

COMMITTEE SUBSTITUTE

for

H. B. 2916

(BY DELEGATE(S) E. NELSON, ASHLEY,
ANDERSON, BOGGS, WILLIAMS, H. WHITE, STORCH,
GEARHEART, BATES, ESPINOSA AND O'NEAL)

(Originating in the Committee on Finance)
[February 27, 2015]

A BILL to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating to providing limited authority to the Governor to borrow amounts from the Revenue Shortfall Reserve Fund for the completion of renovations to Capitol Complex Building 3.

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

16 Within sixty days of the end of each fiscal year, the secretary
17 shall cause to be deposited into the Revenue Shortfall Reserve

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

32 (c) Not earlier than November 1, of each calendar year, if the
33 state's fiscal circumstances are such as to otherwise trigger the
34 authority of the Governor to reduce appropriations under this
35 section or section twenty-one or twenty-two of this article, then
36 in that event the Governor may notify the presiding officers of
37 both houses of the Legislature in writing of his or her intention

38 to convene the Legislature pursuant to Section nineteen, Article
39 VI of the Constitution of West Virginia for the purpose of
40 requesting the introduction of a supplementary appropriation bill
41 or to request a supplementary appropriation bill at the next
42 preceding regular session of the Legislature to draw money from
43 the surplus Revenue Shortfall Reserve Fund to meet any
44 anticipated revenue shortfall. If the Legislature fails to enact a
45 supplementary appropriation from the Revenue Shortfall
46 Reserve Fund during any special legislative session called for the
47 purposes set forth in this section or during the next preceding
48 regular session of the Legislature, then the Governor may
49 proceed with a reduction of appropriations pursuant to sections
50 twenty-one and twenty-two of this article. Should any amount
51 drawn from the Revenue Shortfall Reserve Fund pursuant to an
52 appropriation made by the Legislature prove insufficient to
53 address any anticipated shortfall, then the Governor may also
54 proceed with a reduction of appropriations pursuant to sections
55 twenty-one and twenty-two of this article.

56 (d) Upon the creation of the fund, the Legislature is
57 authorized and may make an appropriation from the Revenue

58 Shortfall Reserve Fund for revenue shortfalls, for emergency
59 revenue needs caused by acts of God or natural disasters or for
60 other fiscal needs as determined solely by the Legislature.

61 (e) (1) Prior to October 31, in any fiscal year in which
62 revenues are inadequate to make timely payments of the state's
63 obligations, the Governor may, by executive order, after first
64 notifying the presiding officers of both houses of the Legislature
65 in writing, borrow funds from the Revenue Shortfall Reserve
66 Fund: *Provided*, That for the fiscal year 2014, pursuant to this
67 ~~subsection~~ subdivision and subject to all other conditions,
68 requirements and limitations set forth in this section, the
69 Governor may borrow funds from the Revenue Shortfall Reserve
70 Fund prior to April 1. The amount of funds borrowed under this
71 ~~subsection~~ subdivision shall not exceed one and one-half percent
72 of the general revenue estimate for the fiscal year in which the
73 funds are to be borrowed, or the amount the Governor
74 determines is necessary to make timely payment of the state's
75 obligations, whichever is less. Any funds borrowed pursuant to
76 this ~~subsection~~ subdivision shall be repaid, without interest, and

77 redeposited to the credit of the Revenue Shortfall Reserve Fund
78 within ninety days of their withdrawal.

79 (2) Subject to the provisions of this subdivision and to all
80 other conditions, requirements and limitations set forth in this
81 section, prior to July 1, 2016, the Governor may borrow funds
82 from the Revenue Shortfall Reserve Fund in an amount not to
83 exceed \$20 million to be expended solely for the purpose of the
84 renovation of State Capitol Complex Building 3 to provide for
85 its use as state office space, upon the following conditions:

86 (A) The amount of funds borrowed under this subdivision
87 shall be repaid to the credit of the Revenue Shortfall Reserve
88 Fund in accordance with paragraph (B) of this subdivision.

89 (B) Unless sooner repaid pursuant to the enactment of
90 legislation providing appropriations to repay the amount
91 borrowed, at the end of any fiscal year in which the secretary
92 deposits into the Revenue Shortfall Reserve Fund a portion of
93 the surplus revenues, if any, determined to have accrued during
94 the fiscal year just ended pursuant to subsection (b) of this
95 section, the secretary shall also deposit into the Revenue
96 Shortfall Reserve Fund an additional amount equal to twenty

97 percent of those surplus revenues. The additional amount shall
98 be credited toward the repayment of the amount borrowed under
99 this subdivision until the full amount is repaid.

100 (C) No funds may be borrowed under this subdivision until
101 the Governor has given written notice to the President of the
102 Senate and the Speaker of the House of Delegates of his or her
103 intention to borrow funds under this subdivision, and thereafter
104 has issued an executive order directing the transfer of the funds
105 borrowed under this subdivision. The notice and the executive
106 order shall, at a minimum, set forth the amount intended to be
107 borrowed; the specific purposes for which the funds will be used;
108 and the source of any other payments the Governor may propose
109 to dedicate to the repayment of the amount borrowed.

110 (f) The Revenue Shortfall Reserve Fund – Part B is
111 continued within the State Treasury. The Revenue Shortfall
112 Reserve Fund – Part B shall consist of moneys transferred from
113 the West Virginia Tobacco Settlement Medical Trust Fund
114 pursuant to the provisions of section two, article eleven-a,
115 chapter four of this code, repayments made of the loan from the
116 West Virginia Tobacco Settlement Medical Trust Fund to the

117 Physician's Mutual Insurance Company pursuant to the
118 provisions of article twenty-f, chapter thirty-three of this code
119 and all interest and other return earned on the moneys in the
120 Revenue Shortfall Reserve Fund – Part B. Moneys in the
121 Revenue Shortfall Reserve Fund – Part B may be expended
122 solely for the purposes set forth in subsection (d) of this section,
123 subject to the following conditions:

124 (1) No moneys in the Revenue Shortfall Reserve Fund – Part
125 B nor any interest or other return earned thereon may be
126 expended for any purpose unless all moneys in the Revenue
127 Shortfall Reserve Fund described in subsection (b) of this section
128 have first been expended, except that the interest or other return
129 earned on moneys in the Revenue Shortfall Reserve Fund – Part
130 B may be expended as provided in subdivision (2) of this
131 subsection;

132 (2) Notwithstanding any other provision of this section to the
133 contrary, the Legislature may appropriate any interest and other
134 return earned thereon that may accrue on the moneys in the
135 Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for

136 expenditure for the purposes set forth in section three, article
137 eleven-a, chapter four of this code; and

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

141 (g) Subject to the conditions upon expenditures from the
142 Revenue Shortfall Reserve Fund – Part B prescribed in
143 subsection (f) of this section, in appropriating moneys pursuant
144 to the provisions of this section, the Legislature may in any fiscal
145 year appropriate from the Revenue Shortfall Reserve Fund and
146 the Revenue Shortfall Reserve Fund – Part B a total amount up
147 to, but not exceeding, ten percent of the total appropriations from
148 the State Fund, General Revenue, for the fiscal year just ended.

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

156 other moneys in the Revenue Shortfall Reserve Fund shall be
157 made available to the West Virginia Investment Management
158 Board for management and investment of the moneys in
159 accordance with the provisions of article six, chapter twelve of
160 this code. Any balance of the Revenue Shortfall Reserve Fund,
161 including accrued interest and other return earned thereon at the
162 end of any fiscal year, does not revert to the General Fund but
163 shall remain in the Revenue Shortfall Reserve Fund for the
164 purposes set forth in this section.

165 (2) All of the moneys in the Revenue Shortfall Reserve
166 Fund – Part B shall be made available to the West Virginia
167 Investment Management Board for management and investment
168 of the moneys in accordance with the provisions of article six,
169 chapter twelve of this code. Any balance of the Revenue
170 Shortfall Reserve Fund – Part B, including accrued interest and
171 other return earned thereon at the end of any fiscal year, shall not
172 revert to the General Fund but shall remain in the Revenue
173 Shortfall Reserve Fund – Part B for the purposes set forth in this
174 section.

