

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 282**

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

---

[Originating in the Committee on Finance;  
reported February 18, 2011.]

---

A BILL to amend and reenact §17-2D-2 and §17-2D-5 of the Code of West Virginia, 1931, as amended, all relating to continuing the pilot Highway Design-Build Program; increasing the annual amount allowed to be spent on design-build projects; authorizing additional projects after the effective date of this amendment; and providing that individuals involved in the preliminary planning of a design-build project will not be authorized to participate in the team selected to construct the project.

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

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

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

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

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

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

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

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

24 (e) Projects receiving special funding above the regular  
25 federal core funding ~~including any Competitive Surface~~  
26 ~~Transportation Grants received as a result of the American~~  
27 ~~Recovery and Reinvestment Act of 2009~~, may utilize the pilot  
28 program, but shall not be included in the total number of  
29 projects or expenditure limits provided by subsections (a)  
30 and (b) of this section.

31 (f) Any consultant engineers under contract, or previously  
32 under contract, with the West Virginia Department of  
33 Transportation to prepare preliminary plans, planning  
34 reports or other project development products for a projects  
35 will not be allowed to participate in any capacity with the  
36 team selected to construct that project.

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

1 On or before December 1, ~~2011~~ 2013, the commissioner  
2 shall prepare and submit to the Joint Standing Committee on  
3 Government Organization a report evaluating the experience  
4 of the Division of Highways with each project, including  
5 whether the division realized any cost or time savings, the  
6 number and cost of change orders, the quality of work  
7 performed, the number of bids received and other issues the  
8 commissioner considers appropriate.

---

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