

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 393**

4 (By Senators Kessler (Mr. President) and M. Hall,

5 By Request of the Executive)

6 _____
7 [Originating in the Committee on Government Organization;
8 reported January 30, 2014.]
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10
11 A BILL to amend and reenact §11B-2-20 of the Code of West Virginia,
12 1931, as amended, relating to the Revenue Shortfall Reserve
13 Fund; increasing the percentage of surplus revenue paid into
14 the fund for fiscal years 2014 and 2015; and changing the
15 October 31 deadline that the Governor may borrow money from
16 the fund to April 1 for a limited period.

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

18 That §11B-2-20 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted to read as follows:

20 **ARTICLE 2. STATE BUDGET OFFICE.**

21 **§11B-2-20. Reduction of appropriations; powers of Governor;**
22 **Revenue Shortfall Reserve Fund and permissible**
23 **expenditures therefrom.**

24 (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~~ The Revenue Shortfall Reserve Fund is ~~hereby~~ continued
7 within the State Treasury. The Revenue Shortfall Reserve Fund
8 shall be funded continuously and on a revolving basis in accordance
9 with subdivisions one or two of this subsection up to an aggregate
10 amount not to exceed thirteen percent of the total appropriations
11 from the State Fund, General Revenue, for the fiscal year just
12 ended. The Revenue Shortfall Reserve Fund shall be funded as set
13 forth in subdivisions one or two of this subsection from surplus
14 revenues, if any, in the State Fund, General Revenue, as the
15 surplus revenues may accrue from time to time.

16 (1) Within sixty days of the end of each fiscal year, the
17 secretary shall cause to be deposited into the Revenue Shortfall
18 Reserve Fund ~~such amount of~~ an amount equal to the first fifty
19 percent of all surplus revenues, if any, determined to have accrued
20 during the fiscal year just ended, as may be necessary to bring the
21 balance of the Revenue Shortfall Reserve Fund to thirteen percent
22 of the total appropriations from the State Fund, General Revenue,
23 for the fiscal year just ended. If at the end of any fiscal year
24 the Revenue Shortfall Reserve Fund is funded at an amount equal to

1 or exceeding thirteen percent of the State's General Revenue Fund
2 budget for the fiscal year just ended, then there shall be no
3 further deposit by the secretary under the provisions of this
4 section of any surplus revenues as set forth in this ~~subsection~~
5 subdivision until that time the Revenue Shortfall Reserve Fund
6 balance is less than thirteen percent of the total appropriations
7 from the State Fund, General Revenue.

8 (2) Notwithstanding any other provision of this section,
9 within sixty days of the end of fiscal years 2014 and 2015, the
10 first eighty percent of all surplus revenues, if any, determined to
11 have accrued during each of those fiscal years just ended, shall be
12 deposited into the Revenue Shortfall Reserve Fund.

13 (c) Not earlier than November 1 of each calendar year, if the
14 state's fiscal circumstances are such as to otherwise trigger the
15 authority of the Governor to reduce appropriations under this
16 section or section twenty-one or twenty-two of this article, then
17 in that event the Governor may notify the presiding officers of
18 both houses of the Legislature in writing of his or her intention
19 to convene the Legislature pursuant to section nineteen, article VI
20 of the Constitution of West Virginia for the purpose of requesting
21 the introduction of a supplementary appropriation bill or to
22 request a supplementary appropriation bill at the next preceding
23 regular session of the Legislature to draw money from the surplus
24 Revenue Shortfall Reserve Fund to meet any anticipated revenue

1 shortfall. If the Legislature fails to enact a supplementary
2 appropriation from the Revenue Shortfall Reserve Fund during any
3 special legislative session called for the purposes set forth in
4 this section or during the next preceding regular session of the
5 Legislature, then the Governor may proceed with a reduction of
6 appropriations pursuant to sections twenty-one and twenty-two of
7 this article. Should any amount drawn from the Revenue Shortfall
8 Reserve Fund pursuant to an appropriation made by the Legislature
9 prove insufficient to address any anticipated shortfall, then the
10 Governor may also proceed with a reduction of appropriations
11 pursuant to sections twenty-one and twenty-two of this article.

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

17 (e) Prior to October 31 in any fiscal year in which revenues
18 are inadequate to make timely payments of the state's obligations,
19 the Governor may, by executive order, after first notifying the
20 presiding officers of both houses of the Legislature in writing,
21 borrow funds from the Revenue Shortfall Reserve Fund: Provided,
22 That the October 31 deadline may be extended to April 1, 2014, and
23 also to April 1, 2015, and to April 1, 2016. The amount of funds
24 borrowed under this subsection shall not exceed one and one-half

1 percent of the general revenue estimate for the fiscal year in
2 which the funds are to be borrowed, or the amount the Governor
3 determines is necessary to make timely payment of the state's
4 obligations, whichever is less. Any funds borrowed pursuant to
5 this subsection shall be repaid, without interest, and redeposited
6 to the credit of the Revenue Shortfall Reserve Fund within ninety
7 days of their withdrawal.

8 (f) ~~There is hereby created in the State Treasury~~ The Revenue
9 Shortfall Reserve Fund - Part B created in the State Treasury is
10 continued. The Revenue Shortfall Reserve Fund - Part B ~~shall~~
11 ~~consist~~ consists of moneys transferred from the West Virginia
12 Tobacco Settlement Medical Trust Fund pursuant to the provisions of
13 section two, article eleven-a, chapter four of this code,
14 repayments made of the loan from the West Virginia Tobacco
15 Settlement Medical Trust Fund to the Physician's Mutual Insurance
16 Company pursuant to the provisions of article twenty-f, chapter
17 thirty-three of this code, and all interest and other return earned
18 on the moneys in the Revenue Shortfall Reserve Fund - Part B.
19 Moneys in the Revenue Shortfall Reserve Fund - Part B may be
20 expended solely for the purposes set forth in subsection (d) of
21 this section, subject to the following conditions:

22 (1) No moneys in the Revenue Shortfall Reserve Fund - Part B
23 nor any interest or other return earned thereon may be expended for
24 any purpose unless all moneys in the Revenue Shortfall Reserve Fund

1 described in subsection (b) of this section have first been
2 expended, except that the interest or other return earned on moneys
3 in the Revenue Shortfall Reserve Fund - Part B may be expended as
4 provided in subdivision (2) of this subsection; ~~and~~

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

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

14 (g) Subject to the conditions upon expenditures from the
15 Revenue Shortfall Reserve Fund - Part B prescribed in subsection
16 (f) of this section, in appropriating moneys pursuant to the
17 provisions of this section, the Legislature may in any fiscal year
18 appropriate from the Revenue Shortfall Reserve Fund and the Revenue
19 Shortfall Reserve Fund - Part B a total amount up to, but not
20 exceeding, ten percent of the total appropriations from the State
21 Fund, General Revenue, for the fiscal year just ended.

22 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund,
23 \$100 million, or ~~such~~ a greater amount as may be certified as
24 necessary by the Director of the Budget for the purposes of

1 subsection (e) of this section, shall be made available to the West
2 Virginia Board of Treasury Investments for management and
3 investment of the moneys in accordance with the provisions of
4 article six-c, chapter twelve of this code. All other moneys in
5 the Revenue Shortfall Reserve Fund shall be made available to the
6 West Virginia Investment Management Board for management and
7 investment of the moneys in accordance with the provisions of
8 article six, chapter twelve of this code. Any balance of the
9 Revenue Shortfall Reserve Fund, including accrued interest and
10 other return earned thereon at the end of any fiscal year, ~~shall~~
11 does not revert to the General Fund but shall remain in the Revenue
12 Shortfall Reserve Fund for the purposes set forth in this section.

13 (2) All of the moneys in the Revenue Shortfall Reserve Fund -
14 Part B shall be made available to the West Virginia Investment
15 Management Board for management and investment of the moneys in
16 accordance with the provisions of article six, chapter twelve of
17 this code. Any balance of the Revenue Shortfall Reserve Fund -
18 Part B, including accrued interest and other return earned thereon
19 at the end of any fiscal year, ~~shall~~ does not revert to the General
20 Fund but shall remain in the Revenue Shortfall Reserve Fund - Part
21 B for the purposes set forth in this section.