

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 282**

5 (SENATORS BEACH, SNYDER, LAIRD, YOST, GREEN, FOSTER, BROWNING, McCABE,
6 PLYMALE, D. FACEMIRE, MINARD, KLEMPA, WILLIAMS AND KESSLER (ACTING
7 PRESIDENT), *original sponsors*)

8 _____
9 [Passed March 9, 2011; in effect from passage.]
10 _____

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12
13 AN ACT to amend and reenact §17-2D-2 and §17-2D-5 of the Code of
14 West Virginia, 1931, as amended, all relating to the Highway
15 Design-Build Pilot Program; continuing the Highway Design-
16 Build Pilot Program for two years; increasing the annual
17 amounts which may be expended on design-build projects;
18 authorizing additional projects after the effective date of
19 this amendment; and providing that consultant engineers
20 involved in the preliminary planning of a design-build project
21 may not participate in the construction of that project.

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

23 That §17-2D-2 and §17-2D-5 of the Code of West Virginia, 1931,
24 as amended, be amended and reenacted, all to read as follows:

25 **ARTICLE 2D. HIGHWAY DESIGN-BUILD PILOT PROGRAM.**

1 **§17-2D-2. Highway Design-Build Pilot Program.**

2 (a) Notwithstanding any provision of this code to the
3 contrary, the Commissioner of the West Virginia Division of
4 Highways may continue with the pilot program to expedite the
5 construction of no more than ten special projects after the
6 effective date of the amendment to this article in the regular
7 session of 2011, in addition to the three projects authorized by
8 prior enactment of this section, by combining the design and
9 construction elements of a highway or bridge project into a single
10 contract.

11 (b) A design-build project may not be let to contract after
12 June 30, 2013. The Division of Highways may expend no more than
13 \$75 million in each of the two years remaining in the pilot program
14 after the effective date of the amendment to this article in the
15 regular session of 2011: *Provided*, That if any of the \$75 million
16 is unused in the first year, the remaining amount may be applied to
17 the following year's amount: *Provided, however*, That the total
18 aggregate amount to be expended after the effective date of the
19 amendment to this article in the regular session of 2011 may not
20 exceed \$150 million.

21 (c) A design-build project may be let to contract only in
22 accordance with the commissioner's established policies and
23 procedures concerning design-build projects.

24 (d) After June 30, 2013, projects may not be let under the
25 provisions of this article unless the West Virginia Legislature
26 either approves additional projects or makes the program permanent.

1 (e) Projects receiving special funding above the regular
2 federal core funding may utilize the pilot program, but shall not
3 be included in the total number of projects or expenditure limits
4 provided by subsections (a) and (b) of this section.

5 (f) Effective after the effective date of the amendment to
6 this article in the regular session of 2011, no consultant engineer
7 who prepares preliminary plans, planning reports or other project
8 development products for a project pursuant to the provisions of
9 this section may participate in the construction of that project.

10 **§17-2D-5. Report to the Legislature.**

11 On or before December 1, 2013, the commissioner shall prepare
12 and submit to the Joint Standing Committee on Government
13 Organization a report evaluating the experience of the Division of
14 Highways with each project, including whether the division realized
15 any cost or time savings, the number and cost of change orders, the
16 quality of work performed, the number of bids received and other
17 issues the commissioner considers appropriate.