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2014 MAR 31 P 8

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
FIRST EXTRAORDINARY SESSION, 2014

SB 1009



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.]

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Senate Bill No. 1009

(BY SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,
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[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.

- 1 (a) All property, except public service businesses
- 2 assessed pursuant to article six of this chapter, shall be
- 3 assessed annually as of July 1 at sixty percent of its true and

4 actual value; that is to say, at the price for which the property
5 would sell if voluntarily offered for sale by the owner thereof,
6 upon the terms as the property, the value of which is sought
7 to be ascertained, is usually sold, and not the price which
8 might be realized if the property were sold at a forced sale.

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

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

31 (d) If at any time after the beginning of the assessment
32 year it be ascertained by the Tax Commissioner that the
33 assessor, or any of his or her deputies, is not complying with
34 this provision or that they have failed, neglected or refused,
35 or is failing, neglecting or refusing after five days' notice to
36 list and assess all property therein at sixty percent of its true

37 and actual value as determined under this chapter, the Tax
38 Commissioner shall order and direct a reassessment of any or
39 all of the property in any county, district or municipality
40 where any assessor or deputy fails, neglects or refuses to
41 assess the property in the manner herein provided. And, if
42 the Tax Commissioner has determined that the assessor has
43 not complied or has so failed, neglected or refused to list and
44 assess property as aforesaid for two or more consecutive
45 years, for the purpose of making assessment and correction
46 of values, the Tax Commissioner shall appoint one or more
47 special assessors, unless the Tax Commissioner determines
48 that such appointment should be made earlier, as necessity
49 may require, to make assessment in any county and any such
50 special assessor or assessors, as the case may be, has the
51 power and authority now vested by law in assessors, and the
52 work of such special assessor or assessors shall be accepted
53 and treated for all purposes by the county boards of review
54 and equalization and the levying bodies, subject to any
55 revisions of value on appeal, as the true and lawful
56 assessment of that year as to all property valued by him or her
57 or them. The Tax Commissioner shall fix the compensation
58 of all special assessors appointed, which, together with their
59 actual expenses, shall be paid out of the county fund by the
60 county commission of the county in which any such
61 assessment is ordered, upon the receipt of a certificate of the
62 Tax Commissioner filed with the clerk of the county
63 commission showing the amounts due and to whom payable,
64 after such expenses have been audited by the county
65 commission. All of this subsection is subject to the
66 following:

67 (1) Notwithstanding any other provision of this
68 subsection to the contrary, if the Tax Commissioner has
69 determined that the assessor has not complied or has so
70 failed, neglected or refused to list and assess property as
71 aforesaid for two consecutive years, but the assessor can

72 show that the criteria established by rule pursuant to this
73 subsection are met, the Tax Commissioner is not required to
74 appoint one or more special assessors pursuant to this section,
75 and in lieu of appointing one or more special assessors, may
76 again order and direct a reassessment of any or all of the
77 property pursuant to this subsection;

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

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

90 (4) For purposes of subdivision (1) of this subsection,
91 criteria for determining whether the assessor has made a
92 satisfactory showing that he or she will list and assess
93 property as aforesaid for the year next succeeding the two
94 assessment years specified in subdivision (1) of this
95 subsection, the Tax Commissioner shall apply criteria based
96 on: (A) Sales validity; (B) appraisal uniformity; (C) appraisal
97 evaluation; and (D) such other criteria as the Tax
98 Commissioner may prescribe. The Tax Commissioner shall
99 promulgate a legislative rule to specify criteria for the
100 treatment authorized herein for any such third year or
101 succeeding consecutive year or years, and such
102 administrative and procedural requirements and criteria as the
103 Tax Commissioner may prescribe.

104 (e) Any assessor who knowingly fails, neglects or refuses
105 to assess all the property of his or her county, as herein
106 provided, shall be guilty of malfeasance in office and, upon
107 conviction thereof, shall be fined not less than \$100 nor more
108 than \$500, or imprisoned not less than three nor more than
109 six months, or both, in the discretion of the court, and upon
110 conviction, shall be removed from office.

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

116 (1) "Assessment date" means July 1 of the year preceding
117 the tax year.

118 (2) "Assessment year" means the twelve-month period
119 that begins on the assessment date.

120 (3) "Tax year" or "property tax year" means the next
121 calendar year that begins after the assessment date.

122 (4) "Taxpayer" means the owner and any other person in
123 whose name the taxes on the subject property are lawfully
124 assessed.

CHAPTER 18. EDUCATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

107 (l) "Medium-density county" means a county whose ratio
108 of net enrollment, excluding any increase in the net
109 enrollment of counties, pursuant to subdivision (5),
110 subsection (i) of this section, of the definition of "net
111 enrollment", to the square miles of the county is equal to or
112 greater than ten but less than twenty.

113 (m) "High-density county" means a county whose ratio
114 of net enrollment, excluding any increase in the net
115 enrollment of counties, pursuant to subdivision (5),
116 subsection (i) of this section, of the definition of "net
117 enrollment", to the square miles of the county is equal to or
118 greater than twenty.

119 (n) "Levies for general current expense purposes" means
120 ninety percent of the levy rate for county boards of education
121 calculated or set by the Legislature pursuant to section six-f,
122 article eight, chapter eleven of this code.

123 (o) "Technology integration specialist" means a
124 professional educator who has expertise in the technology
125 field and is assigned as a resource teacher to provide

126 information and guidance to classroom teachers on the
127 integration of technology into the curriculum.

128 (p) "State aid eligible personnel" means all professional
129 educators and service personnel employed by a county board
130 in positions that are eligible to be funded under this article
131 and whose salaries are not funded by a specific funding
132 source such as a federal or state grant, donation, contribution
133 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.**

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

14 (1) For each fiscal year beginning before July 1, 2014, the
15 state board shall first take ninety-five percent of the amount
16 ascertained by applying these rates to the total assessed
17 public utility valuation in each classification of property in
18 the county. For each fiscal year beginning after June 30,
19 2014, the state board shall first take ninety-six percent of the
20 amount ascertained by applying these rates to the total

21 assessed public utility valuation in each classification of
22 property in the county; and

23 (2) For each fiscal year beginning before July 1, 2014, the
24 state board shall then apply these rates to the assessed taxable
25 value of other property in each classification in the county as
26 determined by the Tax Commissioner and shall deduct
27 therefrom five percent as an allowance for the usual losses in
28 collections due to discounts, exonerations, delinquencies and
29 the like. For each fiscal year beginning after June 30, 2014,
30 the state board shall then apply these rates to the assessed
31 taxable value of other property in each classification in the
32 county as determined by the Tax Commissioner and shall
33 deduct therefrom four percent as an allowance for the usual
34 losses in collections due to discounts, exonerations,
35 delinquencies and the like. All of the amount so determined
36 shall be added to the ninety-five or ninety-six percent, as
37 applicable, of public utility taxes computed as provided in
38 subdivision (1) of this subsection and this total shall be
39 further reduced by the amount due each county assessor's
40 office pursuant to section eight, article one-c, chapter eleven
41 of this code and this amount shall be the local share of the
42 particular county.

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

48 (b) It is the intent of the Legislature that the computation
49 of local share for public school support continue to be based
50 upon actual real property values rather than assumed assessed
51 real property values that are based upon an assessment ratio
52 study, and that the annual amount of local share for which a
53 county board of education is responsible continue to be

54 computed without reference to whether the real property
55 assessments in that county were at least fifty-four percent of
56 market value in the prior year as indicated by the assessment
57 ratio study. Accordingly, the effective date of the operation
58 of this section as amended and reenacted during 2014, and
59 the effective date of the operation of the repeal of section
60 two-a of this article and the operation of the repeal of section
61 five-b, article one-c, chapter eleven of this code, all as
62 provided under this enactment, are expressly made
63 retrospective to June 30, 2013.

64 (c) Whenever in any year a county assessor or a county
65 commission fails or refuses to comply with this section in
66 setting the valuations of property for assessment purposes in
67 any class or classes of property in the county, the State Tax
68 Commissioner shall review the valuations for assessment
69 purposes made by the county assessor and the county
70 commission and shall direct the county assessor and the
71 county commission to make corrections in the valuations as
72 necessary so that they comply with the requirements of
73 chapter eleven of this code and this section and the Tax
74 Commissioner may enter the county and fix the assessments
75 at the required ratios. Refusal of the assessor or the county
76 commission to make the corrections constitutes grounds for
77 removal from office.

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

84 (e) For purposes of any computation made in accordance
85 with this section, in any county where the county board of
86 education has adopted a resolution choosing to use the

87 Growth County School Facilities Act set forth in section
88 six-f, article eight, chapter eleven of this code, estimated
89 school board revenues generated from application of the
90 regular school board levy rate to new property values, as that
91 term is designated in said section, may not be considered
92 local share funds and shall be subtracted before the
93 computations in subdivisions (1) and (2), subsection (a) of
94 this section are made.

95 (f) The Legislature finds that public school systems
96 throughout the state provide support in varying degrees to
97 public libraries through a variety of means including
98 budgeted allocations, excess levy funds and portions of their
99 regular school board levies. A number of public libraries are
100 situated on the campuses of public schools and several are
101 within public school buildings serving both the students and
102 public patrons. To the extent that public schools recognize
103 and choose to avail the resources of public libraries toward
104 developing within their students such legally recognized
105 elements of a thorough and efficient education as literacy,
106 interests in literature, knowledge of government and the
107 world around them and preparation for advanced academic
108 training, work and citizenship, public libraries serve a
109 legitimate school purpose and may do so economically.
110 Therefore, county boards are encouraged to support public
111 libraries within their counties.

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

[Handwritten Signature]
.....
Member ~~Chairman~~ Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker of the House of Delegates

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

[Handwritten Signature]
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2009

Time 3:45 pm