

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

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5 FOR

6 **Senate Bill No. 393**

7 (BY SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,

8 BY REQUEST OF THE EXECUTIVE)

9 _____
10 [Passed March 8, 2014; in effect from passage.]
11 _____

12
13 AN ACT to amend and reenact §11B-2-20 of the Code of West Virginia,
14 1931, as amended, relating to the Revenue Shortfall Reserve
15 Fund; and allowing the Governor to borrow money from the fund
16 prior to the first day of April, 2014, if revenues are
17 inadequate to make timely payments of the state's obligations.

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

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

21 **ARTICLE 2. STATE BUDGET OFFICE.**

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

1 (a) Notwithstanding any provision of this section, the
2 Governor may reduce appropriations according to any of the methods
3 set forth in sections twenty-one and twenty-two of this article.
4 The Governor may, in lieu of imposing a reduction in
5 appropriations, request an appropriation by the Legislature from
6 the Revenue Shortfall Reserve Fund established in this section.

7 (b) The Revenue Shortfall Reserve Fund is continued within the
8 State Treasury. The Revenue Shortfall Reserve Fund shall be funded
9 continuously and on a revolving basis in accordance with this
10 subsection up to an aggregate amount not to exceed thirteen percent
11 of the total appropriations from the State Fund, General Revenue,
12 for the fiscal year just ended. The Revenue Shortfall Reserve Fund
13 shall be funded as set forth in this subsection from surplus
14 revenues, if any, in the State Fund, General Revenue, as the
15 surplus revenues may accrue from time to time.

16 Within sixty days of the end of each fiscal year, the
17 secretary shall cause to be deposited into the Revenue Shortfall
18 Reserve Fund such amount of the first fifty percent of all surplus
19 revenues, if any, determined to have accrued during the fiscal year
20 just ended, as may be necessary to bring the balance of the Revenue
21 Shortfall Reserve Fund to thirteen percent of the total
22 appropriations from the State Fund, General Revenue, for the fiscal
23 year just ended. If at the end of any fiscal year the Revenue
24 Shortfall Reserve Fund is funded at an amount equal to or exceeding

1 thirteen percent of the state's General Revenue Fund budget for the
2 fiscal year just ended, then there shall be no further deposit by
3 the secretary under the provisions of this section of any surplus
4 revenues as set forth in this subsection until that time the
5 Revenue Shortfall Reserve Fund balance is less than thirteen
6 percent of the total appropriations from the State Fund, General
7 Revenue.

8 (c) Not earlier than November 1 of each calendar year, if the
9 state's fiscal circumstances are such as to otherwise trigger the
10 authority of the Governor to reduce appropriations under this
11 section or section twenty-one or twenty-two of this article, then
12 in that event the Governor may notify the presiding officers of
13 both houses of the Legislature in writing of his or her intention
14 to convene the Legislature pursuant to section nineteen, article VI
15 of the Constitution of West Virginia for the purpose of requesting
16 the introduction of a supplementary appropriation bill or to
17 request a supplementary appropriation bill at the next preceding
18 regular session of the Legislature to draw money from the surplus
19 Revenue Shortfall Reserve Fund to meet any anticipated revenue
20 shortfall. If the Legislature fails to enact a supplementary
21 appropriation from the Revenue Shortfall Reserve Fund during any
22 special legislative session called for the purposes set forth in
23 this section or during the next preceding regular session of the
24 Legislature, then the Governor may proceed with a reduction of

1 appropriations pursuant to sections twenty-one and twenty-two of
2 this article. Should any amount drawn from the Revenue Shortfall
3 Reserve Fund pursuant to an appropriation made by the Legislature
4 prove insufficient to address any anticipated shortfall, then the
5 Governor may also proceed with a reduction of appropriations
6 pursuant to sections twenty-one and twenty-two of this article.

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

12 (e) Prior to October 31 in any fiscal year in which revenues
13 are inadequate to make timely payments of the state's obligations,
14 the Governor may, by executive order, after first notifying the
15 presiding officers of both houses of the Legislature in writing,
16 borrow funds from the Revenue Shortfall Reserve Fund: *Provided,*
17 That for the fiscal year 2014, pursuant to this subsection and
18 subject to all other conditions, requirements and limitations set
19 forth in this section, the Governor may borrow funds from the
20 Revenue Shortfall Reserve Fund prior to the first day of April.
21 The amount of funds borrowed under this subsection shall not exceed
22 one and one-half percent of the general revenue estimate for the
23 fiscal year in which the funds are to be borrowed, or the amount
24 the Governor determines is necessary to make timely payment of the

1 state's obligations, whichever is less. Any funds borrowed
2 pursuant to this subsection shall be repaid, without interest, and
3 redeposited to the credit of the Revenue Shortfall Reserve Fund
4 within ninety days of their withdrawal.

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

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

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

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

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

18 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund,
19 \$100 million, or such greater amount as may be certified as
20 necessary by the Director of the Budget Office for the purposes of
21 subsection (e) of this section, shall be made available to the West
22 Virginia Board of Treasury Investments for management and
23 investment of the moneys in accordance with the provisions of
24 article six-c, chapter twelve of this code. All other moneys in

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

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