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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2530**

(By Delegates Perry and M. Poling)



Passed April 10, 2009

In Effect July 1, 2009

HB 2530

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**OFFICE WEST VIRGINIA
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H. B. 2530

(BY DELEGATES PERRY AND M. POLING)

[Passed April 10, 2009; in effect July 1, 2009.]

AN ACT to amend and reenact §18-9A-2, §18-9A-3a and §18-9A-9 of the Code of West Virginia, 1931, as amended, all relating to further defining professional student support personnel; clarifying definition of net enrollment; modifying method for computing increase in net enrollment for certain counties; providing for computation of certain personnel allowances for certain fiscal years based on number of personnel that would be eligible based on net enrollment; and including professional student support personnel in the public school support formula allowance calculations for current expense and faculty senates.

Be it enacted by the Legislature of West Virginia:

That §18-9A-2, §18-9A-3a and §18-9A-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

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
3 Education.

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

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

9 (d) "Professional educator" shall be synonymous with
10 and shall have the same meaning as "teacher" as defined in
11 section one, article one of this chapter, and includes
12 technology integration specialists.

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

22 (f) "Professional student support personnel" means a
23 "teacher" as defined in section one, article one of this chapter
24 who is assigned and serves on a regular full-time basis as a
25 counselor or as a school nurse with a bachelor's degree and
26 who is licensed by the West Virginia Board of Examiners for
27 Registered Professional Nurses. For all purposes except for
28 the determination of the allowance for professional educators

29 pursuant to section four of this article, professional student
30 support personnel are professional educators.

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

34 (h) "Service personnel" means all personnel as provided
35 in section eight, article four, chapter eighteen-a of this code.
36 For the purpose of computations under this article of ratios of
37 service personnel to net enrollment, a service employee shall
38 be counted as that number found by dividing his or her
39 number of employment days in a fiscal year by two hundred:
40 *Provided*, That the computation for any service person
41 employed for three and one-half hours or less per day as
42 provided in section eight-a, article four, chapter eighteen-a of
43 this code shall be calculated as one-half an employment day.

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

48 (1) Adults enrolled in regular secondary vocational
49 programs existing as of the effective date of this section,
50 subject to the following:

51 (A) Net enrollment includes no more than one thousand
52 of those adults counted on the basis of full-time equivalency
53 and apportioned annually to each county in proportion to the
54 adults participating in regular secondary vocational programs
55 in the prior year counted on the basis of full-time
56 equivalency; and

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

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

63 (3) No pupil shall be counted more than once by reason
64 of transfer within the county or from another county within
65 the state, and no pupil shall be counted who attends school in
66 this state from another state;

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

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

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

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

82 (C) If the increase in net enrollment as determined under
83 this subdivision plus the county's net enrollment as
84 determined under all other provisions of this subsection is
85 greater than one thousand four hundred, the increase in net
86 enrollment shall be reduced so that the total does not exceed
87 one thousand four hundred; and

88 (D) During the 2008-2009 interim period and every three
89 interim periods thereafter, the Legislative Oversight
90 Commission on Education Accountability shall review the
91 provisions of this subdivision to determine whether or not
92 they properly address the needs of counties with low
93 enrollment and a sparse population density.

94 (j) "Sparse-density county" means a county whose ratio
95 of net enrollment, excluding any increase in the net
96 enrollment of counties pursuant to subdivision (5) of the
97 definition of net enrollment, to the square miles of the county
98 is less than five.

99 (k) "Low-density county" means a county whose ratio of
100 net enrollment, excluding any increase in the net enrollment
101 of counties pursuant to subdivision (5) of the definition of net
102 enrollment, to the square miles of the county is equal to or
103 greater than five but less than ten.

104 (l) "Medium-density county" means a county whose ratio
105 of net enrollment, excluding any increase in the net
106 enrollment of counties pursuant to subdivision (5) of the
107 definition of net enrollment, to the square miles of the county
108 is equal to or greater than ten but less than twenty.

109 (m) "High-density county" means a county whose ratio
110 of net enrollment, excluding any increase in the net
111 enrollment of counties pursuant to subdivision (5) of the
112 definition of net enrollment, to the square miles of the county
113 is equal to or greater than twenty.

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

119 general current expense purposes” means ninety percent of
120 the levy rate for county boards of education calculated or set
121 by the Legislature pursuant to the provisions of section six-f,
122 article eight, chapter eleven of this code: *Provided, however,*
123 That effective July 1, 2010, the definitions set forth in this
124 subsection are subject to the provisions of section two-a of
125 this article.

126 (o) “Technology integration specialist” means a
127 professional educator who has expertise in the technology
128 field and is assigned as a resource teacher to provide
129 information and guidance to classroom teachers on the
130 integration of technology into the curriculum.

131 (p) “State aid eligible personnel” means all professional
132 educators and service personnel employed by a county board
133 in positions that are eligible to be funded under this article
134 and whose salaries are not funded by a specific funding
135 source such as a federal or state grant, donation, contribution
136 or other specific funding source not listed.

**§18-9A-3a. Total state basic foundation program for fiscal
years 2009 through 2013, only.**

1 (a) Notwithstanding any other provisions of this article to
2 the contrary, the total basic foundation program for the state
3 for the fiscal year 2009 through 2013 shall be the sum of the
4 amounts computed for each county in accordance with this
5 section, less the county’s local share:

6 (1) For the fiscal year 2009, the Department of Education
7 shall compute the total basic foundation program for each
8 county in accordance with the provisions of this article and
9 in accordance with the provisions of this article in effect for
10 fiscal year 2008. The total basic foundation program for each
11 county computed in accordance with this article is limited to

12 a growth of one-fifth above the amount computed for the
13 county in accordance with the provisions in effect for fiscal
14 year 2008. The total basic foundation program for the county
15 is the greater of the two computations.

16 (2) For the fiscal year 2010, the Department of Education
17 shall compute the total basic foundation program for each
18 county in accordance with the provisions of this article and
19 in accordance with the provisions of this article in effect for
20 fiscal year 2008. The total basic foundation program for each
21 county computed in accordance with this article is limited to
22 a growth of two-fifths above the amount computed for the
23 county in accordance with the provisions in effect for fiscal
24 year 2008. The total basic foundation program for the county
25 is the greater of the two computations.

26 (3) For the fiscal year 2011, the Department of Education
27 shall compute the total basic foundation program for each
28 county in accordance with the provisions of this article and
29 in accordance with the provisions of this article in effect for
30 fiscal year 2008. The total basic foundation program for each
31 county computed in accordance with this article is limited to
32 a growth of three-fifths above the amount computed for the
33 county in accordance with the provisions in effect for fiscal
34 year 2008. The total basic foundation program for the county
35 is the greater of the two computations.

36 (4) For the fiscal year 2012, the Department of Education
37 shall compute the total basic foundation program for each
38 county in accordance with the provisions of this article and
39 in accordance with the provisions of this article in effect for
40 fiscal year 2008. The total basic foundation program for each
41 county computed in accordance with this article is limited to
42 a growth of four-fifths above the amount computed for the
43 county in accordance with the provisions in effect for fiscal
44 year 2008. The total basic foundation program for the county
45 is the greater of the two computations.

46 (5) For the fiscal year 2013 and each year thereafter, the
47 Department of Education shall compute the total basic
48 foundation program for each county in accordance with the
49 provisions of this article and in accordance with the
50 provisions of this article in effect for fiscal year 2008. For
51 the fiscal year 2013 only, the total basic foundation program
52 for the county is the greater of the two computations.

53 (b) When computing the basic foundation program for
54 fiscal years 2010 through 2013 only, the allowance for
55 professional educators and the allowance for service
56 personnel computed for each school district in accordance
57 with the provisions of this article that became effective on
58 July 1, 2008, shall be based on the number of personnel that
59 would be eligible based on the net enrollment of the county
60 notwithstanding the number employed for the second month
61 of the prior school term and notwithstanding the pro rata
62 reduction for failure to establish and maintain the minimum
63 professional instructional personnel ratios set forth in section
64 four of this article.

**§18-9A-9. Foundation allowance for other current expense and
substitute employees.**

1 The total allowance for other current expense and
2 substitute employees shall be the sum of the following:

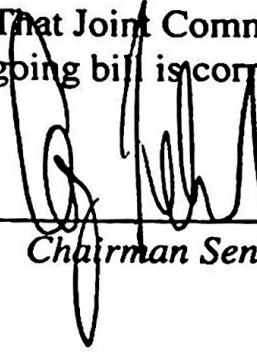
3 (1) For current expense, ten percent of the sum of the
4 computed state allocation for professional educators,
5 professional student support personnel and service personnel
6 as determined in sections four, five and eight of this article.
7 Distribution to the counties shall be made proportional to the
8 average of each county's average daily attendance for the
9 preceding year and the county's second month net
10 enrollment; plus

11 (2) For professional educator substitutes or current
12 expense, two and five-tenths percent of the computed state
13 allocation for professional educators and professional student
14 support personnel as determined in sections four and eight of
15 this article. Distribution to the counties shall be made
16 proportional to the number of professional educators and
17 professional student support personnel authorized for the
18 county in compliance with sections four and eight of this
19 article; plus

20 (3) For service personnel substitutes or current expense,
21 two and five-tenths percent of the computed state allocation
22 for service personnel as determined in section five of this
23 article. Distribution to the counties shall be made
24 proportional to the number of service personnel authorized
25 for the county in compliance with section five of this article;
26 plus

27 (4) For academic materials, supplies and equipment for
28 use in instructional programs, \$200 multiplied by the number
29 of professional instructional personnel and professional
30 student support personnel employed in the schools of the
31 county. Distribution shall be made to each county for
32 allocation to the faculty senate of each school in the county
33 on the basis of \$200 per professional instructional personnel
34 employed at the school. Faculty senate means a faculty
35 senate created pursuant to section five, article five-a of this
36 chapter. Decisions for the expenditure of such funds shall be
37 made at the school level by the faculty senate in accordance
38 with the provisions of said section five, article five-a and
39 shall not be used to supplant the current expense expenditures
40 of the county. Beginning on September 1, 1994, and every
41 September thereafter, county boards shall forward to each
42 school for the use by faculty senates the appropriation
43 specified in this section. Each school shall be responsible for
44 keeping accurate records of expenditures.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



Chairman House Committee

Originating in the House.

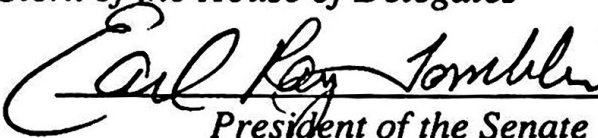
In effect July 1, 2009.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within approved this the 29th
day of April, 2009.



Governor

PRESENTED TO THE
GOVERNOR

APR 21 2009

Time 4:00 pm