

COMMITTEE SUBSTITUTE

FOR

H. B. 2519

(BY MR. SPEAKER, (MR. THOMPSON)
AND DELEGATE ARMSTEAD)

(Originating in the House Committee on Finance.)

[March 22, 2013]

A BILL to amend and reenact §11-24-43a of the Code of West Virginia, 1931, as amended; to amend and reenact §31-15A-16 of said code; and to amend and reenact §33-20F-4 of said code, all relating to reallocation and repatriation of certain funds to the General Revenue Fund; eliminating the required payments into the Special Railroad and Intermodal Enhancement Fund for fiscal year 2014; reducing the amount deposited annually to the credit of the West Virginia Infrastructure General Obligation Debt Service Fund, subject to certain limitations, conditions and constraints; eliminating provisions regarding a loan from the Tobacco

Settlement Medical Trust Fund to the Physician's Mutual Insurance Company; eliminating the requirement that certain taxes imposed upon medical malpractice insurance premiums to be paid into the Revenue Shortfall Reserve Fund; and specifying effective dates.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 11. TAXATION.

ARTICLE 24. CORPORATION NET INCOME TAX.

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

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

8 (b) For purposes of administering the deposits required by
9 this subdivision, after December 31, 2007, from the taxes
10 imposed by this section and paid to the Tax Commissioner in
11 each quarter of the year, after deducting the amount of any
12 refunds lawfully paid and any administrative costs authorized by
13 this code, the Tax Commissioner shall pay into the Special
14 Railroad and Intermodal Enhancement Fund provided for in
15 section seven-a, article sixteen-b, chapter seventeen of this code
16 an amount equal to at least \$1,075,000. In any quarter where the
17 collections are less than the amount required to be paid into the
18 Special Railroad and Intermodal Enhancement Fund, or where
19 the total amount paid in any year will be less than \$4,300,000,
20 the difference shall be paid from amounts available from
21 collections in succeeding quarters until paid in full.
22 Notwithstanding any provision of this section to the contrary, the
23 total amount to be deposited into the Special Railroad and
24 Intermodal Enhancement Fund for ~~the year two thousand sixteen~~
25 ~~shall~~ 2013 may not exceed \$2,150,000: Provided, That no
26 deposits shall be made into the Special Railroad and Intermodal
27 Enhancement Fund during the fiscal year 2014.

28 ~~(c) Notwithstanding any provision of this section to the~~
29 ~~contrary, all provisions of this section relating to requiring the~~
30 ~~deposit of moneys in the Special Railroad and Intermodal~~
31 ~~Enhancement Fund shall expires at the end of the thirtieth day of~~
32 ~~June, two thousand sixteen.~~

CHAPTER 31. CORPORATIONS.

ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

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

1 (a) There shall be dedicated an annual amount from the
2 collections of the tax collected pursuant to article thirteen-a,
3 chapter eleven of this code for the construction, extension,
4 expansion, rehabilitation, repair and improvement of water
5 supply and sewage treatment systems and for the acquisition,
6 preparation, construction and improvement of sites for economic
7 development in this state as provided in this article.

8 (b) Notwithstanding any other provision of this code to the
9 contrary, beginning on July 1, 1995, the first \$16 million of the
10 tax collected pursuant to article thirteen-a, chapter eleven of this
11 code shall be deposited to the credit of the West Virginia
12 Infrastructure General Obligation Debt Service Fund created

13 pursuant to section three, article fifteen-b of this chapter:
14 *Provided*, That beginning on July 1, 1998, the first \$24 million
15 of the tax annually collected pursuant to article thirteen-a of this
16 code shall be deposited to the credit of the West Virginia
17 Infrastructure General Obligation Debt Service Fund created
18 pursuant to section three, article fifteen-b of this chapter;
19 *Provided, however*, That subject to the conditions, limitations,
20 exclusions and constraints prescribed by subsection (c) of this
21 section, beginning on July 1, 2013, the amount deposited under
22 this subsection to the credit of the West Virginia Infrastructure
23 General Obligation Debt Service Fund created pursuant to
24 section three, article fifteen-b of this chapter shall be the first
25 \$23 million of the tax annually collected pursuant to article
26 thirteen-a, chapter eleven of this code.

27 (c) Notwithstanding any provision of subsection (b) of this
28 section to the contrary: (1) None of the collections from the tax
29 imposed pursuant to section six, article thirteen-a, chapter eleven
30 of this code shall be so dedicated or deposited; and (2) the
31 portion of the tax imposed by article thirteen-a, chapter eleven
32 and dedicated for purposes of Medicaid and the Division of

33 Forestry pursuant to section twenty-a of said article thirteen-a
34 shall remain dedicated for the purposes set forth in that section
35 twenty-a.

36 (d) On or before May 1 of each year, commencing May 1,
37 1995, the council, by resolution, shall certify to the Treasurer
38 and the Water Development Authority the principal and interest
39 coverage ratio and amount for the following fiscal year on any
40 infrastructure general obligation bonds issued pursuant to the
41 provisions of article fifteen-b of this chapter.

CHAPTER 33. INSURANCE.

ARTICLE 20F. PHYSICIANS' MUTUAL INSURANCE COMPANY.

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

1 (a) Subject to the provisions of this article, a physicians'
2 mutual insurance company may be created as a domestic,
3 private, nonstock, nonprofit corporation. As an incentive for its
4 creation, the company may be eligible for funds from the
5 Legislature in accordance with the provisions of section seven of
6 this article. The company must remain for the duration of its
7 existence a domestic mutual insurance company owned by its
8 policyholders and may not be converted into a stock corporation,

9 a for-profit corporation or any other entity not owned by its
10 policyholders. The company may not declare any dividend to its
11 policyholders; sell, assign or transfer substantial assets of the
12 company; or write coverage outside this state, except for
13 counties adjoining this state, until after any and all debts owed
14 by the company to the state have been fully paid.

15 (b) For the duration of its existence, the company is not and
16 may not be considered a department, unit, agency, or
17 instrumentality of the state for any purpose. All debts, claims,
18 obligations, and liabilities of the company, whenever incurred,
19 shall be the debts, claims, obligations, and liabilities of the
20 company only and not of the state or of any department, unit,
21 agency, instrumentality, officer or employee of the state.

22 (c) The moneys of the company are not and may not be
23 considered part of the General Revenue Fund of the state. The
24 debts, claims, obligations, and liabilities of the company are not
25 and may not be considered a debt of the state or a pledge of the
26 credit of the state.

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

30 (e) ~~(1)~~ All premiums collected by the company are subject
31 to the premium taxes, additional premium taxes, additional fire
32 and casualty insurance premium taxes and surcharges contained
33 in sections fourteen, fourteen-a, fourteen-d and thirty-three,
34 article three of this chapter. *Provided, That* while the loan to the
35 company of moneys from the West Virginia Tobacco Settlement
36 Medical Trust Fund pursuant to section nine of this article
37 remains outstanding, the commissioner may waive the
38 company's premium taxes, additional premium taxes and
39 additional fire and casualty insurance premium taxes if payment
40 would render the company insolvent or otherwise financially
41 impaired.

42 ~~(2)~~ On and after the first day of July, two thousand three, any
43 premium taxes and additional premium taxes paid by the
44 company and by any insurer on its medical malpractice line
45 pursuant to sections fourteen and fourteen-a, article three of this
46 chapter, shall be temporarily applied toward replenishing the
47 moneys appropriated from the West Virginia Tobacco
48 Settlement Medical Trust Fund pursuant to subsection (c);
49 section two, article eleven-a, chapter four of this code pending
50 repayment of the loan of such moneys by the company.

51 ~~(3) The State Treasurer shall notify the commissioner when~~
52 ~~the moneys appropriated from the West Virginia tobacco~~
53 ~~settlement medical trust have been fully replenished, at which~~
54 ~~time the commissioner shall resume depositing premium taxes~~
55 ~~and additional premium taxes diverted pursuant to subdivision~~
56 ~~(2) of this subsection in accordance with the provisions of~~
57 ~~sections fourteen and fourteen-a, article three of this chapter.~~

58 ~~(4) Payments received by the treasurer from the company in~~
59 ~~repayment of any outstanding loan made pursuant to section nine~~
60 ~~of this article shall be deposited in the West Virginia Tobacco~~
61 ~~Settlement Medical Trust Fund and dedicated to replenishing the~~
62 ~~moneys appropriated therefrom under subsection (c), section~~
63 ~~two, article eleven-a, chapter four of this code. Once the moneys~~
64 ~~appropriated from the West Virginia Tobacco Settlement~~
65 ~~Medical Trust Fund have been fully replenished, the treasurer~~
66 ~~shall deposit any payments from the company in repayment of~~
67 ~~any outstanding loan made pursuant to section nine of this article~~
68 ~~in said fund and transfer a like amount from said fund to the~~
69 ~~commissioner for disbursement in accordance with the~~
70 ~~provisions of sections fourteen and fourteen-a, article three of~~
71 ~~this chapter.~~

72 ~~(5) Notwithstanding any other provision of this code to the~~
73 ~~contrary, on and after the effective date of the amendment and~~
74 ~~reenactment of this section during the regular session of the~~
75 ~~Legislature in two thousand six, all moneys otherwise required~~
76 ~~by this section to be deposited in the West Virginia Tobacco~~
77 ~~Settlement Medical Trust Fund and dedicated to replenishing the~~
78 ~~moneys transferred therefrom under subsection (c), section two,~~
79 ~~article eleven-a, chapter four of this code shall instead be paid~~
80 ~~into the Revenue Shortfall Reserve Fund - Part B created in~~
81 ~~section twenty, article two, chapter eleven-b of this code.~~

82 (f) Effective Date - The changes to this section adopted in
83 2013 are effective and apply on and after July 1, 2013.

