

COMMITTEE SUBSTITUTE

for

H. B. 2485

(BY DELEGATE(S) FOLK, CANTERBURY, REYNOLDS,
HAMILTON, KURCABA, MCGEEHAN, STORCH, O'NEAL, PASDON,
FAIRCLOTH AND HOUSEHOLDER)

(Originating in the House Committee on Finance.)
[February 26, 2015]

A BILL to amend and reenact §11-13A-5b of the Code of West Virginia, 1931, as amended, relating to the West Virginia Future Fund; and prohibiting deposits into the fund in years when certain state retirement systems are not funded to ninety percent or more of their actuarial accrued liabilities.

Be it enacted by the Legislature of West Virginia:

That §11-13A-5b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-5b. Creation of West Virginia Future Fund; legislative intent; calculation of deposits from excess severance tax revenues; permissible uses of investment income and limitations on expenditures; definitions.

1 (a) There is ~~hereby created~~ continued in the State Treasury
2 a special revenue account, designated the West Virginia Future
3 Fund, which is an interest-bearing account and may be invested
4 by the West Virginia Investment Management Board in the
5 manner permitted by the provisions of article six, chapter twelve
6 of this code, with the investment income to be credited to the
7 fund and deposited in the special revenue account.

8 (b) The Legislature declares its intention to use the fund as
9 a means of conserving a portion of the state's revenue derived
10 from the increased revenue proceeds received by the state as a
11 result of any mineral production as well as other funding sources
12 as the Legislature may designate in order to meet future needs.
13 The principal of the fund shall remain inviolate and no portion
14 of the principal may be appropriated, expended or encumbered
15 by the Legislature or any official of the state. Only the
16 investment income of this fund may be appropriated and

17 expended: *Provided*, That no more than the average net
18 investment return for the immediately preceding five fiscal years
19 may be appropriated or expended in any one fiscal year.

20 (c) (1) Notwithstanding any provision of this code to the
21 contrary, for the fiscal year beginning July 1, 2014, and each
22 year thereafter, the Secretary of Revenue shall cause to be
23 deposited in this fund three percent of the annual severance tax
24 revenue which would otherwise be deposited into the General
25 Revenue Fund which is attributable to the severance of coal,
26 limestone, sandstone, natural gas and oil and collected and
27 received pursuant to the provisions of sections three and three-a,
28 article thirteen-a, chapter eleven of this code. ~~*Provided, That*~~
29 ~~these~~

30 (2) The deposits ~~shall~~ required by subdivision (1) of this
31 subsection may only be made during fiscal years: ~~within~~

32 (A) In which the balance of the Revenue Shortfall Reserve
33 Fund equals or exceeds thirteen percent of the state's General
34 Revenue Fund budget for the fiscal year just ended as
35 determined within sixty days of the end of that prior fiscal year
36 as provided by subsection (b), section twenty, article two,

37 chapter eleven-b of this code; ~~Provided, however, That these~~
38 ~~deposits shall not be made in any fiscal year~~

39 (B) In which the Governor's General Revenue Fund estimate
40 relies does not rely on transfers from the Revenue Shortfall
41 Reserve Fund; ~~Provided further, That these deposits shall not be~~
42 ~~made in any fiscal year for~~

43 (C) In which mid-year spending reductions, hiring freezes,
44 mid-year decreases in appropriations or transfers from the
45 Revenue Shortfall Reserve Fund are not necessitated due to
46 revenue shortfalls or would not be necessitated if the deposits
47 were to be made; And provided further, That and

48 (D) In which all of the following retirement systems are
49 funded to ninety percent or more of the actuarial accrued
50 liabilities:

51 (i) The West Virginia Public Employees Retirement System
52 as provided in article ten, chapter five of this code;

53 (ii) The West Virginia State Police Death, Disability and
54 Retirement Fund as provided in article two, chapter fifteen of
55 this code;

56 (iii) The West Virginia State Police Retirement System as
57 provided in article two-a, chapter fifteen of this code;

58 (iv) The State Teachers Retirement System as provided in
59 article seven-a, chapter eighteen of this code;

60 (v) The Judges Retirement System as provided in article
61 nine, chapter fifty-one of this code.

62 (3) Amounts that may be deposited into the fund in error or
63 found later to be subject to these limitations shall be redeposited
64 into the General Revenue Fund. The Legislature may, by general
65 appropriation or by designation of other funding sources, deposit
66 into the fund additional moneys as it considers appropriate.

67 (d) In order to maximize the value of the fund, no money
68 from the fund may be expended or appropriated until fiscal year
69 2020 and thereafter the Legislature may appropriate, subject to
70 the limitations provided in this section, from the fund solely for
71 enhancing education and workforce development; economic
72 development and diversification; infrastructure improvements;
73 and tax relief measures for the benefit of the citizens and
74 businesses of the State of West Virginia.

75 (e) For purposes of this section:

76 (1) “Economic development and diversification” means
77 fostering economic growth and development in the state,
78 including commercial, industrial, community, cultural or
79 historical improvements; or preservation or other proper
80 purposes.

81 (2) “Infrastructure improvements” means fostering
82 infrastructure improvements including, but not limited to, post-
83 mining land use, water or wastewater facilities or a part thereof,
84 storm water systems, steam, gas, telephone and
85 telecommunications, broadband development, electric lines and
86 installations, roads, bridges, railroad spurs, drainage and flood
87 control facilities, industrial park development or buildings that
88 promote job creation and retention.

89 (3) “Tax relief” means reducing the tax responsibility of
90 citizens and businesses located in the State of West Virginia,
91 including but not limited to increasing the Homestead
92 Exemption and reducing or eliminating the ad valorem property
93 tax on inventory and equipment held for commercial or
94 industrial use.

