

**Relevant Excerpts from the Code of Virginia and HB 5032, 2006 Acts of Assembly, Special Session I (General Assembly Amendments to the 2006-2008 Appropriation Act) Regarding Required Local Effort for Mandatory Standards of Quality Programs and Required Local Match for School Facilities and Incentive Programs**

**§ 22.1-94. Appropriations by county, city or town governing body for public schools.**

A governing body may make appropriations to a school board from the funds derived from local levies and from any other funds available, for operation, capital outlay and debt service in the public schools. Such appropriations shall be not less than the cost apportioned to the governing body for maintaining an educational program meeting the standards of quality for the several school divisions prescribed as provided by law. The amount appropriated by the governing body for public schools shall relate to its total only or to such major classifications prescribed by the Board of Education pursuant to § 22.1-115. The appropriations may be made on the same periodic basis as the governing body makes appropriations to other departments and agencies.

**§ 22.1-95. Duty to levy school tax.**

Each county, city and town is authorized, directed and required to raise money by a tax on all property subject to local taxation at such rate as will insure a sum which, together with other available funds, will provide that portion of the cost apportioned to such county, city or town by law for maintaining an educational program meeting the standards of quality for the several school divisions prescribed as provided by law.

**§ 22.1-97. Calculation and reporting of required local expenditures; procedure if locality fails to appropriate sufficient educational funds.**

A. The Department of Education shall collect annually the data necessary to make calculations and reports required by this subsection.

At the beginning of each school year, the Department shall make calculations to ensure that each school division has appropriated sufficient funds to support its estimated required local expenditure for providing an educational program meeting the prescribed Standards of Quality, required by Article VIII of the Constitution of Virginia and Chapter 13.2 (§ [22.1-253.13:1](#) et seq.) of this title. At the conclusion of the school year, the Department shall make calculations to verify whether the

locality has provided the required expenditure, based on average daily membership as of March 31 of the relevant school year.

The Department shall report annually to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health the results of such calculations and the degree to which each school division has met, failed to meet, or surpassed its required expenditure.

The Joint Legislative Audit and Review Commission shall report annually to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health the state expenditure provided each locality for an educational program meeting the Standards of Quality.

The Department and the Joint Legislative Audit and Review Commission shall coordinate to ensure that their respective reports are based upon comparable data and are delivered together, or as closely following one another as practicable, to the appropriate standing committees.

B. Whenever such calculations indicate that the governing body of a county, city or town fails or refuses to appropriate funds sufficient to provide that portion of the cost apportioned to such county, city or town by law for maintaining an educational program meeting the Standards of Quality, the Board of Education shall notify the Attorney General of such failure or refusal in writing signed by the president of the Board. Upon receipt of such notification, it shall be the duty of the Attorney General to file in the circuit court for the county, city or town a petition for a writ of mandamus directing and requiring such governing body to make forthwith such appropriation as is required by law.

The petition shall be in the name of the Board of Education, and the governing body shall be made a party defendant thereto. The court may, in its discretion, cause such other officers or persons to be made parties defendant as it may deem proper. The court may make such order as may be appropriate respecting the employment and compensation of an attorney or attorneys for any party defendant not otherwise represented by counsel. The petition shall be given first priority on the docket of such court and shall be heard expeditiously in accordance with the procedures prescribed in Article 2 (§ [8.01-644](#) et seq.) of Chapter 25 of Title 8.01 and the writ of mandamus shall be awarded or denied according to the law and facts of the case and with or without costs, as the court may determine. The order of

the court shall be final upon entry. Any appeal therefrom shall be heard and disposed of promptly by the Supreme Court next after habeas corpus cases already on the docket.

**§ 22.1-253.13:8. Compliance.**

The Standards of Quality prescribed in this chapter shall be the only standards of quality required by Article VIII, Section 2 of the Constitution of Virginia.

Each local school board shall provide, as a minimum, the programs and services, as provided in the Standards of Quality prescribed above, with state and local funds as apportioned by the General Assembly in the appropriation act and to the extent funding is provided by the General Assembly.

Each local school board shall report its compliance with the Standards of Quality to the Board of Education annually. The report of compliance shall be submitted to the Board of Education by the chairman of the local school board and the division superintendent.

Noncompliance with the Standards of Quality shall be included in the Board of Education's annual report to the Governor and the General Assembly as required by § 22.1-18.

As required by § 22.1-18, the Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the specific schools therein that have failed to establish and maintain schools meeting the existing prescribed Standards of Quality.

The Board of Education shall have authority to seek school division compliance with the foregoing Standards of Quality. When the Board of Education determines that a school division has failed or refused, and continues to fail or refuse, to comply with any such Standard, the Board may petition the circuit court having jurisdiction in the school division to mandate or otherwise enforce compliance with such standard, including the development or implementation of any required corrective action plan that a local school board has failed or refused to develop or implement in a timely manner.

(1988, cc. 645, 682; 1990, cc. 820, 839; 2004, cc. 939, 955, 965; 2005, cc. 331, 450.)

**Relevant Excerpts from HB 5032, 2006 Acts of Assembly, Special Session I (General Assembly Amendments to the 2006-2008 Appropriation Act) Regarding Budgeted Required Local Effort and Budgeted Required Local Match**

**Item 135 A:**

5. "Required Local Expenditure for the Standards of Quality" - The locality's share 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 dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item, both of which are returned on the basis of the triennial census of school age population, as specified in this item, collected by the Department of Education and distributed to school divisions in the fiscal year in which the school year begins.

6. "Required Local Match" - The locality's required share of program cost based on the composite index of local ability-to-pay for all School Facilities and Incentive programs, where required, in which the school division has elected to participate in a fiscal year.

**Item 135 B:**

8.a. The Department of Education shall make calculations at the start of the school year to ensure that school divisions have appropriated adequate funds to support their estimated required local expenditure. The Department of Education shall also make calculations after the close of the school year to verify that the required local effort level, based on actual March 31 Average Daily Membership, was met. The Department of Education shall specify the calculations to determine if a school division has appropriated and expended its required local expenditure for the Standards of Quality. This calculation may include but is not limited to the following calculations:

b. The total expenditures for operation, defined as total expenditures less all capital outlays, expenditures for debt service, facilities, non-regular day school programs (such as adult education, preschool, and non-local education programs), and any transfers to regional programs or escrow accounts will be calculated.

c. The following state funds will be deducted from the amount calculated in paragraph a. above: revenues from the state sales

and use tax (returned on the basis of the 2005 triennial census of school age population as specified in this item) for sales in the fiscal year in which the school year begins; total receipts from state funds (except state funds for non-regular day school programs and state funds used for capital or debt service purposes); and the state share of any balances carried forward from the previous fiscal year. Any qualifying state funds that remain unspent at the end of the fiscal year will be added to the amount calculated in paragraph a. above.

d. The following federal funds will also be deducted from the amount calculated in paragraph a. above: total receipts from federal funds (except federal funds for non-regular school programs, Impact Aid funds CFDA 84.040 and 84.041 and Forest Reserve,) and any federal funds carried forward from the previous fiscal year. Any federal funds that remain unspent at the end of the fiscal year and any capital expenditures paid from federal funds will be added to the amount calculated in paragraph a. above.

e. Tuition receipts and receipts from payments from other cities or counties will also be deducted from the amount calculated in paragraph a., then

f. The final amount calculated as described above must be equal to or greater than the required local expenditure defined in paragraph A. 5.

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

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

9.a. Any sum which a locality, as of the end of a school year, has not expended, pursuant to this Item, for the Standards of Quality shall be paid by the locality into the general fund of the state treasury. Such payments shall be made not later than the end of the school year following that in which the under expenditure occurs.

b. Whenever the Department of Education has recovered funds as defined in the preceding paragraph a, the Secretary of Education is authorized to repay to the locality affected by that action,

seventy-five percent (75%) of those funds upon his determination that:

- 1) The local school board agrees to include the funds in its June 30 ending balance for the year following that in which the under expenditure occurs;
- 2) The local governing body agrees to reappropriate the funds as a supplemental appropriation to the approved budget for the second year following that in which the under expenditure occurs, in an appropriate category as requested by the local school board, for the direct benefit of the students;
- 3) The local school board agrees to expend these funds, over and above the funds required to meet the required local expenditure for the second year following that in which the under expenditure occurs, for a special project, the details of which must be furnished to the Department of Education for review and approval;
- 4) The local school board agrees to submit periodic reports to the Department of Education on the use of funds provided through this project award; and
- 5) The local governing body and the local school board agree that the project award will be cancelled and the funds withdrawn if the above conditions have not been met as of June 30 of the second year following that in which the under expenditure occurs.

c. There is hereby appropriated, for the purposes of the foregoing repayment, a sum sufficient, not to exceed 75 percent of the funds deposited in the general fund pursuant to the preceding paragraph a.

10. The Department of Education shall specify the manner for collecting the required information and the method for determining if a school division has appropriated and expended the local funds required to support the actual local match based on all School Facilities and Incentive programs in which the school division has elected to participate. Unless specifically stated otherwise in this Item, school divisions electing to participate in any School Facilities or Incentive program that requires a local funding match in order to receive state funding, shall certify to the Department of Education its intent to participate in each program by November 1 of each fiscal year in a manner prescribed by the Department of Education. Upon

receipt of the certifications, the Department of Education shall make calculations to ensure that school divisions have appropriated adequate local funds, above the required local effort for the Standards of Quality, to support the projected required local match based on the School Facilities and Incentive programs in which the school division has elected to participate. If the Department of Education's calculations indicate that insufficient local funds are appropriated to meet the required local funding match for one or more programs, state funding for such program(s) shall not be made until such time that the school division can certify that sufficient local funding has been appropriated to meet required local match. The Department of Education shall also make calculations after the close of the fiscal year to verify that the required local match was met based on the state funds that were received.

11. Beginning in fiscal year 2008, any sum which a locality has not expended as of the end of a fiscal year in support of the required local match pursuant to this Item shall be paid by the locality into the general fund of the state treasury unless the carryover of those unspent funds is specifically permitted by other provisions of this act. Such payments shall be made no later than the end of the school year following that in which the under expenditure occurred.

13. All local matching funds required by the programs in this Item shall be appropriated to the budget of the local school board.