

Senate Bill No. 186

(By Senators Kessler (Mr. President) and M. Hall,

By Request of the Executive)

[Introduced February 15, 2013; referred to the Committee on
Finance.]

10 A BILL to amend and reenact §11-24-43a of the Code of West
11 Virginia, 1931, as amended; to amend and reenact §31-15A-16 of
12 said code; and to amend and reenact §33-20F-4 of said code,
13 all relating to reallocation and repatriation of certain funds
14 to the General Revenue Fund; specifying that dedication of tax
15 proceeds for deposit in the Special Railroad and Intermodal
16 Enhancement Fund expire at the end of June 30, 2013; reducing
17 the amount deposited annually to the credit of the West
18 Virginia Infrastructure General Obligation Debt Service Fund,
19 subject to certain limitations, conditions and constraints;
20 deleting obsolete provisions regarding a loan from the Tobacco
21 Settlement Medical Trust Fund to the Physician's Mutual
22 Insurance Company; deleting the provision requiring some taxes
23 on medical malpractice insurance premiums to be paid into the
24 Revenue Shortfall Reserve Fund; and specifying effective

1 dates.

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

3 That §11-24-43a of the Code of West Virginia, 1931, as
4 amended, be amended and reenacted; that §31-15A-16 of said code be
5 amended and reenacted; and that §33-20F-4 of said code be amended
6 and reenacted, all to read as follows:

7 **CHAPTER 11. TAXATION.**

8 **ARTICLE 24. CORPORATION NET INCOME TAX.**

9 **§11-24-43a. Dedication of tax proceeds to railways.**

10 (a) Beginning January 1, 2008, there is ~~hereby~~ dedicated an
11 annual amount of up to \$4,300,000 from annual collections of the
12 tax imposed by this article for the purpose of construction,
13 reconstruction, maintenance and repair of railways, the
14 construction of railway-related structures and payment of principal
15 and interest on state bonds issued for railway purposes, as
16 approved by the West Virginia Public Port Authority.

17 (b) For purposes of administering the deposits required by
18 this subdivision, after December 31, 2007, from the taxes imposed
19 by this section and paid to the Tax Commissioner in each quarter of
20 the year, after deducting the amount of any refunds lawfully paid
21 and any administrative costs authorized by this code, the Tax
22 Commissioner shall pay into the Special Railroad and Intermodal
23 Enhancement Fund provided ~~for~~ in section seven-a, article sixteen-

1 b, chapter seventeen of this code an amount equal to at least
 2 \$1,075,000. In any quarter where the collections are less than the
 3 amount required to be paid into the Special Railroad and Intermodal
 4 Enhancement Fund, or where the total amount paid in any year will
 5 be less than \$4,300,000, the difference shall be paid from amounts
 6 available from collections in succeeding quarters until paid in
 7 full. Notwithstanding any provision of this section to the
 8 contrary, the total amount to be deposited into the Special
 9 Railroad and Intermodal Enhancement Fund for ~~the year two thousand~~
 10 ~~sixteen shall~~ 2013 may not exceed \$2,150,000.

11 (c) Notwithstanding any provision of this section to the
 12 contrary, all provisions of this section relating to requiring the
 13 deposit of moneys in the Special Railroad and Intermodal
 14 Enhancement Fund ~~shall~~ expires at the end of ~~the thirtieth day of~~
 15 ~~June, two thousand sixteen~~ June 30, 2013.

16 **CHAPTER 31. CORPORATIONS.**

17 **ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT**
 18 **COUNCIL.**

19 **§31-15A-16. Dedication of severance tax proceeds.**

20 (a) There shall be dedicated an annual amount from the
 21 collections of the tax collected pursuant to article thirteen-a,
 22 chapter eleven of this code for the construction, extension,
 23 expansion, rehabilitation, repair and improvement of water supply

1 and sewage treatment systems and for the acquisition, preparation,
2 construction and improvement of sites for economic development in
3 this state as provided in this article.

4 (b) Notwithstanding any other provision of this code to the
5 contrary, beginning on July 1, 1995, the first \$16 million of the
6 tax collected pursuant to article thirteen-a, chapter eleven of
7 this code shall be deposited to the credit of the West Virginia
8 Infrastructure General Obligation Debt Service Fund created
9 pursuant to section three, article fifteen-b of this chapter:
10 *Provided*, That beginning on July 1, 1998, the first \$24 million of
11 the tax annually collected pursuant to article thirteen-a of this
12 code shall be deposited to the credit of the West Virginia
13 Infrastructure General Obligation Debt Service Fund created
14 pursuant to section three, article fifteen-b of this chapter:
15 *Provided, however, That subject to the conditions, limitations,*
16 *exclusions and constraints prescribed by subsection (c) of this*
17 *section, beginning on July 1, 2013, the amount deposited under this*
18 *subsection to the credit of the West Virginia Infrastructure*
19 *General Obligation Debt Service Fund created pursuant to section*
20 *three, article fifteen-b of this chapter shall be the first \$23*
21 *million of the tax annually collected pursuant to article thirteen-*
22 *a, chapter eleven of this code.*

23 (c) Notwithstanding any provision of subsection (b) of this
24 section to the contrary: (1) None of the collections from the tax

1 imposed pursuant to section six, article thirteen-a, chapter eleven
2 of this code shall be so dedicated or deposited; and (2) the
3 portion of the tax imposed by article thirteen-a, chapter eleven
4 and dedicated for purposes of Medicaid and the Division of Forestry
5 pursuant to section twenty-a of said article thirteen-a shall
6 remain dedicated for the purposes set forth in that section
7 twenty-a.

8 (d) On or before May 1 of each year, commencing May 1, 1995,
9 the council, by resolution, shall certify to the Treasurer and the
10 Water Development Authority the principal and interest coverage
11 ratio and amount for the following fiscal year on any
12 infrastructure general obligation bonds issued pursuant to the
13 provisions of article fifteen-b of this chapter.

14 **CHAPTER 33. INSURANCE.**

15 **ARTICLE 20F. PHYSICIANS' MUTUAL INSURANCE COMPANY.**

16 **§33-20F-4. Authorization for creation of company; requirements**
17 **and limitations.**

18 (a) Subject to the provisions of this article, a physicians'
19 mutual insurance company may be created as a domestic, private,
20 nonstock, nonprofit corporation. As an incentive for its creation,
21 the company may be eligible for funds from the Legislature in
22 accordance with the provisions of section seven of this article.
23 The company must remain for the duration of its existence a

1 domestic mutual insurance company owned by its policyholders and
2 may not be converted into a stock corporation, a for-profit
3 corporation or any other entity not owned by its policyholders. The
4 company may not declare any dividend to its policyholders; sell,
5 assign or transfer substantial assets of the company; or write
6 coverage outside this state, except for counties adjoining this
7 state, until after any and all debts owed by the company to the
8 state have been fully paid.

9 (b) For the duration of its existence, the company is not and
10 may not be considered a department, unit, agency, or
11 instrumentality of the state for any purpose. All debts, claims,
12 obligations, and liabilities of the company, whenever incurred,
13 shall be the debts, claims, obligations, and liabilities of the
14 company only and not of the state or of any department, unit,
15 agency, instrumentality, officer or employee of the state.

16 (c) The moneys of the company are not and may not be
17 considered part of the General Revenue Fund of the state. The
18 debts, claims, obligations, and liabilities of the company are not
19 and may not be considered a debt of the state or a pledge of the
20 credit of the state.

21 (d) The company is not subject to provisions of article nine-
22 a, chapter six of this code or the provisions of article one,
23 chapter twenty-nine-b of this code.

24 (e) ~~(1)~~ All premiums collected by the company are subject to

1 the premium taxes, additional premium taxes, additional fire and
2 casualty insurance premium taxes and surcharges contained in
3 sections fourteen, fourteen-a, fourteen-d and thirty-three, article
4 three of this chapter. ~~Provided, That while the loan to the company~~
5 ~~of moneys from the West Virginia Tobacco Settlement Medical Trust~~
6 ~~Fund pursuant to section nine of this article remains outstanding,~~
7 ~~the commissioner may waive the company's premium taxes, additional~~
8 ~~premium taxes and additional fire and casualty insurance premium~~
9 ~~taxes if payment would render the company insolvent or otherwise~~
10 ~~financially impaired.~~

11 ~~(2) On and after the first day of July, two thousand three,~~
12 ~~any premium taxes and additional premium taxes paid by the company~~
13 ~~and by any insurer on its medical malpractice line pursuant to~~
14 ~~sections fourteen and fourteen-a, article three of this chapter,~~
15 ~~shall be temporarily applied toward replenishing the moneys~~
16 ~~appropriated from the West Virginia Tobacco Settlement Medical~~
17 ~~Trust Fund pursuant to subsection (c), section two, article eleven-~~
18 ~~a, chapter four of this code pending repayment of the loan of such~~
19 ~~moneys by the company.~~

20 ~~(3) The State Treasurer shall notify the commissioner when the~~
21 ~~moneys appropriated from the West Virginia tobacco settlement~~
22 ~~medical trust have been fully replenished, at which time the~~
23 ~~commissioner shall resume depositing premium taxes and additional~~
24 ~~premium taxes diverted pursuant to subdivision (2) of this~~

1 ~~subsection in accordance with the provisions of sections fourteen~~
2 ~~and fourteen-a, article three of this chapter.~~

3 ~~(4) Payments received by the treasurer from the company in~~
4 ~~repayment of any outstanding loan made pursuant to section nine of~~
5 ~~this article shall be deposited in the West Virginia Tobacco~~
6 ~~Settlement Medical Trust Fund and dedicated to replenishing the~~
7 ~~moneys appropriated therefrom under subsection (c), section two,~~
8 ~~article eleven-a, chapter four of this code. Once the moneys~~
9 ~~appropriated from the West Virginia Tobacco Settlement Medical~~
10 ~~Trust Fund have been fully replenished, the treasurer shall deposit~~
11 ~~any payments from the company in repayment of any outstanding loan~~
12 ~~made pursuant to section nine of this article in said fund and~~
13 ~~transfer a like amount from said fund to the commissioner for~~
14 ~~disbursement in accordance with the provisions of sections fourteen~~
15 ~~and fourteen-a, article three of this chapter.~~

16 ~~(5) Notwithstanding any other provision of this code to the~~
17 ~~contrary, on and after the effective date of the amendment and~~
18 ~~reenactment of this section during the regular session of the~~
19 ~~Legislature in two thousand six, all moneys otherwise required by~~
20 ~~this section to be deposited in the West Virginia Tobacco~~
21 ~~Settlement Medical Trust Fund and dedicated to replenishing the~~
22 ~~moneys transferred therefrom under subsection (c), section two,~~
23 ~~article eleven-a, chapter four of this code shall instead be paid~~
24 ~~into the Revenue Shortfall Reserve Fund — Part B created in section~~

1 ~~twenty, article two, chapter eleven b of this code.~~

2 (f) *Effective Date* - The changes to this section adopted in

3 2013 are effective and apply on and after July 1, 2013.

NOTE: The purpose of this bill is to terminate all deposits of corporate net income tax moneys into the special Railroad and Intermodal Enhancement Fund after June 30, 2013; to change the amount of the annual severance tax dedicated to the Infrastructure General Obligation Debt Service Fund from \$24 million to \$23 million; to eliminate obsolete provisions regarding a loan from the Tobacco Settlement Medical Trust Fund to the Physician's Mutual Insurance Company; and to remove certain premium taxes from being deposited into the Revenue Shortfall Reserve Fund.

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