

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 2485**

**2015 Carryover**

(BY DELEGATES FOLK, CANTERBURY, REYNOLDS,  
HAMILTON, KURCABA, STORCH, O'NEAL, FAIRCLOTH AND  
HOUSEHOLDER)

[Introduced January 13, 2016; referred to the  
Committee on Finance.]

1 A BILL to amend and reenact §11-13A-5b of the Code of West Virginia, 1931, as amended,  
 2 relating to the West Virginia Future Fund; and prohibiting deposits into the fund in years  
 3 when certain state retirement systems are not funded to ninety percent or more of their  
 4 actuarial accrued liabilities.

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

1 That §11-13A-5b of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.**

**§11-13A-5b. Creation of West Virginia Future Fund; legislative intent; calculation of  
 deposits from excess severance tax revenues; permissible uses of investment  
 income and limitations on expenditures; definitions.**

1 (a) There is ~~hereby created~~ continued in the State Treasury a special revenue account,  
 2 designated the West Virginia Future Fund, which is an interest-bearing account and may be  
 3 invested by the West Virginia Investment Management Board in the manner permitted by the  
 4 provisions of article six, chapter twelve of this code, with the investment income to be credited to  
 5 the fund and deposited in the special revenue account.

6 (b) The Legislature declares its intention to use the fund as a means of conserving a  
 7 portion of the state’s revenue derived from the increased revenue proceeds received by the state  
 8 as a result of any mineral production as well as other funding sources as the Legislature may  
 9 designate in order to meet future needs. The principal of the fund shall remain inviolate and no  
 10 portion of the principal may be appropriated, expended or encumbered by the Legislature or any  
 11 official of the state. Only the investment income of this fund may be appropriated and expended:  
 12 *Provided*, That no more than the average net investment return for the immediately preceding five  
 13 fiscal years may be appropriated or expended in any one fiscal year.

14 (c) (1) Notwithstanding any provision of this code to the contrary, for the fiscal year  
15 beginning July 1, 2014, and each year thereafter, the Secretary of Revenue shall cause to be  
16 deposited in this fund three percent of the annual severance tax revenue which would otherwise  
17 be deposited into the General Revenue Fund which is attributable to the severance of coal,  
18 limestone, sandstone, natural gas and oil and collected and received pursuant to the provisions  
19 of sections three and three-a, article thirteen-a, chapter eleven of this code. ~~Provided, That~~  
20 ~~these~~

21 (2) The deposits shall required by subdivision (1) of this subsection may only be made  
22 during fiscal years: ~~within~~

23 (A) In which the balance of the Revenue Shortfall Reserve Fund equals or exceeds  
24 thirteen percent of the state's General Revenue Fund budget for the fiscal year just ended as  
25 determined within sixty days of the end of that prior fiscal year as provided by subsection (b),  
26 section twenty, article two, chapter eleven-b of this code; ~~Provided, however, That these deposits~~  
27 ~~shall not be made in any fiscal year~~

28 (B) In which the Governor's General Revenue Fund estimate ~~relies~~ does not rely on  
29 transfers from the Revenue Shortfall Reserve Fund; ~~Provided further, That these deposits shall~~  
30 ~~not be made in any fiscal year for~~

31 (C) In which mid-year spending reductions, hiring freezes, mid-year decreases in  
32 appropriations or transfers from the Revenue Shortfall Reserve Fund are not necessitated due to  
33 revenue shortfalls or would not be necessitated if the deposits were to be made; ~~And provided~~  
34 ~~further, That and~~

35 (D) In which any of the following retirement systems is not funded to ninety percent or  
36 more of the actuarial accrued liabilities:

37 (i) The West Virginia Public Employees Retirement System as provided in article ten,

38 chapter five of this code;

39 (ii) The West Virginia State Police Death, Disability and Retirement Fund as provided in  
40 article two, chapter fifteen of this code;

41 (iii) The West Virginia State Police Retirement System as provided in article two-a, chapter  
42 fifteen of this code;

43 (iv) The State Teachers Retirement System as provided in article seven-a, chapter  
44 eighteen of this code;

45 (v) The West Virginia Higher Education Retirement Plan and Supplemental Retirement  
46 Plan as provided in article seven-a and article twenty-three of chapter eighteen of this code; and

47 (vi) The Teachers' Defined Contribution Retirement System as provided in article seven-  
48 b, chapter eighteen of this code.

49 (3) Amounts that may be deposited into the fund in error or found later to be subject to  
50 these limitations shall be redeposited into the General Revenue Fund. The Legislature may, by  
51 general appropriation or by designation of other funding sources, deposit into the fund additional  
52 moneys as it considers appropriate.

53 (d) In order to maximize the value of the fund, no money from the fund may be expended  
54 or appropriated until fiscal year 2020 and thereafter the Legislature may appropriate, subject to  
55 the limitations provided in this section, from the fund solely for enhancing education and workforce  
56 development; economic development and diversification; infrastructure improvements; and tax  
57 relief measures for the benefit of the citizens and businesses of the State of West Virginia.

58 (e) For purposes of this section:

59 (1) "Economic development and diversification" means fostering economic growth and  
60 development in the state, including commercial, industrial, community, cultural or historical  
61 improvements; or preservation or other proper purposes.

62           (2) "Infrastructure improvements" means fostering infrastructure improvements including,  
63 but not limited to, post-mining land use, water or wastewater facilities or a part thereof, storm  
64 water systems, steam, gas, telephone and telecommunications, broadband development, electric  
65 lines and installations, roads, bridges, railroad spurs, drainage and flood control facilities,  
66 industrial park development or buildings that promote job creation and retention.

67           (3) "Tax relief" means reducing the tax responsibility of citizens and businesses located in  
68 the State of West Virginia, including but not limited to increasing the Homestead Exemption and  
69 reducing or eliminating the ad valorem property tax on inventory and equipment held for  
70 commercial or industrial use.

NOTE: The purpose of this bill is to prohibit deposits into the West Virginia Future Fund in years when certain state retirement systems are not funded to ninety percent or more of their actuarial accrued liabilities.

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