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H. B. 2916

(By Delegates E. Nelson, Ashley, Anderson, Boggs, Williams,
H. White, Storch, Gearheart, Bates, Espinosa and O'Neal)

[Introduced February 24, 2015; referred to the
Committee on Finance.]

A BILL to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating to providing limited borrowing authority to the Governor for the completion of renovations to Capitol Complex Building 3.

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

(b) The Revenue Shortfall Reserve Fund is continued within the State Treasury. The

1 Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance
2 with this subsection up to an aggregate amount not to exceed thirteen percent of the total
3 appropriations from the State Fund, General Revenue, for the fiscal year just ended. The Revenue
4 Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus revenues, if any,
5 in the State Fund, General Revenue, as the surplus revenues may accrue from time to time.

6 Within sixty days of the end of each fiscal year, the secretary shall cause to be deposited into
7 the Revenue Shortfall Reserve Fund such amount of the first fifty percent of all surplus revenues,
8 if any, determined to have accrued during the fiscal year just ended, as may be necessary to bring the
9 balance of the Revenue Shortfall Reserve Fund to thirteen percent of the total appropriations from
10 the State Fund, General Revenue, for the fiscal year just ended. If at the end of any fiscal year the
11 Revenue Shortfall Reserve Fund is funded at an amount equal to or exceeding thirteen percent of the
12 state's General Revenue Fund budget for the fiscal year just ended, then there shall be no further
13 deposit by the secretary under the provisions of this section of any surplus revenues as set forth in
14 this subsection until that time the Revenue Shortfall Reserve Fund balance is less than thirteen
15 percent of the total appropriations from the State Fund, General Revenue.

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

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

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

14 (e) (1) Prior to October 31, in any fiscal year in which revenues are inadequate to make
15 timely payments of the state's obligations, the Governor may, by executive order, after first notifying
16 the presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue
17 Shortfall Reserve Fund: *Provided*, That for the fiscal year 2014, pursuant to this ~~subsection~~
18 subdivision and subject to all other conditions, requirements and limitations set forth in this section,
19 the Governor may borrow funds from the Revenue Shortfall Reserve Fund prior to April 1. The
20 amount of funds borrowed under this ~~subsection~~ subdivision shall not exceed one and one-half
21 percent of the general revenue estimate for the fiscal year in which the funds are to be borrowed, or
22 the amount the Governor determines is necessary to make timely payment of the state's obligations,

1 whichever is less. Any funds borrowed pursuant to this ~~subsection~~ subdivision shall be repaid,
2 without interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within ninety
3 days of their withdrawal.

4 (2) Subject to the provisions of this subdivision and to all other conditions, requirements and
5 limitations set forth in this section, prior to July 1, 2016, the Governor may borrow funds from the
6 Revenue Shortfall Reserve Fund in an amount not to exceed \$20 million to be expended solely for
7 the purpose of the renovation of State Capitol Complex Building 3 to provide for its use as state
8 office space, upon the following conditions:

9 (A) The amount of funds borrowed under this subdivision shall be repaid, with interest, and
10 redeposited to the credit of the Revenue Shortfall Reserve Fund within twenty years of their
11 withdrawal.

12 (B) The repayment of the funds shall be amortized and made by the Secretary of
13 Administration in level monthly installments during the term the repayment is outstanding from rents
14 collected from the occupants State Capitol Complex Building 3, and from any other sources made
15 available to the Secretary of Administration for this purpose. In addition, the Governor may provide
16 for the repayment of the funds from any other source, and no provision herein shall prohibit the
17 repayment of the funds in amounts or at times in addition to those amounts and times established by
18 the amortization schedule.

19 (C) The fixed rate of interest on the outstanding balance of the funds shall be established by
20 the Governor prior to the borrowing. The rate shall not be less than the greater of the rate of interest
21 earned on the assets of the Revenue Shortfall Reserve Fund in the prior fiscal year or three and
22 one-half percent.

1 (D) No funds may be borrowed under this subdivision until the Governor has given written
2 notice to the President of the Senate and the Speaker of the House of Delegates of his or her intention
3 to borrow funds under this subdivision, and thereafter has issued an executive order directing the
4 transfer of the funds borrowed under this subdivision. The notice and the executive order shall, at
5 a minimum, set forth the amount intended to be borrow; the specific purpose for which the funds will
6 be used; the anticipated term of repayment of the funds; the anticipated amortization schedule for
7 the repayment of the funds; the amount of rent payments anticipated to be received and dedicated
8 the repayment of the funds; the source of any other payments the Governor may intend to dedicate
9 to the repayment of the funds; and the fixed rate of interest as established by the Governor as
10 required by this subdivision.

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

20 (1) No moneys in the Revenue Shortfall Reserve Fund – Part B nor any interest or other
21 return earned thereon may be expended for any purpose unless all moneys in the Revenue Shortfall
22 Reserve Fund described in subsection (b) of this section have first been expended, except that the

1 interest or other return earned on moneys in the Revenue Shortfall Reserve Fund – Part B may be
2 expended as provided in subdivision (2) of this subsection;

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

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

9 (g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund
10 – Part B prescribed in subsection (f) of this section, in appropriating moneys pursuant to the
11 provisions of this section, the Legislature may in any fiscal year appropriate from the Revenue
12 Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to, but
13 not exceeding, ten percent of the total appropriations from the State Fund, General Revenue, for the
14 fiscal year just ended.

15 (h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater
16 amount as may be certified as necessary by the Director of the Budget Office for the purposes of
17 subsection (e) of this section, shall be made available to the West Virginia Board of Treasury
18 Investments for management and investment of the moneys in accordance with the provisions of
19 article six-c, chapter twelve of this code. All other moneys in the Revenue Shortfall Reserve Fund
20 shall be made available to the West Virginia Investment Management Board for management and
21 investment of the moneys in accordance with the provisions of article six, chapter twelve of this
22 code. Any balance of the Revenue Shortfall Reserve Fund, including accrued interest and other

1 return earned thereon at the end of any fiscal year, does not revert to the General Fund but shall
2 remain in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

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

NOTE: The purpose of this bill is to provide limited borrowing authority to the Governor for the completion of renovations to Capitol Complex Building 3.

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