

A county board of education shall submit a preliminary budget upon requirement of the state superintendent, which approved budget shall be considered by the State Auditor when approving levy estimates.

WV Legislature

§18-9B-6a. Delaying submission of budget.

Notwithstanding any other provisions of the code to the contrary, the county board shall not be required to submit its budget for approval by the state superintendent as provided by §18-9B-6 and §18-9B-7 of this code, until the 10th day next following the state superintendent's transmittal of final state aid computations following the adoption of the state budget, but no later than May 30: *Provided*, That, in any year in which the state budget is not adopted on or before May 1, the state superintendent may require the county board to adopt a preliminary budget and to submit it to the state superintendent no later than May 30, and when final computations of state aid are transmitted to the county board, the county board shall make such adjustments as are necessary prior to final adoption of the budget.

WV Legislature

§18-9B-7. Determination by the state superintendent before final approval of budget; length of term.

The state superintendent, before giving his or her final approval to a proposed budget, shall require that:

(1) Estimates of revenue and receipts are reasonable and accurate;

(2) Amounts are budgeted so as to cover actual requirements of school operation; and

(3) Amounts are budgeted so as to maintain the schools of the county for the employment term and the instructional term as provided by §18-5-45 of this code.

WV Legislature

§18-9B-8. Projected expenditures order of revision in budget.

If the state superintendent finds that the proposed budget for a county will not maintain the proposed educational program as well as other financial obligations of their county board of education, he or she may require that the budget be revised, but in no case shall he or she permit the reduction of the instructional term pursuant to the provisions contained in §18-5-45 of this code nor the employment term below 200 days. Any required revision in the budget for this purpose may be made in the following order:

(1) Postpone expenditures for permanent improvements and capital outlays except from the permanent improvement fund;

(2) Reduce the amount budgeted for maintenance exclusive of service personnel so as to guarantee the payment of salaries for the employment term; or

(3) Adjust amounts budgeted in any other way so as to assure the required employment term of 200 days and the required instructional term of 180 days under the applicable provisions of law.

WV Legislature

§18-9B-9. Uniform accounting systems for school districts.

The state superintendent shall formulate the requirements of a uniform system of management accounting for the use of county school districts. The requirements shall include at least:

(1) The accrual accounting of all revenues and other receipts from whatever source;

(2) The accounting of expenditures under the several items of appropriation in accordance with the expenditure schedule;

(3) Monthly and quarterly reports of rate of expenditure, encumbrances, and free balances under the several items of appropriation;

(4) Methods of accounting practice and procedures to be followed in the use of the uniform system.

The accounting requirements so formulated shall be certified to the State Auditor. The State Auditor shall then incorporate the requirements into a uniform system of school district accounting and as chief inspector and supervisor of local government offices, shall prescribe the use of the uniform system by all county school districts by virtue of the authority vested in him or her by §6-9-2 of this code.

WV Legislature

§18-9B-10. Restrictions on county boards.

County boards of education shall:

(1) Authorize the expenditure of funds and incur obligations only in accordance with the budget and the expenditure schedule;

(2) Make transfers between items of appropriation only with the prior written approval of the state superintendent.

WV Legislature

§18-9B-11.

Repealed.

Acts, 2013 Reg. Sess., Ch. 56.

WV Legislature

§18-9B-11a. Adjustments in average daily attendance to assure equitable allocation of aid.

[Repealed.]

WV Legislature

§18-9B-12. Practices of fiscal administration.

The state superintendent may formulate the requirements of adequate practices of fiscal administration to be followed by county school districts. Such requirements may include:

(1) Procedures for the receipts, control and disbursement of county school funds;

(2) Forms for requisitions, purchase orders, disbursements, and other necessary documents;

(3) Regulations for the performance of the powers and duties pertaining to school finance;

(4) Regulations for the exercise of the comptroller function;

(5) Other instructions and regulations for the proper procedures and practices of fiscal administration in the county schools.

The requirements formulated by the state superintendent shall be certified by the state superintendent to the State Auditor. The State Auditor as chief inspector and supervisor of local government offices shall incorporate the requirements so certified in his or her instructions with respect to fiscal administration and shall prescribe their use by all county school districts by virtue of the authority vested in him or her by §6-9-2 of this code.

WV Legislature

§18-9B-13. Inspection and audit of school finance administration.

The state superintendent may, through his or her duly authorized representatives, make inspections and examinations of the fiscal administration of a county school district. The inspection and examination may extend to any matter or practice subject to regulation by the state superintendent. Regular and special examinations may be made by a certified public accountant approved pursuant to §6-9-7 of this code selected by the county board in accordance with nonemergency regulations submitted by the chief inspector, or by the chief inspector himself or herself. All examinations shall be made as provided in §6-9-7 of this code. The state superintendent may make selective audits to determine the accuracy of statements and reports made by a county board or superintendent.

The report of the examination shall be certified to the county board, which should include the identification of procedures and practices found to not be in accordance with the requirements of the state superintendent. The county board shall comply with the instructions forthwith.

The state superintendent, through his or her duly authorized representatives, shall have full access to all books, records, papers, and documents of the county board.

WV Legislature

§18-9B-14. Establishment of permanent improvement fund; contents and use of fund.

A county board of education may establish a special fund for county school purposes to be known as the "permanent improvement fund." The fund shall consist of:

(1) The proceeds of the levy allocated to that purpose by §11-8-6c, §11-8-12 and §11-8-12a of this code;

(2) Unexpended balances of other funds transferred to the fund, with the approval of the state superintendent, at the end of the fiscal year; and

(3) Any other moneys authorized by law to be used for the purposes of the fund.

The proceeds of the fund shall be used only for the support of building and permanent improvement projects. The fund may be accumulated from year to year but moneys shall not be paid into the fund so as to increase the assets of the fund to a total amount in excess of 25 percent of the amount of the foundation school program for that county for the same school year.

WV Legislature

§18-9B-14a. County boards authorized to create special building funds; transfers to and use of fund.

The Board of Education of any county is hereby authorized and empowered to create a special building fund and to transfer to such special fund any part or all of the unexpended balance accumulated in the "permanent improvement fund," heretofore established by section fourteen, article nine-b, chapter eighteen of the Code of West Virginia, 1931, as amended. Such boards of education are further authorized and empowered to use and expend the special funds, created under the authority of this section, to construct, erect, furnish and equip a building for educational purposes suitable for instruction in transfer, terminal, technical, and adult education courses.

WV Legislature

§18-9B-15. Permanent improvement fund — To be treated as separate fund; expenditures; limitation on accumulations and assets of fund.

A county board shall treat the permanent improvement fund as a separate fund in the annual budget for county school purposes. Expenditures shall be made from the fund only in accordance with an appropriation made pursuant to the annual budget, or made otherwise in accordance with this article. If the state superintendent finds, in his or her examination of the budget of a county school district, that a county board has accumulated, or with proposed additions to the fund in the fiscal year will accumulate, the fund of the county to an amount in excess of 25 percent of the amount of the foundation school program of the county for the same fiscal year, the state superintendent shall order that no moneys in excess of the limitation be appropriated for or paid into the fund. If the state superintendent finds that the assets of the fund of a county exceed 25 percent of the amount of the foundation school program for the county for the same year, the state superintendent may require that building and permanent improvement projects included in the annual budget, be paid for out of the fund.

The state superintendent shall administer this section so as to keep the accumulated assets of the fund, as near as may be, within the limitation of 25 percent of the amount of the foundation school program.

WV Legislature

§18-9B-16.

Repealed.

Acts, 2013 Reg. Sess., Ch. 56.

WV Legislature

§18-9B-17. Duties of county board and county superintendent.

A county board of education and a county superintendent shall comply with the instructions of the state superintendent and shall perform the duties required of them in accordance with the provisions of this article.

WV Legislature

§18-9B-18. Issuance and enforcement of orders.

The state superintendent shall enforce the requirements of and his or her regulations issued under this article. The state superintendent may issue orders to county boards of education requiring specific compliance with his or her instructions. If a county board fails or refuses to comply, the state superintendent may proceed to enforce his or her order by any appropriate remedy in any court of competent jurisdiction.

WV Legislature

§18-9B-19. Withholding of state aid for noncompliance by county board.

The state superintendent may withhold payment of state aid from a county board that fails or refuses to comply with the provisions of this article or the requirements of the state superintendent made in accordance therewith.

WV Legislature

§18-9B-20. Fiscal reports to state superintendent.

The state superintendent may require, and prescribe the form of, fiscal reports to be made to the state superintendent at such times and to contain such information as the state superintendent may determine.

WV Legislature

§18-9B-21. Reports by state superintendent.

The state superintendent shall make an annual report to the Legislative Oversight Commission on Education Accountability regarding the finances of each school district. Any school district that fails to report its finances to the state superintendent may be subject to a reduction of its state funding as authorized in §18-9B-19 of this code. The state superintendent shall make such special reports as the Legislative Oversight Commission on Education Accountability may request.

WV Legislature

§18-9B-22. Searchable budget database and website.

(a) Effective July 1, 2020, the state superintendent shall provide the State Auditor with the required data for use by the searchable budget data website: Provided, That the state superintendent shall not be required to violate the Family Educational Rights and Privacy Act in providing such data. The data shall also contain the required information for the previous three fiscal years provided such data is available.

(b) The required data shall include for use by the searchable budget database website the following content:

(1) The name and principal location or residence of the entity or recipients of funds: Provided, That employee addresses shall not be made public or otherwise displayed on the budget data website;

(2) The name of the person or entity requesting the funds;

(3) The amount of funds expended;

(4) The funding or expending agency;

(5) The funding source of the revenue expended;

(6) The budget program or activity of the expenditure;

(7) A descriptive purpose for the funding action or expenditure;

(8) Any state audit or report relating to the entity or recipient of funds or the budget program or agency; and

(9) Any other relevant information specified by the Legislature.

(c) The information shall be updated for each fiscal year no later than 30 days following the end of the fiscal year. In addition, the State Auditor shall update the searchable budget database website as new data becomes available. The State Auditor shall provide guidance to the state superintendent to ensure compliance with this section.

(d) Nothing in this subsection is intended to cause a substantial modification to the West Virginia Education Information System.

WV Legislature