

Senate Bill No. 553

(By Senators Beach, McCabe, Miller and Stollings)

[Introduced March 18, 2013; referred to the Committee on
Transportation and Infrastructure; and then to the Committee on
Finance.]

**FISCAL
NOTE**

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 modifying limitations on design-build projects; requiring
15 identification of design-build projects; and requiring annual
16 reporting.

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

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

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

21 **§17-2D-2. Highway Design-Build Pilot Program.**

22 (a) Notwithstanding any provision of this code to the
23 contrary, the Commissioner of the West Virginia Division of

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

8 (b) A design-build project may not be let to contract after
9 June 30, ~~2013~~ 2018. The Division of Highways may expend no more
10 than ~~\$75~~ \$50 million in each of the ~~two years remaining~~ year in the
11 pilot program ~~after the effective date of the amendment to this~~
12 ~~article in the regular session of 2011: Provided, That if any of~~
13 the ~~\$75~~ \$50 million is unused in the ~~first~~ one year, the remaining
14 amount may be applied to the following year's amount: *Provided,*
15 *however,* That the total aggregate amount to be expended ~~after the~~
16 ~~effective date of the amendment to this article in the regular~~
17 ~~session of 2011~~ may not exceed \$150 million in any one year.

18 (c) A design-build project may be let to contract only in
19 accordance with the commissioner's established policies and
20 procedures concerning design-build projects. The commissioner
21 shall identify each design-build project within the statewide
22 Transportation Improvement Program (STIP) as a design-build project
23 prior to entering into an agreement with the consultant engineer

1 hired to prepare preliminary plans for such project.

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

5 ~~(e) (d) Projects receiving special funding above the amount of~~
 6 ~~regular federal core funding as appropriated to the state by~~
 7 ~~formula in a federal highway authorization, currently titled MAP-~~
 8 ~~21, may utilize the pilot program, but shall not be included in the~~
 9 ~~total number of projects or expenditure limits provided by~~
 10 ~~subsections subsection (a) and (b) of this section.~~

11 ~~(f) (e) Effective after the effective date of the amendment to~~
 12 ~~this article in the regular session of 2011, no No consultant~~
 13 ~~engineer who prepares preliminary plans, planning reports or other~~
 14 ~~project development products for a project pursuant to the~~
 15 ~~provisions of this section may participate in the construction of~~
 16 ~~that project.~~

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

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

1 performed, the number of bids received and other issues the
2 commissioner considers appropriate.

NOTE: This bill extends the West Virginia Highway Design-Build Pilot Program, modifies program limitations, and requires annual reports to the Legislature.

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