

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 553**

4 (By Senators Beach, McCabe, Miller and Stollings)

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6 [Originating in the Committee on Transportation and
7 Infrastructure; reported March 20, 2013.]

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11 A BILL to amend and reenact §17-2D-2 and §17-2D-5 of the Code of
12 West Virginia, 1931, as amended, all relating to the
13 continuation of the Highway Design-Build Pilot Program;
14 changing the name to the Highway Design-Build Program;
15 removing the sunset date of the program; modifying limitations
16 on design-build projects; requiring identification of design-
17 build projects; modifying reporting requirements; and
18 requiring annual reporting.

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

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

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

23 **§17-2D-2. Highway Design-Build Program.**

24 (a) Notwithstanding any provision of this code to the

1 contrary, the Commissioner of the West Virginia Division of
2 Highways may ~~continue with the pilot program to expedite the~~
3 construction of ~~no more than ten special projects after the~~
4 effective date of the amendment to this article in the regular
5 session of 2011, in addition to the three projects authorized by
6 ~~prior enactment of this section,~~ by combining the design and
7 construction elements of a highway or bridge project into a single
8 contract as provided in this article.

9 (b) ~~A design-build project may not be let to contract after~~
10 ~~June 30, 2013.~~ The Division of Highways may expend no more than
11 ~~\$75~~ \$50 million in each ~~of the two years remaining~~ year in the
12 ~~pilot program after the effective date of the amendment to this~~
13 ~~article in the regular session of 2011:~~ *Provided,* That if any of
14 the ~~\$75~~ \$50 million is unused in ~~the first~~ one year, the remaining
15 amount may be applied to the following year's amount: *Provided,*
16 *however,* That the total aggregate amount to be expended ~~after the~~
17 ~~effective date of the amendment to this article in the regular~~
18 ~~session of 2011~~ may not exceed \$150 million in any one year.

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

22 ~~(d) After June 30, 2013, projects may not be let under the~~
23 ~~provisions of this article unless the West Virginia Legislature~~
24 ~~either approves additional projects or makes the program permanent.~~

1 ~~(e)~~ (d) Projects receiving ~~special~~ funding above the amount of
2 ~~regular~~ federal core funding as appropriated to the state by
3 formula in a federal highway authorization, currently titled MAP-
4 21, may utilize the ~~pilot~~ program, but shall not be included in ~~the~~
5 ~~total number of projects or~~ expenditure limits provided by
6 ~~subsections~~ subsection (a) and (b) of this section.

7 ~~(f)~~ (e) ~~Effective after the effective date of the amendment to~~
8 ~~this article in the regular session of 2011, no~~ No consultant
9 engineer who prepares preliminary plans, planning reports or other
10 project development products for a project pursuant to the
11 provisions of this section may participate in the construction of
12 that project. The commissioner shall identify each design-build
13 project within the statewide Transportation Improvement Program
14 (STIP) as a design-build project prior to entering into an
15 agreement with the consultant engineer hired to prepare preliminary
16 plans for such project.

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

18 On or before ~~December 1, 2013,~~ January 15, 2014, and annually
19 thereafter, the commissioner shall prepare and submit to the Joint
20 ~~Standing~~ Committee on Government Organization and Finance a written
21 report evaluating the experience of the Division of Highways with
22 each project completed during the prior calendar year, including
23 whether the division realized any cost or time savings, the number
24 and cost of change orders, the quality of work performed, the

1 number of bids received and other issues the commissioner considers
2 appropriate: Provided, That the report submitted on or before
3 January 15, 2014, shall contain such information as to all design-
4 build projects that have been completed under the program prior to
5 2014.

NOTE: This bill extends the West Virginia Highway Design-Build Pilot Program, changes the name to the West Virginia Highway Design-Build Program, removes the program's sunset date, modifies program limitations, and requires annual reports to the Joint Committee on Government and Finance.

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