

WEST VIRGINIA LEGISLATURE
2017 FIRST EXTRAORDINARY SESSION

Introduced

Senate Bill 1016

**FISCAL
NOTE**

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Introduced June 14, 2017; Referred to the Committee
on Finance]

1 A BILL to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a
 2 new section, designated §17-2A-24, relating to imposing, administering and collecting a
 3 license tax on successful bidders for road construction contracts; providing \$500,000
 4 threshold for imposing license tax; imposing license tax; requiring notification and method
 5 for payment of license tax; dedicating taxes collected; requiring bonding; creating a special
 6 revenue account; and specifying effective date.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §17-2A-24, to read as follows:

ARTICLE. 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

§17-2A-24. License tax on road construction contractors.

1 (a) Imposition of tax. – On and after July 1, 2017, there is imposed on each successful
 2 bidder for a road construction project a license tax equal to five percent of the contract price,
 3 determined at the time the contract is awarded to the successful bidder: *Provided*, That the license
 4 tax may not be imposed on the successful bidder of a road construction project in which the
 5 contract price is less than \$500,000.

6 (b) Payment of tax. – Within ten days after being notified by the commissioner that the
 7 contractor is the successful bidder for a road construction contract, the contractor shall pay to the
 8 commissioner a license tax equal to five percent of the amount of the bid for the road construction
 9 contract: *Provided*, That in his or her discretion, the commissioner may allow the license tax to be
 10 paid in five equal installment payments over the period specified by the commissioner. The
 11 amount of this tax shall be paid by certified check, cashier's check or electronic funds transfer.

12 (c) Failure to pay license tax. – If the successful bidder fails to pay timely the amount of
 13 the license tax to the commissioner, the bidder shall forfeit the contract and the bidder shall not
 14 be issued the contract for that road construction work. The commissioner shall then award the

15 contract to the next lowest qualified bidder or reject all bids and start anew the bidding procedure
16 for that road construction contract.

17 (d) *Bonding requirements.* – Each person submitting a bid for a road construction contract
18 shall furnish to the commissioner a bond at the time the bid is submitted, which bond shall
19 guarantee the payment of the license tax imposed by this section. The bond required by this
20 section shall be furnished in cash or negotiable securities or shall be a surety bond issued by a
21 surety company authorized to do surety business in this state or an irrevocable letter of credit
22 issued by a financial institution acceptable to the commissioner. If furnished in cash or negotiable
23 securities, the principal shall be deposited without restriction in the State Treasurer's office and
24 credited to the commissioner, but any income shall inure to the benefit of the applicant. For
25 applicants bidding on a road construction contract, the bond shall be returned to an applicant
26 following the bidding if the applicant is not the successful bidder for the road construction contract,
27 and, if an applicant is the successful bidder, the bond shall be released after the contract for the
28 road construction project is executed by the parties thereto and the license tax imposed by this
29 section is paid in full.

30 (e) *Deposit and expenditure of collections.* – The commissioner shall deposit the amount
31 of license taxes collected under this section in a special revenue revolving fund hereby created in
32 the State Treasury known as the “Drug Treatment Fund.” Expenditures from this fund shall be
33 made by the Secretary of Health and Human Resources, after appropriation by the Legislature,
34 for drug treatment programs.

35 (f) *Sunset Provision* - Unless extended by further act of the Legislature, this section will
36 not apply to any contract entered into on or after July 1, 2020.

Note: The purpose of this bill is to impose a license tax on successful bidders for road construction contracts over \$500,000, and to provide that the proceeds of the license tax shall be used to fund drug treatment programs after appropriation by the Legislature.

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