

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 5 – FINANCIAL MANAGEMENT File: 5-25 Endnotes</p>	<p>Last Reviewed: 6-28-10 Next Review: 7-01-12</p>
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ENDNOTES

File: 5 Financial Management

U.S. Constitution:

Fourteenth Amendment – Guarantees equal protection under the law to all citizens residing within the borders of the state (that includes the children of illegal aliens).

West Virginia Constitution:

Article X – Establishes taxation and financing system for supporting the state school system.

Article XII – Section 1 requires the legislature to provide a thorough and efficient system of free schools.
Section 5 requires the legislature to establish a support mechanism for the free schools.
Section 7 prescribes the method of laying levies and collecting them.

West Virginia Codes:

<u>Code</u>	<u>Topic of the Code</u>
§ 5A-3-19 -----	Purchasing from federal government and other sources.
§ 5A-3-37 -----	Preference for resident vendors.
§ 5-22-1 -----	Specifications regarding construction bids and exceptions.
§ 6-9-7 -----	Examinations into affairs of local public officers.
§ 7-7-22 -----	Direct deposit of county officials’ and employees’ compensation into designated accounts in financial institutions.
§ 11-8-5 -----	Classification of property for levy purposes.
§ 11-8-6c -----	Maximum levies on each classification by county boards of education.
§ 11-8-6f -----	Effect on regular school board levy rate when appraisal results in tax increase.
§ 11-8-7 -----	Increase of current expense levies when debt levies not required.
§ 11-8-9 -----	Meetings of local levying bodies.
§ 11-8-12 -----	Levy estimate by board of education; certification and publication.
§ 11-8-12a -----	Adjourned session of board of education to hear objections to proposed levies.
§ 11-8-13 -----	Certification of levy order to tax commissioner and county superintendent.
§ 11-8-16 -----	Immediate levies authorized pursuant to Better Schools Amendment.
§ 11-8-17 -----	Special levy elections; notices; election officers; conduct of election; supplies; canvass of returns; form of ballot.
§ 11-8-25 -----	Funds expended only for purposes for which I was raised.
§ 11-8-26 -----	Unlawful expenditure by local fiscal body.
§ 11-8-29 -----	Personal liability of official participating in unlawful expenditure.
§ 11-8-31 -----	Criminal liability of official violating provisions of article; proceeding for removal.

- § 11-12-1 thru 17 ----- Business franchise certificate.
- § 13-1-2 ----- Purposes for which bonds may be issued.
- § 13-1-3 ----- Amount and purpose of indebtedness for which bonds may be issued.
- § 13-1-4 ----- Bond issue proposal to be submitted to voters; election order.
- § 18-2-6a ----- Sale of soft drinks.
- § 18-5-4 ----- Budget hearings.
- § 18-5-5 ----- Corporate character and general powers of the board.
- § 18-5-7 ----- Sale of school property at public auction; rights of grantor of lands in rural communities.
- § 18-5-13 ----- Authority of boards generally.
- § 18-5-16a ----- Transfer of pupils; tuition, transportation and maintenance.
- § 18-5-19 ----- Adult education classes and programs; tuition; authority of county boards to contract with federal agencies.
- § 18-5-19b ----- Adult education classes and programs; tuition.
- § 18-5-47 ----- Flood insurance.
- § 18-5A-5 ----- Public school faculty senates established; election of officers; powers and duties.
- § 18-8-5 ----- Duties of principal, administrative head or other chief administrator.
- § 18-8-6 ----- Expenditure of school funds for driver education courses; appropriations.
- § 18-9-1 ----- School levies, when levy election necessary; special election.
- § 18-9-2 ----- Elections under this chapter; procedure.
- § 18-9-2a ----- Levies.
- § 18-9-3 ----- Collection and disbursement of school money by sheriff.
- § 18-9-3a ----- Preparation, publication and disposition of financial statements by county boards of education.
- § 18-9-4 ----- Nonpayment of order; liability of treasurer of county board.
- § 18-9-6 ----- Transfer of moneys; appointment of treasurer, bonding of treasurer; approval of bank accounts; authority to invest; security for funds invested.
- § 18-9-6a ----- County board of education treasurer authorized to make funds available to state board of investments.
- § 18-9A-1 thru 26 ----- Public School Support.
- § 18-9B-5 ----- School district budgeting.
- § 18-9B-6 ----- Submission and approval of budget.
- § 18-9B-6a ----- Delaying submission of budget.
- § 18-9B-7 ----- Determination by the board of finance before final approval of budget; length of term.
- § 18-9B-8 ----- Projected expenditures order of revision in budget.
- § 18-9B-9 ----- Uniform accounting systems for school districts.
- § 18-9B-10 ----- Restrictions on county boards.
- § 18-9B-11 ----- Emergency and supplemental appropriations.
- § 18-9B-12 ----- Practices of fiscal administration.
- § 18-9B-13 ----- Inspection and audit of school finance administration.
- § 18-9B-14 ----- Establishment of permanent improvement fund; contents and use of fund.
- § 18-9B-17 ----- Duties of county board and county superintendent.
- § 18-9B-19 ----- Withholding of state aid for noncompliance by county board.
- § 18-9B-20 ----- Fiscal reports to board of finance.
- § 18A-2-14 ----- Mileage reimbursement for school personnel.
- § 18A-4-2 ----- State minimum salaries for teachers.
- § 21-5-4 ----- Employees separated from payroll before payday.
- § 21-5A-2 ----- Policy declared for fair minimum rate of wages.
- § 21-5A-3 ----- Fair minimum rate of wages.
- § 21-5A-5 ----- Prevailing wage.

State Board Policy:

Policy

Topic of the Policy

SBP 1224.1 ----- Accounting Procedures Manual for Public Schools
SBP 4320----- Child Nutrition Program
SBP 4321.1 ----- Standards for School Nutrition
SBP 8200 ----- Purchasing Policies and Procedures Manual Policy
SBP 8210 ----- Emergency Purchasing Procedures

Relevant Court Cases:

Cooper v. Board of Educ., 478 S.E.2d 341 (1996) – County boards of education may choose to provide school bus services to parochial schools; however, there is no constitutional requirement to do so, nor does legislation require it. Should a board choose to provide such services, it must be done adequately.

Byrd v. Board of Educ., 467 S.E.2d 142 (1995) – Pursuant to WV Code §11-8-16, the better practice of school boards is to offer their taxpayers in special levy and bond elections a delineation of the purposes in terms that are specific enough to provide taxpayers with notice of what they are being asked to approve along with accompanying specific amounts for each purpose.

State ex rel Boards of Educ. v. Chafin, 376 S.E. 2d 113 (1988) – The authority of county residents to vote for an excess levy for the support of public schools in the county, pursuant to the WV Constitution, is not subject to equal protection principles.

Pauley v. Kelly, 255 S.E.2d 859 (1979) – State financing of education must ensure a thorough, efficient and nondiscriminatory system of free schools. The plaintiffs in this case argued that the existing mechanism for financing the State’s educational system was discriminatory in that students from one area of the state received educational benefit that students in another locale did not.

Thomas v. Board of Educ., 261 S.E.2d 66 (1979) – The true interpretation of the language of a special levy proposal is the meaning given it by the voters of the county, who, by their approval of the special levy, consent to be taxed more heavily to provide the necessary funds. Any expenditure of levy funds in an unauthorized manner or for unauthorized purposes constitutes an unlawful diversion of funds.

Lane v. Blair 250 S.E.2d 124 (1978) – Members of a board of education occupy a fiduciary position and are under duty to make detailed inquiry into any matter, which appears to be wrong. Failure to do so is negligence and if such negligence causes or compounds violation of statute providing that no local fiscal body shall expend money for unauthorized purposes members can be removed from office.

Edwards v. Hylbert, 118 S.E.2d 347 (1960) – Boards of education may not incur obligations, which can be met only out of funds to be realized from levies of a subsequent year.

Jarrell v. Board of Educ., 59 S.E.2d 442 (1948) – It is unlawful for a board of education to divert the funds from some unfinished projects that were specified in the levy call to other projects that were also specified in the call. Nor may a board of education spend said funds on projects that were not mentioned in the levy call. The fact that the funds raised by the special levy are insufficient to fund all of the specified projects is irrelevant.

Dooley v. Board of Educ., 93 S.E.2d 766 (1917) – A board of education may dispose of property no longer needed for school purposes only in the manner prescribed in §18-5-7 of the WV Code.

Attorney General Opinions:

- 1983 – Members of county boards of education should not be held liable for any sanctions for the incurring of a deficit which results from a substantial reduction in state aid, in the absence of clear and convincing evidence that such members permitted or caused such a deficit in a willful or negligent manner.
- 1974 – Mobil homes that are not so attached to the land as to become a part thereof and the owner has no firm intention to permanently affix them to the land should be assessed on the personal property books as Class II property.
- 1974 – The language of §18-9-6 of the WV Code permits a board of education to deposit its funds in a duly designated county depository in which one of its members has a pecuniary interest, provided that, that particular board member does not participate in the determination of the depository.
- 1969 – It is the duty of the County Court (Commission) to provide polling places in special elections for school purposes.
- 1963 – In implementing a long-term program of capital improvement, a county court may not incur obligations beyond the current fiscal year. The same restrictions would apply to boards of education.
- 1951 – Poultry should properly fall into Class I for the purpose of assessment.

West Virginia Ethics Commission Advisory Opinion:

Opinion No. 2001-09 – The Faculty Senate is a public agency and is subject to the provision of the Open Meeting Act. The Commission also found that not all of its meetings will necessarily be subject to the provisions of the Act. Only those meetings that include matters on which the Senate exercises executive power to take official action. Such actions include:

- ❖ Creating and adopting a budget.
- ❖ Allocating funds received through a grant.
- ❖ Authorizing the expenditure of funds for academic supplies, materials and equipment (this would not apply to the \$50 per person, which is allocated for expenditure by individual educators.
- ❖ Adopting specific policies such as the plans for integrating special needs students in the regular classroom.

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