

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 395**

4 (By Senators Beach, Klempa and Williams)

5 _____
6 [Originating in the Committee on Transportation and
7 Infrastructure; reported February 11, 2011.]
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9
10 A BILL to amend and reenact §11B-2-20 of the Code of West Virginia,
11 1931, as amended, relating to requiring the annual surplus
12 determined in accordance with this section be deposited in the
13 State Road Fund in lieu of the Revenue Shortfall Fund when the
14 Revenue Shortfall Fund is funded in an amount equal to or
15 exceeding ten percent of the General Revenue Fund budget for
16 the fiscal year just ended.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §11B-2-20 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted to read as follows:

20 **ARTICLE 2. STATE BUDGET OFFICE.**

21 **§11B-2-20. Reduction of appropriations; powers of Governor;**
22 **Revenue Shortfall Reserve Fund and permissible**
23 **expenditures therefrom.**

24 (a) Notwithstanding any provision of this section, the
25 Governor may reduce appropriations according to any of the methods

1 set forth in sections twenty-one and twenty-two of this article.
2 The Governor may, in lieu of imposing a reduction in
3 appropriations, request an appropriation by the Legislature from
4 the Revenue Shortfall Reserve Fund established in this section.

5 (b) (1) A Revenue Shortfall Reserve Fund is hereby continued
6 within the State Treasury. The Revenue Shortfall Reserve Fund
7 shall be funded as set forth in this ~~subsection~~ subdivision from
8 surplus revenues, if any, in the state fund, general revenue, as
9 the surplus revenues may accrue from time to time. Within sixty
10 days of the end of each fiscal year, the secretary shall cause to
11 be deposited into the Revenue Shortfall Reserve Fund the first
12 fifty percent of all surplus revenues, if any, determined to have
13 accrued during the fiscal year just ended. The Revenue Shortfall
14 Reserve Fund shall be funded continuously and on a revolving basis
15 in accordance with this subsection. ~~up to an aggregate amount not~~
16 ~~to exceed ten percent of the total appropriations from the state~~
17 ~~fund, general revenue, for the fiscal year just ended.~~ If at the
18 end of any fiscal year the Revenue Shortfall Reserve Fund is funded
19 at an amount equal to or exceeding ten percent of the state's
20 General Revenue Fund budget for the fiscal year just ended, then
21 ~~there shall be no further obligation of the secretary under the~~
22 ~~provisions of this section to apply any surplus revenues as set~~
23 ~~forth in this subsection until that time the Revenue Shortfall~~
24 ~~Reserve Fund balance is less than ten percent of the total~~
25 ~~appropriations from the state fund, general revenue~~ the secretary
26 shall deposit that surplus revenue as determined in this

1 subdivision in the State Road Fund.

2 (2) Surplus funds deposited in the State Road Fund pursuant to
3 subdivision (1) of this subsection shall continue through and
4 include the fiscal year ending June 30, 2013 and cease thereafter
5 unless the West Virginia Legislature either approves an extension
6 of the deposit or makes the deposit permanent. Furthermore,
7 surplus funds deposited in the State Road Fund pursuant to this
8 subsection shall be dedicated to the maintenance and repair of the
9 state's existing roads, excluding those roads classified within the
10 Interstate Highway System or Appalachian Development Highway
11 System, or both, and the maintenance, repair or replacement of the
12 state's existing bridges, excluding those bridges classified within
13 the Interstate Highway System or Appalachian Development Highway
14 System.

15 (c) Not earlier than November 1, of each calendar year, if the
16 state's fiscal circumstances are such as to otherwise trigger the
17 authority of the Governor to reduce appropriations under this
18 section or section twenty-one or section twenty-two of this
19 article, then in that event the Governor may notify the presiding
20 officers of both houses of the Legislature in writing of his or her
21 intention to convene the Legislature pursuant to section nineteen,
22 article VI of the Constitution of West Virginia for the purpose of
23 requesting the introduction of a supplementary appropriation bill
24 or to request a supplementary appropriation bill at the next
25 preceding regular session of the Legislature to draw money from the
26 surplus Revenue Shortfall Reserve Fund to meet any anticipated

1 revenue shortfall. If the Legislature fails to enact a
2 supplementary appropriation from the Revenue Shortfall Reserve Fund
3 during any special legislative session called for the purposes set
4 forth in this section or during the next preceding regular session
5 of the Legislature, then the Governor may proceed with a reduction
6 of appropriations pursuant to sections twenty-one and twenty-two of
7 this article. Should any amount drawn from the Revenue Shortfall
8 Reserve Fund pursuant to an appropriation made by the Legislature
9 prove insufficient to address any anticipated shortfall, then the
10 Governor may also proceed with a reduction of appropriations
11 pursuant to sections twenty-one and twenty-two of this article.

12 (d) Upon the creation of the fund, the Legislature is
13 authorized and may make an appropriation from the Revenue Shortfall
14 Reserve Fund for revenue shortfalls, for emergency revenue needs
15 caused by acts of God or natural disasters or for other fiscal
16 needs as determined solely by the Legislature.

17 (e) Prior to October 31, in any fiscal year in which revenues
18 are inadequate to make timely payments of the state's obligations,
19 the Governor may by executive order, after first notifying the
20 presiding officers of both houses of the Legislature in writing,
21 borrow funds from the Revenue Shortfall Reserve Fund. The amount
22 of funds borrowed under this subsection shall not exceed one and
23 one-half percent of the general revenue estimate for the fiscal
24 year in which the funds are to be borrowed, or the amount the
25 Governor determines is necessary to make timely payment of the
26 state's obligations, whichever is less. Any funds borrowed

1 pursuant to this subsection shall be repaid, without interest, and
2 redeposited to the credit of the Revenue Shortfall Reserve Fund
3 within ninety days of their withdrawal.

4 (f) There is hereby created in the State Treasury the "Revenue
5 Shortfall Reserve Fund - Part B." The Revenue Shortfall Reserve
6 Fund - Part B shall consist of moneys transferred from the West
7 Virginia Tobacco Settlement Medical Trust Fund pursuant to ~~the~~
8 ~~provisions of~~ section two, article eleven-a, chapter four of this
9 code, repayments made of the loan from the West Virginia Tobacco
10 Settlement Medical Trust Fund to the Physician's Mutual Insurance
11 Company pursuant to ~~the provisions of~~ article twenty-f, chapter
12 thirty-three of this code, and all interest and other return earned
13 on the moneys in the Revenue Shortfall Reserve Fund - Part B.
14 Moneys in the Revenue Shortfall Reserve Fund - Part B may be
15 expended solely for the purposes set forth in subsection (d) of
16 this section, subject to the following conditions:

17 (1) No moneys in the Revenue Shortfall Reserve Fund - Part B
18 nor any interest or other return earned thereon may be expended for
19 any purpose unless all moneys in the Revenue Shortfall Reserve Fund
20 described in subsection (b) of this section have first been
21 expended, except that the interest or other return earned on moneys
22 in the Revenue Shortfall Reserve Fund - Part B may be expended as
23 provided in subdivision (2) of this subsection; and

24 (2) Notwithstanding any other provision of this section to the
25 contrary, the Legislature may appropriate any interest and other
26 return earned thereon that may accrue on the moneys in the Revenue

1 Shortfall Reserve Fund - Part B after June 30, 2025, for
2 expenditure for the purposes set forth in section three, article
3 eleven-a, chapter four of this code; and

4 (3) Any appropriation made from Revenue Shortfall Reserve Fund
5 - Part B shall be made only in instances of revenue shortfalls or
6 fiscal emergencies of an extraordinary nature.

7 (g) Subject to the conditions upon expenditures from the
8 Revenue Shortfall Reserve Fund - Part B prescribed in subsection
9 (f) of this section, in appropriating moneys pursuant to the
10 provisions of this section, the Legislature may in any fiscal year
11 appropriate from the Revenue Shortfall Reserve Fund and the Revenue
12 Shortfall Reserve Fund - Part B, a total amount up to, but not
13 exceeding, ten percent of the total appropriations from the state
14 fund, general revenue, for the fiscal year just ended.

15 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund,
16 \$100 million, or such greater amount as may be certified as
17 necessary by the director of the budget for the purposes of
18 subsection (e) of this section, shall be made available to the West
19 Virginia Board of Treasury Investments for management and
20 investment of the moneys in accordance with ~~the provisions of~~
21 article six-c, chapter twelve of this code. All other moneys in
22 the Revenue Shortfall Reserve Fund shall be made available to the
23 West Virginia Investment Management Board for management and
24 investment of the moneys in accordance with ~~the provisions of~~
25 article six, chapter twelve of this code. Any balance of the
26 Revenue Shortfall Reserve Fund including accrued interest and other

1 return earned thereon at the end of any fiscal year shall not
2 revert to the General Fund but shall remain in the Revenue
3 Shortfall Reserve Fund for the purposes set forth in this section.

4 (2) All of the moneys in the Revenue Shortfall Reserve Fund -
5 Part B shall be made available to the West Virginia Investment
6 Management Board for management and investment of the moneys in
7 accordance with ~~the provisions of~~ article six, chapter twelve of
8 this code. Any balance of the Revenue Shortfall Reserve Fund -
9 Part B, including accrued interest and other return earned thereon
10 at the end of any fiscal year, shall not revert to the General Fund
11 but shall remain in the Revenue Shortfall Reserve Fund - Part B for
12 the purposes set forth in this section.

NOTE: The purpose of this bill is to require a portion of the annual surplus be deposited in the State Road Fund in lieu of the Revenue Shortfall Fund when the Revenue Shortfall Fund is funded in an amount equal to or exceeding ten percent of the General Revenue Fund budget for the fiscal year just ended.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.