Senate Bill No. 1009

(By Senators Kessler (Mr. President) and M. Hall, By Request of the Executive)

[Passed March 14, 2014; in effect from passage.]
ENROLLED

Senate Bill No. 1009

(BY SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,
BY REQUEST OF THE EXECUTIVE)

[Passed March 14, 2014; in effect from passage.]

AN ACT to repeal §11-1C-5b of the Code of West Virginia, 1931, as amended; to repeal §18-9A-2a of said code; to amend and reenact §11-3-1 of said code; and to amend and reenact §18-9A-2 and §18-9A-11 of said code, all relating to the computation of local share for public school support purposes; repealing, retrospectively to June 30, 2013, provisions requiring the use of assumed assessed real property values that are based upon an assessment ratio study instead of actual real property values for the purpose of the computation of local share for public school support purposes; repealing, retrospectively to June 30, 2013, provisions that require that the annual amount of local share for which a county board of education is responsible be increased where, during the prior year, the real property assessments in that county were not at least fifty-four percent of market value as indicated by the assessment ratio study; requiring the Tax Commissioner to appoint special assessors to appraise and assess property in any county whenever property in that county is found to be assessed at less than sixty percent of its fair market value for two consecutive years; providing that appointment of special assessors is not required where a county meets certain criteria prescribed by rule; requiring Tax Commissioner to promulgate rules; providing that the county bear the expense of such special assessors; revising definitions;
specifying that for fiscal years beginning after June 30, 2014, the State Board of Education shall use ninety-six percent of total assessed public utility valuation in the calculation of local share; specifying a four percent loss deduction in computation of local share for the fiscal year beginning on July 1, 2014, and for each fiscal year thereafter; expressing legislative intent to continue the computation of local share for public school support based upon actual real property values rather than assumed assessed real property values; expressing legislative intent that the annual amount of local share for which a county board of education is responsible continue to be computed without reference to whether the real property assessments in that county were at least fifty-four percent of market value in the prior year; and removing provisions requiring county school boards to provide funding for public libraries from discretionary retainage.

Be it enacted by the Legislature of West Virginia:

That §11-1C-5b of the Code of West Virginia, 1931, as amended, be repealed; that §18-9A-2a of said code be repealed; that §11-3-1 of said code be amended and reenacted; and that §18-9A-2 and §18-9A-11 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 3. PROPERTY TAX ASSESSMENTS GENERALLY.

§11-3-1. Time and basis of assessments; true and actual value; default; reassessment; special assessors; criminal penalty.

(a) All property, except public service businesses assessed pursuant to article six of this chapter, shall be assessed annually as of July 1 at sixty percent of its true and
actual value; that is to say, at the price for which the property would sell if voluntarily offered for sale by the owner thereof, upon the terms as the property, the value of which is sought to be ascertained, is usually sold, and not the price which might be realized if the property were sold at a forced sale.

(b) Any conflicting provisions of subsection (a) of this section notwithstanding, the true and actual value of all property owned, used and occupied by the owner thereof exclusively for residential purposes shall be arrived at by also giving consideration to the fair and reasonable amount of income which the same might be expected to earn, under normal conditions in the locality wherein situated, if rented: Provided, That the true and actual value of all farms used, occupied and cultivated by their owners or bona fide tenants shall be arrived at according to the fair and reasonable value of the property for the purpose for which it is actually used regardless of what the value of the property would be if used for some other purpose; and that the true and actual value shall be arrived at by giving consideration to the fair and reasonable income which the same might be expected to earn under normal income in the locality wherein situated, if rented: Provided, however, That nothing herein shall alter the method of assessment of lands or minerals owned by domestic or foreign corporations.

(c) The taxes upon all property shall be paid by those who are the owners thereof on the assessment date whether it be assessed to them or others.

(d) If at any time after the beginning of the assessment year it be ascertained by the Tax Commissioner that the assessor, or any of his or her deputies, is not complying with this provision or that they have failed, neglected or refused, or is failing, neglecting or refusing after five days' notice to list and assess all property therein at sixty percent of its true
and actual value as determined under this chapter, the Tax
Commissioner shall order and direct a reassessment of any or
all of the property in any county, district or municipality
where any assessor or deputy fails, neglects or refuses to
assess the property in the manner herein provided. And, if
the Tax Commissioner has determined that the assessor has
not complied or has so failed, neglected or refused to list and
assess property as aforesaid for two or more consecutive
years, for the purpose of making assessment and correction
of values, the Tax Commissioner shall appoint one or more
special assessors, unless the Tax Commissioner determines
that such appointment should be made earlier, as necessity
may require, to make assessment in any county and any such
special assessor or assessors, as the case may be, has the
power and authority now vested by law in assessors, and the
work of such special assessor or assessors shall be accepted
and treated for all purposes by the county boards of review
and equalization and the levying bodies, subject to any
revisions of value on appeal, as the true and lawful
assessment of that year as to all property valued by him or her
or them. The Tax Commissioner shall fix the compensation
of all special assessors appointed, which, together with their
actual expenses, shall be paid out of the county fund by the
county commission of the county in which any such
assessment is ordered, upon the receipt of a certificate of the
Tax Commissioner filed with the clerk of the county
commission showing the amounts due and to whom payable,
after such expenses have been audited by the county
commission. All of this subsection is subject to the
following:

(1) Notwithstanding any other provision of this
subsection to the contrary, if the Tax Commissioner has
determined that the assessor has not complied or has so
failed, neglected or refused to list and assess property as
aforesaid for two consecutive years, but the assessor can
show that the criteria established by rule pursuant to this subsection are met, the Tax Commissioner is not required to appoint one or more special assessors pursuant to this section, and in lieu of appointing one or more special assessors, may again order and direct a reassessment of any or all of the property pursuant to this subsection;

(2) For any third or succeeding consecutive year or years that the Tax Commissioner determines that the assessor has not complied or has so failed, neglected or refused to list and assess property as aforesaid, the Tax Commissioner shall appoint one or more special assessors pursuant to the provisions of this subsection regardless of whether or not the assessor can show that he or she will list and assess property as aforesaid the next year; and

(3) For the purposes of determining consecutive years pursuant to this subsection, only tax years beginning on and after the July 1, 2013, assessment date may be considered a first year.

(4) For purposes of subdivision (1) of this subsection, criteria for determining whether the assessor has made a satisfactory showing that he or she will list and assess property as aforesaid for the year next succeeding the two assessment years specified in subdivision (1) of this subsection, the Tax Commissioner shall apply criteria based on: (A) Sales validity; (B) appraisal uniformity; (C) appraisal evaluation; and (D) such other criteria as the Tax Commissioner may prescribe. The Tax Commissioner shall promulgate a legislative rule to specify criteria for the treatment authorized herein for any such third year or succeeding consecutive year or years, and such administrative and procedural requirements and criteria as the Tax Commissioner may prescribe.
(e) Any assessor who knowingly fails, neglects or refuses to assess all the property of his or her county, as herein provided, shall be guilty of malfeasance in office and, upon conviction thereof, shall be fined not less than $100 nor more than $500, or imprisoned not less than three nor more than six months, or both, in the discretion of the court, and upon conviction, shall be removed from office.

(f) For purposes of this chapter and chapter eleven-a of this code, the following terms have the meanings ascribed to them in this section unless the context in which the term is used clearly indicates that a different meaning is intended by the Legislature:

(1) “Assessment date” means July 1 of the year preceding the tax year.

(2) “Assessment year” means the twelve-month period that begins on the assessment date.

(3) “Tax year” or “property tax year” means the next calendar year that begins after the assessment date.

(4) “Taxpayer” means the owner and any other person in whose name the taxes on the subject property are lawfully assessed.

CHAPTER 18. EDUCATION.

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;

2. 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

(D) During the 2008-2009 interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review this subdivision to determine whether or not these provisions 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), subsection (i) of this section, 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), subsection (i) of this section, 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), subsection (i) of this section, 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), subsection (i) of this section, 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 percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to section six-f, article eight, chapter eleven of this code.

(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-11. Computation of local share; appraisal and assessment of property; valuations for tax increment financing purposes; computations in growth counties; public library 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 articles one-c and three of that 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) For each fiscal year beginning before July 1, 2014, 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. For each fiscal year beginning after June 30, 2014, the state board shall first take ninety-six 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) For each fiscal year beginning before July 1, 2014, 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. For each fiscal year beginning after June 30, 2014, 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 four 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 or ninety-six percent, as applicable, 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 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) It is the intent of the Legislature that the computation of local share for public school support continue to be based upon actual real property values rather than assumed assessed real property values that are based upon an assessment ratio study, and that the annual amount of local share for which a county board of education is responsible continue to be
computed without reference to whether the real property
assessments in that county were at least fifty-four percent of
market value in the prior year as indicated by the assessment
ratio study. Accordingly, the effective date of the operation
of this section as amended and reenacted during 2014, and
the effective date of the operation of the repeal of section
two-a of this article and the operation of the repeal of section
five-b, article one-c, chapter eleven of this code, all as
provided under this enactment, are expressly made
retrospective to June 30, 2013.

(c) Whenever in any year a county assessor or a county
commission fails or refuses to comply with 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 may 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 this section, in any taxing unit in which tax
increment financing is in effect pursuant to 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 this section, in any county where the county board of
education has adopted a resolution choosing to use 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 are made.

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. 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. Therefore, county boards are encouraged to support public libraries within their counties.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Member - Chairman Senate Committee

[Signature]

Chairman House Committee

The within ................... this
the 31st Day of March......, 2014.

[Signature]  
Governor
PRESENTED TO THE GOVERNOR

MAR 27 2023

Time 3:45 pm