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Senate Bill No. 380

(By Senator Barnes)

[Introduced February 2, 2011; referred to the Committee on
Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11B-2-20 of the Code of West Virginia,
1931, as amended, relating to increasing the Revenue Shortfall
Reserve Fund from \$100 million to \$500 million.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. STATE BUDGET OFFICE.

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

(a) Notwithstanding any provision of this section, the
Governor may reduce appropriations according to any of the methods
set forth in sections twenty-one and twenty-two of this article.
The Governor may, in lieu of imposing a reduction in
appropriations, request an appropriation by the Legislature from

1 the Revenue Shortfall Reserve Fund established in this section.

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

23 (c) Not earlier than November 1, of each calendar year, if the
24 state's fiscal circumstances are such as to otherwise trigger the
25 authority of the Governor to reduce appropriations under this

1 section or section twenty-one or section twenty-two of this
2 article, then in that event the Governor may notify the presiding
3 officers of both houses of the Legislature in writing of his or her
4 intention to convene the Legislature pursuant to section nineteen,
5 article VI of the Constitution of West Virginia for the purpose of
6 requesting the introduction of a supplementary appropriation bill
7 or to request a supplementary appropriation bill at the next
8 preceding regular session of the Legislature to draw money from the
9 surplus Revenue Shortfall Reserve Fund to meet any anticipated
10 revenue shortfall. If the Legislature fails to enact a
11 supplementary appropriation from the Revenue Shortfall Reserve Fund
12 during any special legislative session called for the purposes set
13 forth in this section or during the next preceding regular session
14 of the Legislature, then the Governor may proceed with a reduction
15 of appropriations pursuant to sections twenty-one and twenty-two of
16 this article. Should any amount drawn from the Revenue Shortfall
17 Reserve Fund pursuant to an appropriation made by the Legislature
18 prove insufficient to address any anticipated shortfall, then the
19 Governor may also proceed with a reduction of appropriations
20 pursuant to sections twenty-one and twenty-two of this article.

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

1 (e) Prior to October 31, in any fiscal year in which revenues
2 are inadequate to make timely payments of the state's obligations,
3 the Governor may by executive order, after first notifying the
4 presiding officers of both houses of the Legislature in writing,
5 borrow funds from the Revenue Shortfall Reserve Fund. The amount
6 of funds borrowed under this subsection shall not exceed one and
7 one-half percent of the general revenue estimate for the fiscal
8 year in which the funds are to be borrowed, or the amount the
9 Governor determines is necessary to make timely payment of the
10 state's obligations, whichever is less. Any funds borrowed
11 pursuant to this subsection shall be repaid, without interest, and
12 redeposited to the credit of the Revenue Shortfall Reserve Fund
13 within ninety days of their withdrawal.

14 (f) There is hereby created in the State Treasury the "Revenue
15 Shortfall Reserve Fund - Part B." The Revenue Shortfall Reserve
16 Fund - Part B shall consist of moneys transferred from the West
17 Virginia Tobacco Settlement Medical Trust Fund pursuant to ~~the~~
18 ~~provisions of~~ section two, article eleven-a, chapter four of this
19 code, repayments made of the loan from the West Virginia Tobacco
20 Settlement Medical Trust Fund to the Physician's Mutual Insurance
21 Company pursuant to ~~the provisions of~~ article twenty-f, chapter
22 thirty-three of this code, and all interest and other return earned
23 on the moneys in the Revenue Shortfall Reserve Fund - Part B.
24 Moneys in the Revenue Shortfall Reserve Fund - Part B may be
25 expended solely for the purposes set forth in subsection (d) of

1 this section, subject to the following conditions:

2 (1) No moneys in the Revenue Shortfall Reserve Fund - Part B
3 nor any interest or other return earned thereon may be expended for
4 any purpose unless all moneys in the Revenue Shortfall Reserve Fund
5 described in subsection (b) of this section have first been
6 expended, except that the interest or other return earned on moneys
7 in the Revenue Shortfall Reserve Fund - Part B may be expended as
8 provided in subdivision (2) of this subsection; and

9 (2) Notwithstanding any other provision of this section to the
10 contrary, the Legislature may appropriate any interest and other
11 return earned thereon that may accrue on the moneys in the Revenue
12 Shortfall Reserve Fund - Part B after June 30, 2025, for
13 expenditure for the purposes set forth in section three, article
14 eleven-a, chapter four of this code; and

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

18 (g) Subject to the conditions upon expenditures from the
19 Revenue Shortfall Reserve Fund - Part B prescribed in subsection
20 (f) of this section, in appropriating moneys pursuant to ~~the~~
21 ~~provisions of~~ this section, the Legislature may in any fiscal year
22 appropriate from the Revenue Shortfall Reserve Fund and the Revenue
23 Shortfall Reserve Fund - Part B, a total amount up to, but not
24 exceeding, ten percent of the total appropriations from the state
25 fund, general revenue, for the fiscal year just ended.

1 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund,
2 ~~one hundred million dollars~~ \$500 million, or such greater amount as
3 may be certified as necessary by the director of the budget for the
4 purposes of subsection (e) of this section, shall be made available
5 to the West Virginia Board of Treasury Investments for management
6 and investment of the moneys in accordance with ~~the provisions of~~
7 article six-c, chapter twelve of this code. All other moneys in
8 the Revenue Shortfall Reserve Fund shall be made available to the
9 West Virginia Investment Management Board for management and
10 investment of the moneys in accordance with ~~the provisions of~~
11 article six, chapter twelve of this code. Any balance of the
12 Revenue Shortfall Reserve Fund including accrued interest and other
13 return earned thereon at the end of any fiscal year shall not
14 revert to the General Fund but shall remain in the Revenue
15 Shortfall Reserve Fund for the purposes set forth in this section.

16 (2) All of the moneys in the Revenue Shortfall Reserve Fund -
17 Part B shall be made available to the West Virginia Investment
18 Management Board for management and investment of the moneys in
19 accordance with ~~the provisions of~~ article six, chapter twelve of
20 this code. Any balance of the Revenue Shortfall Reserve Fund -
21 Part B, including accrued interest and other return earned thereon
22 at the end of any fiscal year, shall not revert to the General Fund
23 but shall remain in the Revenue Shortfall Reserve Fund - Part B for
24 the purposes set forth in this section.

NOTE: The purpose of this bill is to increase the Revenue Shortfall Reserve Fund from \$100 million to \$500 million.

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