

WEST VIRGINIA LEGISLATURE
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ENROLLED

COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 393

(By SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,
BY REQUEST OF THE EXECUTIVE)

[PASSED MARCH 8, 2014; IN EFFECT FROM PASSAGE.]

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[Passed March 8, 2014; in effect from passage.]

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

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.

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

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

18 Within sixty days of the end of each fiscal year, the
19 secretary shall cause to be deposited into the Revenue
20 Shortfall Reserve Fund such amount of the first fifty percent
21 of all surplus revenues, if any, determined to have accrued
22 during the fiscal year just ended, as may be necessary to
23 bring the balance of the Revenue Shortfall Reserve Fund to
24 thirteen percent of the total appropriations from the State
25 Fund, General Revenue, for the fiscal year just ended. If at
26 the end of any fiscal year the Revenue Shortfall Reserve
27 Fund is funded at an amount equal to or exceeding thirteen
28 percent of the state's General Revenue Fund budget for the
29 fiscal year just ended, then there shall be no further deposit
30 by the secretary under the provisions of this section of any
31 surplus revenues as set forth in this subsection until that time
32 the Revenue Shortfall Reserve Fund balance is less than
33 thirteen percent of the total appropriations from the State
34 Fund, General Revenue.

35 (c) Not earlier than November 1 of each calendar year, if
36 the state's fiscal circumstances are such as to otherwise
37 trigger the authority of the Governor to reduce appropriations
38 under this section or section twenty-one or twenty-two of this
39 article, then in that event the Governor may notify the
40 presiding officers of both houses of the Legislature in writing
41 of his or her intention to convene the Legislature pursuant to
42 section nineteen, article VI of the Constitution of West
43 Virginia for the purpose of requesting the introduction of a
44 supplementary appropriation bill or to request a
45 supplementary appropriation bill at the next preceding regular
46 session of the Legislature to draw money from the surplus
47 Revenue Shortfall Reserve Fund to meet any anticipated
48 revenue shortfall. If the Legislature fails to enact a
49 supplementary appropriation from the Revenue Shortfall
50 Reserve Fund during any special legislative session called for
51 the purposes set forth in this section or during the next
52 preceding regular session of the Legislature, then the
53 Governor may proceed with a reduction of appropriations
54 pursuant to sections twenty-one and twenty-two of this
55 article. Should any amount drawn from the Revenue
56 Shortfall Reserve Fund pursuant to an appropriation made by
57 the Legislature prove insufficient to address any anticipated
58 shortfall, then the Governor may also proceed with a
59 reduction of appropriations pursuant to sections twenty-one
60 and twenty-two of this article.

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

66 (e) Prior to October 31 in any fiscal year in which
67 revenues are inadequate to make timely payments of the
68 state's obligations, the Governor may, by executive order,

69 after first notifying the presiding officers of both houses of
70 the Legislature in writing, borrow funds from the Revenue
71 Shortfall Reserve Fund: *Provided*, That for the fiscal year
72 2014, pursuant to this subsection and subject to all other
73 conditions, requirements and limitations set forth in this
74 section, the Governor may borrow funds from the Revenue
75 Shortfall Reserve Fund prior to the first day of April. The
76 amount of funds borrowed under this subsection shall not
77 exceed one and one-half percent of the general revenue
78 estimate for the fiscal year in which the funds are to be
79 borrowed, or the amount the Governor determines is
80 necessary to make timely payment of the state's obligations,
81 whichever is less. Any funds borrowed pursuant to this
82 subsection shall be repaid, without interest, and redeposited
83 to the credit of the Revenue Shortfall Reserve Fund within
84 ninety days of their withdrawal.

85 (f) The Revenue Shortfall Reserve Fund – Part B is
86 continued within the State Treasury. The Revenue Shortfall
87 Reserve Fund – Part B shall consist of moneys transferred
88 from the West Virginia Tobacco Settlement Medical Trust
89 Fund pursuant to the provisions of section two, article
90 eleven-a, chapter four of this code, repayments made of the
91 loan from the West Virginia Tobacco Settlement Medical
92 Trust Fund to the Physician's Mutual Insurance Company
93 pursuant to the provisions of article twenty-f, chapter
94 thirty-three of this code and all interest and other return
95 earned on the moneys in the Revenue Shortfall Reserve Fund
96 – Part B. Moneys in the Revenue Shortfall Reserve Fund –
97 Part B may be expended solely for the purposes set forth in
98 subsection (d) of this section, subject to the following
99 conditions:

100 (1) No moneys in the Revenue Shortfall Reserve Fund –
101 Part B nor any interest or other return earned thereon may be
102 expended for any purpose unless all moneys in the Revenue

103 Shortfall Reserve Fund described in subsection (b) of this
104 section have first been expended, except that the interest or
105 other return earned on moneys in the Revenue Shortfall
106 Reserve Fund – Part B may be expended as provided in
107 subdivision (2) of this subsection;

108 (2) Notwithstanding any other provision of this section to
109 the contrary, the Legislature may appropriate any interest and
110 other return earned thereon that may accrue on the moneys in
111 the Revenue Shortfall Reserve Fund – Part B after June 30,
112 2025, for expenditure for the purposes set forth in section
113 three, article eleven-a, chapter four of this code; and

114 (3) Any appropriation made from Revenue Shortfall
115 Reserve Fund – Part B shall be made only in instances of
116 revenue shortfalls or fiscal emergencies of an extraordinary
117 nature.

118 (g) Subject to the conditions upon expenditures from the
119 Revenue Shortfall Reserve Fund – Part B prescribed in
120 subsection (f) of this section, in appropriating moneys
121 pursuant to the provisions of this section, the Legislature may
122 in any fiscal year appropriate from the Revenue Shortfall
123 Reserve Fund and the Revenue Shortfall Reserve Fund – Part
124 B a total amount up to, but not exceeding, ten percent of the
125 total appropriations from the State Fund, General Revenue,
126 for the fiscal year just ended.

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

135 Fund shall be made available to the West Virginia Investment
136 Management Board for management and investment of the
137 moneys in accordance with the provisions of article six,
138 chapter twelve of this code. Any balance of the Revenue
139 Shortfall Reserve Fund, including accrued interest and other
140 return earned thereon at the end of any fiscal year, does not
141 revert to the General Fund but shall remain in the Revenue
142 Shortfall Reserve Fund for the purposes set forth in this
143 section.

144 (2) All of the moneys in the Revenue Shortfall Reserve
145 Fund – Part B shall be made available to the West Virginia
146 Investment Management Board for management and
147 investment of the moneys in accordance with the provisions
148 of article six, chapter twelve of this code. Any balance of the
149 Revenue Shortfall Reserve Fund – Part B, including accrued
150 interest and other return earned thereon at the end of any
151 fiscal year, shall not revert to the General Fund but shall
152 remain in the Revenue Shortfall Reserve Fund – Part B for
153 the purposes set forth in this section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this
the Day of, 2014.

.....
Governor