

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 282**

4 (By Senators Beach, Snyder, Laird, Yost, Green, Foster, Browning,  
5 McCabe, Plymale, D. Facemire, Minard, Klempa, Williams and  
6 Kessler (Acting President))

7 \_\_\_\_\_  
8 [Originating in the Committee on Finance;  
9 reported February 18, 2011.]  
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12  
13 A BILL to amend and reenact §17-2D-2 and §17-2D-5 of the Code of  
14 West Virginia, 1931, as amended, all relating to continuing  
15 the pilot Highway Design-Build Program; increasing the annual  
16 amount allowed to be spent on design-build projects;  
17 authorizing additional projects after the effective date of  
18 this amendment; and providing that individuals involved in the  
19 preliminary planning of a design-build project will not be  
20 authorized to participate in the team selected to construct  
21 the project.

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

23 That §17-2D-2 and §17-2D-5 of the Code of West Virginia, 1931,  
24 as amended, be amended and reenacted, all to read as follows:

25 **ARTICLE 2D. HIGHWAY DESIGN-BUILD PILOT PROGRAM.**

1 **§17-2D-2. Highway Design-Build Pilot Program.**

2 (a) Notwithstanding any provision of this code to the  
3 contrary, the Commissioner of the West Virginia Division of  
4 Highways may continue with the pilot program to expedite the  
5 construction of no more than ten special projects after the  
6 effective date of the amendment to this article, in addition to the  
7 three projects authorized by prior enactment of this section, by  
8 combining the design and construction elements of a highway or  
9 bridge project into a single contract.

10 (b) A design-build project may not be let to contract after  
11 June 30, ~~2011~~ 2013. The Division of Highways may expend no more  
12 than ~~\$50~~75 million in each of the ~~three~~ two years remaining in the  
13 pilot program unless all of the \$75 million is unused and the  
14 remaining amount may be applied to the next years amount, for but  
15 not to exceed an aggregate total of \$150 million.

16 (c) A design-build project may be let to contract only in  
17 accordance with the commissioner's established policies and  
18 procedures concerning design-build projects.

19 (d) After June 30, ~~2011~~ 2013, ~~no~~ projects may not be let under  
20 the provisions of this article unless the West Virginia Legislature  
21 either approves additional projects or makes the program permanent.

22 (e) Projects receiving special funding above the regular  
23 federal core funding ~~including any Competitive Surface~~  
24 ~~Transportation Grants received as a result of the American Recovery~~  
25 ~~and Reinvestment Act of 2009~~, may utilize the pilot program, but  
26 shall not be included in the total number of projects or

1 expenditure limits provided by subsections (a) and (b) of this  
2 section.

3 (f) Any consultant engineers under contract, or previously  
4 under contract, with the West Virginia Department of Transportation  
5 to prepare preliminary plans, planning reports or other project  
6 development products for that particular project will not be  
7 allowed to participate in any capacity with the team selected to  
8 construct that project.

9 **§17-2D-5. Report to the Legislature.**

10 On or before December 1, ~~2011~~ 2013, the commissioner shall  
11 prepare and submit to the Joint Standing Committee on Government  
12 Organization a report evaluating the experience of the Division of  
13 Highways with each project, including whether the division realized  
14 any cost or time savings, the number and cost of change orders, the  
15 quality of work performed, the number of bids received and other  
16 issues the commissioner considers appropriate.

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