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
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.

For the purpose of this article:

(a) “State board” means the West Virginia Board of Education.

(b) “County board” or “board” means a county board of education.

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

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

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

(f) “Professional student support personnel” means a “teacher” as defined in section one, article one of this chapter who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor’s degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses. For all purposes except for the determination of the allowance for professional educators
pursuant to section four of this article, professional student support personnel are professional educators.

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

(h) "Service personnel" means all personnel as provided in section eight, article four, chapter eighteen-a of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by two hundred:

Provided, That the computation for any service person employed for three and one-half hours or less per day as provided in section eight-a, article four, chapter eighteen-a of this code shall be calculated as one-half an employment day.

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

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

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

(B) Net enrollment does not include any adult charged tuition or special fees beyond that required of the regular secondary vocational student;
Students enrolled in early childhood education programs as provided in section forty-four, article five of this chapter, counted on the basis of full-time equivalency;

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

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

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

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

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

(C) If the increase in net enrollment as determined under this subdivision plus the county's net enrollment as determined under all other provisions of this subsection is greater than one thousand four hundred, the increase in net enrollment shall be reduced so that the total does not exceed one thousand four hundred; and
During the 2008-2009 interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review the provisions of this subdivision to determine whether or not they properly address the needs of counties with low enrollment and a sparse population density.

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

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

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

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

(n) "Levies for general current expense purposes" means ninety-four percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to the provisions of section six-f, article eight, chapter eleven of this code: Provided, That beginning July 1, 2008, "levies for
of county boards of education calculated or set by the Legislature pursuant to the provisions of section six-f, article eight, chapter eleven of this code: Provided, however, That effective July 1, 2010, the definitions set forth in this subsection are subject to the provisions of section two-a of this article.

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

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

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

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

(1) For the fiscal year 2009, the Department of Education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year 2008. The total basic foundation program for each county computed in accordance with this article is limited to
a growth of one-fifth above the amount computed for the county in accordance with the provisions in effect for fiscal year 2008. The total basic foundation program for the county is the greater of the two computations.

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

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

(4) For the fiscal year 2012, the Department of Education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year 2008. The total basic foundation program for each county computed in accordance with this article is limited to a growth of four-fifths above the amount computed for the county in accordance with the provisions in effect for fiscal year 2008. The total basic foundation program for the county is the greater of the two computations.
For the fiscal year 2013 and each year thereafter, the Department of Education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year 2008. For the fiscal year 2013 only, the total basic foundation program for the county is the greater of the two computations.

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

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

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

(1) For current expense, ten percent of the sum of the computed state allocation for professional educators, professional student support personnel and service personnel as determined in sections four, five and eight of this article. Distribution to the counties shall be made proportional to the average of each county’s average daily attendance for the preceding year and the county’s second month net enrollment; plus
(2) For professional educator substitutes or current expense, two and five-tenths percent of the computed state allocation for professional educators and professional student support personnel as determined in sections four and eight of this article. Distribution to the counties shall be made proportional to the number of professional educators and professional student support personnel authorized for the county in compliance with sections four and eight of this article; plus

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

(4) For academic materials, supplies and equipment for use in instructional programs, $200 multiplied by the number of professional instructional personnel and professional student support personnel employed in the schools of the county. Distribution shall be made to each county for allocation to the faculty senate of each school in the county on the basis of $200 per professional instructional personnel employed at the school. Faculty senate means a faculty senate created pursuant to section five, article five-a of this chapter. Decisions for the expenditure of such funds shall be made at the school level by the faculty senate in accordance with the provisions of said section five, article five-a and shall not be used to supplant the current expense expenditures of the county. Beginning on September 1, 1994, and every September thereafter, county boards shall forward to each school for the use by faculty senates the appropriation specified in this section. Each school shall be responsible for 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 was approved this the 29th day of April, 2009.

Governor