

Senate Bill No. 395

(By Senators Beach, Klempa and Williams)

[Introduced February 2, 2011; referred to the Committee on
Transportation and Infrastructure; and then to the Committee on
Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11B-2-20 of the Code of West Virginia,
1931, as amended, relating to requiring any annual surpluses
from the Revenue Shortfall Fund and the Revenue Shortfall
Reserve Fund - Part B that exceed ten percent of the total
appropriations from the General Revenue Fund be transferred to
the State Road Fund.

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.**

(a) Notwithstanding any provision of this section, the

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

6 (b) A Revenue Shortfall Reserve Fund is hereby continued
7 within the State Treasury. The Revenue Shortfall Reserve Fund
8 shall be funded as set forth in this subsection from surplus
9 revenues, if any, in the state fund, general revenue, as the
10 surplus revenues may accrue from time to time. Within sixty days
11 of the end of each fiscal year, the secretary shall cause to be
12 deposited into the Revenue Shortfall Reserve Fund the first fifty
13 percent of all surplus revenues, if any, determined to have accrued
14 during the fiscal year just ended. The Revenue Shortfall Reserve
15 Fund shall be funded continuously and on a revolving basis in
16 accordance with this subsection. ~~up to an aggregate amount not to~~
17 ~~exceed ten percent of the total appropriations from the state fund,~~
18 ~~general revenue, for the fiscal year just ended.~~ If at the end of
19 any fiscal year the Revenue Shortfall Reserve Fund is funded at an
20 amount equal to or exceeding ten percent of the state's General
21 Revenue Fund budget for the fiscal year just ended, then ~~there~~
22 ~~shall be no further obligation of the secretary under the~~
23 ~~provisions of this section to apply any surplus revenues as set~~
24 ~~forth in this subsection until that time the Revenue Shortfall~~
25 ~~Reserve Fund balance is less than ten percent of the total~~

1 ~~appropriations from the state fund, general revenue~~ the secretary
2 shall deposit that surplus revenue in the State Road Fund.

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

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

6 (e) Prior to October 31, in any fiscal year in which revenues
7 are inadequate to make timely payments of the state's obligations,
8 the Governor may by executive order, after first notifying the
9 presiding officers of both houses of the Legislature in writing,
10 borrow funds from the Revenue Shortfall Reserve Fund. The amount
11 of funds borrowed under this subsection shall not exceed one and
12 one-half percent of the general revenue estimate for the fiscal
13 year in which the funds are to be borrowed, or the amount the
14 Governor determines is necessary to make timely payment of the
15 state's obligations, whichever is less. Any funds borrowed
16 pursuant to this subsection shall be repaid, without interest, and
17 redeposited to the credit of the Revenue Shortfall Reserve Fund
18 within ninety days of their withdrawal.

19 (f) There is hereby created in the State Treasury the "Revenue
20 Shortfall Reserve Fund - Part B." The Revenue Shortfall Reserve
21 Fund - Part B shall consist of moneys transferred from the West
22 Virginia Tobacco Settlement Medical Trust Fund pursuant to ~~the~~
23 ~~provisions of~~ section two, article eleven-a, chapter four of this
24 code, repayments made of the loan from the West Virginia Tobacco
25 Settlement Medical Trust Fund to the Physician's Mutual Insurance

1 Company pursuant to ~~the provisions of~~ article twenty-f, chapter
2 thirty-three of this code, and all interest and other return earned
3 on the moneys in the Revenue Shortfall Reserve Fund - Part B.

4 Moneys in the Revenue Shortfall Reserve Fund - Part B may be
5 expended solely for the purposes set forth in subsection (d) of
6 this section, subject to the following conditions:

7 (1) No moneys in the Revenue Shortfall Reserve Fund - Part B
8 nor any interest or other return earned thereon may be expended for
9 any purpose unless all moneys in the Revenue Shortfall Reserve Fund
10 described in subsection (b) of this section have first been
11 expended, except that the interest or other return earned on moneys
12 in the Revenue Shortfall Reserve Fund - Part B may be expended as
13 provided in subdivision (2) of this subsection; and

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

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

23 (g) Subject to the conditions upon expenditures from the
24 Revenue Shortfall Reserve Fund - Part B prescribed in subsection
25 (f) of this section, in appropriating moneys pursuant to the

1 provisions of this section, the Legislature may in any fiscal year
2 appropriate from the Revenue Shortfall Reserve Fund and the Revenue
3 Shortfall Reserve Fund - Part B, a total amount up to, but not
4 exceeding, ten percent of the total appropriations from the state
5 fund, general revenue, for the fiscal year just ended; Provided,
6 That any funds exceeding that ten percent amount shall be
7 transferred to the State Road Fund.

8 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund,
9 \$100 million, or such greater amount as may be certified as
10 necessary by the director of the budget for the purposes of
11 subsection (e) of this section, shall be made available to the West
12 Virginia Board of Treasury Investments for management and
13 investment of the moneys in accordance with ~~the provisions of~~
14 article six-c, chapter twelve of this code. All other moneys in
15 the Revenue Shortfall Reserve Fund shall be made available to the
16 West Virginia Investment Management Board for management and
17 investment of the moneys in accordance with ~~the provisions of~~
18 article six, chapter twelve of this code. Any balance of the
19 Revenue Shortfall Reserve Fund including accrued interest and other
20 return earned thereon at the end of any fiscal year shall not
21 revert to the General Fund but shall remain in the Revenue
22 Shortfall Reserve Fund for the purposes set forth in this section.

23 (2) All of the moneys in the Revenue Shortfall Reserve Fund -
24 Part B shall be made available to the West Virginia Investment
25 Management Board for management and investment of the moneys in

1 accordance with ~~the provisions of~~ article six, chapter twelve of
2 this code. Any balance of the Revenue Shortfall Reserve Fund -
3 Part B, including accrued interest and other return earned thereon
4 at the end of any fiscal year, shall not revert to the General Fund
5 but shall remain in the Revenue Shortfall Reserve Fund - Part B for
6 the purposes set forth in this section.

NOTE: The purpose of this bill is to require any annual surpluses from the Revenue Shortfall Fund and the Revenue Shortfall Reserve Fund - Part B that exceed ten percent of the total appropriations from the General Revenue Fund be transferred to the State Road Fund.

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