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HOUSE BILL NO. 796

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend the Code of Virginia by adding in Chapter 13.2 of Title 22.1 a section numbered 22.1-253.13:9, relating to apportionment of the state and local share for the costs of providing certain educational programs.

Patrons—Watts, Amundson, Brink, Petersen, Scott, J.M., Shannon and Sickles

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 13.2 of Title 22.1 a section numbered 22.1-253.13:9 as follows:

§ 22.1-253.13:9. Apportionment of state and local share.

A. In apportioning the state and local share for the costs of providing an educational program meeting the Standards of Quality as required by Article VIII, § 2 of the Constitution of Virginia, the General Assembly shall, beginning July 1, 2004, as provided in the appropriation act, modify the formula that determines each locality's ability to pay for its share of providing an educational program meeting the prescribed Standards of Quality to (i) incorporate tax values and population estimates for the fiscal year ending one year prior to the fiscal biennium in which the distribution takes place; (ii) provide for a population density adjustment; and (iii) incorporate median adjusted gross income in certain localities, as provided in this section and in the appropriation act.

B. In apportioning the state and local share, an index figure shall be computed for each locality, to be known as the composite index of local ability-to-pay. The composite index shall be the sum of two-thirds of the index of wealth per pupil in average daily membership (ADM) (unadjusted for half-day kindergarten programs) reported for the first seven months of the school year and one-third of the index of wealth per capita, based upon population estimates as determined by the Center for Public Service of the University of Virginia, multiplied by the 0.45 local nominal share of the costs of the Standards of Quality in each year.

The indices of wealth are determined by combining the following constituent index elements with the indicated weighting: (i) true values of real estate and public service corporations, as reported by the State Department of Taxation for the calendar year, at 44 percent; (ii) median adjusted gross income for the calendar year, as reported by the State Department of Taxation, at 49 percent; and (iii) the sales for the calendar year that are subject to the state general sales and use tax, as reported by the State Department of Taxation, at seven percent.

As provided in this section and in the appropriation act, a population density adjustment shall be applied to the composite index to address the reduction in the ability to pay for education in localities facing greater demand for the application of locality resources for noneducation purposes. Such "high population density" localities rank in the 86th percentile of population density in the Commonwealth.

Each constituent index element for a locality shall be its sum per ADM, or per capita, expressed as a percentage of the state average per ADM, or per capita, for the same element.

The required local expenditure for the Standards of Quality shall be based on the composite index of local ability-to-pay of the cost required by all the Standards of Quality minus its estimated revenues from the state sales and use tax, returned on the basis of school age population, in the fiscal year in which the school year begins.

The required state share for the Standards of Quality for a locality shall be equal to the cost for that locality less the locality's estimated revenues from the state sales and use tax, returned on the basis of school age population, in the fiscal year in which the school year begins and less the required local expenditure.

For the purposes of such apportionment, the following terms shall have the meanings ascribed herein:

"Average daily membership," or "ADM" means the average daily membership for grades K-12 including students ages five-21 with disabilities and students for whom English is a second language who entered school for the first time after reaching their twelfth birthday, and who have not reached 22 years of age on or before August 1 of the school year, for the first seven months or equivalent period of the school year in which state funds are distributed from this appropriation. Preschool and postgraduate students shall not be included in ADM.

"Basic aid payments" means a state share of the Basic Operation Cost, which cost per pupil in ADM

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HB796

59 is established individually for each local school division based on the number of instructional personnel
60 required by the Standards of Quality and the statewide prevailing salary levels, adjusted in Planning
61 District Eight for the cost of competing, as well as recognized support costs calculated on a prevailing
62 basis for an estimated ADM, adjusted for half-day kindergarten programs.

63 "Basic operation cost" means the cost per pupil, including provision for the number of instructional
64 personnel required by the Standards of Quality for each school division with a minimum ratio of 51
65 professional personnel for each 1,000 pupils or proportionate number thereof in ADM for the same
66 fiscal year for which the costs are computed, and including provision for driver, gifted,
67 occupational-vocational, and special education, library materials and other teaching materials, teacher
68 sick leave, general administration, division superintendents' salaries, free textbooks, including those for
69 free and reduced price lunch pupils; school nurses; operation and maintenance of school plant;
70 transportation of pupils; instructional television; professional and staff improvement; remedial work;
71 fixed charges and other costs in programs not funded by other state or federal aid.

72 "Planning District Eight" means Arlington County, Fairfax County, Loudoun County, Prince William
73 County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

74 C. A locality whose composite index exceeds 0.8000 shall be considered as having an index of
75 0.8000 for purposes of distributing all payments based on the composite index of local ability-to-pay.
76 Each constituent index element for a locality used to determine the composite index of local
77 ability-to-pay for the current biennium shall be the latest available data for the specified official base
78 year provided to the Department of Education by the responsible source agencies no later than
79 November 15, 2004.

80 D. Each locality whose total Virginia Adjusted Gross Income is comprised of at least three percent
81 or more that is accounted for by nonresidents of Virginia may elect at its option to exclude such
82 nonresident income in computing the composite index of ability-to-pay. Each locality that elects this
83 option must have certified its intention to do so to the Department of Education on or before January 1,
84 2005. The Department of Education shall compute the composite index for such localities by using
85 adjusted gross income data that exclude nonresident income, but shall not adjust the composite index of
86 any other localities. The Department of Taxation shall furnish to the Department of Education such data
87 as are necessary to implement this provision.

88 E. When it is determined that a substantial error exists in a constituent index element, the
89 Department of Education will make adjustments in funding for the current school year. No adjustment
90 during the biennium will be made as a result of updating of data used in a constituent index element.

91 F. In the event the statewide number of pupils in ADM exceeds the number estimated as the basis for
92 this appropriation, the locality's state share of the Basic Operation Cost and the required local share
93 shall be reduced proportionately so that this appropriation will not be exceeded.

94 G. The Department of Education shall make equitable adjustments in the computation of indices of
95 wealth and in other state-funded accounts for localities affected by annexation, unless a court of
96 competent jurisdiction makes such adjustments. However, only the indices of wealth and other
97 state-funded accounts of localities party to the annexation will be adjusted.

98 In the event that the actual revenues from the state sales and use tax returned on the basis of the
99 latest triennial count of school age population for sales in the fiscal year in which the school year
100 begins are different from the number estimated as the basis for this appropriation, the estimated
101 revenues shall not be adjusted.

102 H. The Department of Education shall make calculations at the start of the school year to ensure
103 that school divisions have appropriated adequate funds to support their estimated required local
104 expenditure. The Department of Education shall also make calculations after the close of the school
105 year to verify that the required local effort level, based on actual ADM as of March 31, was met. The
106 Department of Education shall specify the calculations to determine if a school division has
107 appropriated and expended its required local expenditure for the Standards of Quality.

108 This calculation may include but is not limited to the total expenditures for operation, defined as
109 total expenditures less all capital outlays, expenditures for debt service, facilities, nonregular day school
110 programs, such as adult education, preschool, and nonlocal education programs, and any transfers to
111 regional programs or escrow accounts will be calculated.

112 I. The Department of Education shall collect the data necessary to perform the calculations of
113 required local expenditure as required by this section.

114 J. A locality whose expenditure in fact exceeds the required amount from local funds may not reduce
115 its expenditures unless it first complies with all of the Standards of Quality.

116 K. Subject to the conditions set forth in this section, each locality shall receive sums for the basic
117 operation cost and payments in addition to that cost. The apportionment herein directed shall be
118 inclusive of, and without further payment by reason of, state funds for library and other teaching
119 materials.

120 A state share of the Basic Operation Cost, which cost per pupil in ADM shall be established

121 individually for each local school division based on the number of instructional personnel required by
122 the Standards of Quality and the statewide prevailing salary levels, adjusted in Planning District Eight
123 for the cost of competing, as well as recognized support costs calculated on a prevailing basis for an
124 estimated ADM, adjusted for half-day kindergarten programs.

125 The state share for a locality shall be equal to the Basic Operation Cost for that locality less the
126 locality's estimated revenues from the state sales and use tax, returned on the basis of the latest
127 triennial count of school age population, in the fiscal year in which the school year begins and less the
128 required local expenditure.

129 The amount of the state share for direct aid for each school division shall not decrease unless the
130 average daily membership in the relevant school division decreases.