

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2193**

BY DELEGATE FOLK

[Introduced February 8, 2017; 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.**

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

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

16 (c) (1) Notwithstanding any provision of this code to the contrary, for the fiscal year  
 17 beginning July 1, 2014, and each year thereafter, the Secretary of Revenue shall cause to be

18 deposited in this fund three percent of the annual severance tax revenue which would otherwise  
 19 be deposited into the General Revenue Fund which is attributable to the severance of coal,  
 20 limestone, sandstone, natural gas and oil and collected and received pursuant to the provisions  
 21 of sections three and three-a, article thirteen-a, chapter eleven of this code. ~~Provided, That these~~

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

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

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

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

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

38 (i) The West Virginia Public Employees Retirement System as provided in article ten,  
 39 chapter five of this code;

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

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

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

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

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

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

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

59 (e) For purposes of this section:

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

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

68 (3) "Tax relief" means reducing the tax responsibility of citizens and businesses located in  
69 the State of West Virginia, including, but not limited to, increasing the Homestead Exemption and

- 70 reducing or eliminating the ad valorem property tax on inventory and equipment held for  
71 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 a heading or the present law and underscoring indicates new language that would be added.