WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

COMMITTEE SUBSTITUTE
FOR
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FOR

ENROLLED

Senate Bill No. 593
(Senators McCabe and Foster, original sponsors)

[Passed March 8, 2008; in effect from passage.]
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AN ACT to amend and reenact §18-9A-11 of the Code of West Virginia, 1931, as amended, relating to school finance; computation of local share; limit on certain library funding obligations; and transfer of a library funding obligation to an excess levy.
Be it enacted by the Legislature of West Virginia:

That §18-9A-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.


(a) On the basis of each county's certificates of valuation as to all classes of property as determined and published by the assessors pursuant to section six, article three, chapter eleven of this code for the next ensuing fiscal year in reliance upon the assessed values annually developed by each county assessor pursuant to the provisions of articles one-c and three of said chapter, the state board shall for each county compute by application of the levies for general current expense purposes, as defined in section two of this article, the amount of revenue which the levies would produce if levied upon one hundred percent of the assessed value of each of the several classes of property contained in the report or revised report of the value, made to it by the Tax Commissioner as follows:

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

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

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

(b) Effective the first day of July, two thousand thirteen, subsection (a) of this section is void and local share shall be calculated in accordance with the following:

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

(2) Five percent shall be deducted from the revenue calculated pursuant to subdivision (1) of this subsection as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like; and
(3) The amount calculated in subdivision (2) of this subsection shall further be reduced by the sum of money due each assessor's office pursuant to the provisions of section eight, article one-c, chapter eleven of this code and this reduced amount shall be the local share of the particular county.

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

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

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

(f) The Legislature finds that public school systems throughout the state provide support in varying degrees to public libraries through a variety of means including budgeted allocations, excess levy funds and portions of their regular school board levies as may be provided by special act. A number of public libraries are situated on the campuses of public schools and several are within public school buildings serving both the students and public patrons. To the extent that public schools recognize and choose to avail the resources of public libraries toward developing within their students such legally recognized elements of a thorough and efficient education as literacy, interests in literature, knowledge of government and the world around them and preparation for advanced academic training, work and citizenship, public libraries serve a legitimate school purpose and may do so economically. For the purposes of any computation made in accordance with the provisions of this section, the library funding obligation on the regular school board levies which is created by a special act and is due and payable from the levy revenues to a library shall be paid from the county school board's discretionary retainage, which is hereby defined as the amount by which the regular school
board levies exceeds the local share as determined hereunder. If the library funding obligation which is created by a special act and is due and payable to a library is greater than the county school board's discretionary retainage, the library funding obligation created by the special act is amended and is reduced to the amount of the discretionary retainage, notwithstanding any provisions of the special act to the contrary. Any excess of the discretionary retainage over the library funding obligation shall be available for expenditure by the county board in its discretion for its properly budgeted purposes.

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

(1) Enrolled Senate Bill No. 11, passed on the twelfth day of February, one thousand nine hundred seventy, applicable to the Berkeley County Board of Education;

(2) Enrolled House Bill No. 1352, passed on the seventh day of April, one thousand nine hundred eighty-one, applicable to the Hardy County Board of Education;

(3) Enrolled Committee Substitute for House Bill No. 2833, passed on the fourteenth day of March, one
(4) Enrolled House Bill No. 161, passed on the sixth day of March, one thousand nine hundred fifty-seven, applicable to the Kanawha County Board of Education;

(5) Enrolled Senate Bill No. 313, passed on the twelfth day of March, one thousand nine hundred thirty-seven, as amended by Enrolled House Bill No. 1074, passed on the eighth day of March, one thousand nine hundred sixty-seven, and as amended by Enrolled House Bill No. 1195, passed on the eighteenth day of January, one thousand nine hundred eighty-two, applicable to the Ohio County Board of Education;

(6) Enrolled House Bill No. 938, passed on the twenty-eighth day of February, one thousand nine hundred sixty-nine, applicable to the Raleigh County Board of Education;

(7) Enrolled House Bill No. 398, passed on the first day of March, one thousand nine hundred thirty-five, applicable to the Tyler County Board of Education;

(8) Enrolled Committee Substitute for Senate Bill No. 450, passed on the eleventh day of March, one thousand nine hundred ninety-four, applicable to the Upshur County Board of Education; and

(9) Enrolled House Bill No. 2994, passed on the thirteenth day of March, one thousand nine hundred eighty-seven, applicable to the Wood County Board of Education.
(h) Notwithstanding any provision of any special act set forth in subsection (g) of this section to the contrary, the county board of any county with a special act creating a library obligation out of the county's regular school levy revenues may transfer that library obligation so that it becomes a continuing obligation of its excess levy revenues instead of an obligation of its regular school levy revenues, subject to the following:

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

(2) If a county board chooses to transfer the library obligation pursuant to this subsection, the county board shall include the funding of the public library obligation in the same amount as its library funding obligation which exists or had existed on its regular levy revenues as one of the purposes for the excess levy to be voted on as a specifically described line item of the excess levy: Provided, That if the county board has transferred the library obligation to the excess levy and the excess levy fails to be passed by the voters or the excess levy passes and thereafter expires upon the time limit for continuation as set forth in section sixteen, article eight, chapter eleven of this code, then in any subsequent excess levy which the county board thereafter submits to the voters the library funding obligation again shall be included as one of the purposes of the subsequent excess levy as a specifically described line item of the excess levy;
(3) If a county board chooses to transfer the library obligation pursuant to this subsection, regardless of whether or not the excess levy passes, effective the fiscal year in which the excess levy is effective or would have been effective if it had been passed by the voters, a county's library obligation on its regular levy revenues is void notwithstanding any provision of the special acts set forth in subsection (g) of this section to the contrary; and

(4) Nothing in subdivision (3) of this subsection prohibits a county board from funding its public library obligation voluntarily.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chandy White
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Darrell Clark
Clerk of the Senate

Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Speaker House of Delegates

The within bill approved the 27th Day of March, 2008.

Governor