

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 320

BY SENATOR TRUMP

[Originating in the Committee on the Judiciary;

reported on February 17, 2017.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §4-4-1, §4-4-2, §4-4-3, §4-4-4, §4-4-5 and §4-4-6, all relating to the
3 Appropriation Supremacy Act of 2017; creating short title; defining terms; setting forth
4 legislative findings and purpose; establishing that appropriations by the Legislature take
5 precedence over contrary directives in statute or rules; clarifying that no statutory changes
6 are required to correspond with conflicting budget appropriations; providing for liberal
7 construction of article; setting forth manner in which statute can be exempt from scope of
8 article; and recognizing constitutional restrictions on appropriations.

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 article, designated §4-4-1, §4-4-2, §4-4-3, §4-4-4, §4-4-5 and §4-4-6, all to read as follows:

ARTICLE 4. APPROPRIATION SUPREMECY ACT.

§4-4-1. Short Title.

1 This article may be cited as the “Appropriation Supremacy Act of 2017”.

§4-4-2. “Appropriation” defined.

1 When used herein, “appropriation” means an appropriation enacted by the Legislature as
2 contemplated by Article VI, Section 51 of the West Virginia Constitution and by Article X, Section
3 3 of the West Virginia Constitution. The term “appropriation” includes both a budget bill and a
4 supplementary appropriation bill, and any and all individual appropriations contained in either.

§4-4-3. Legislative findings and purpose.

1 The Legislature hereby finds that among the Legislature’s most solemn and important
2 duties is its duty under Article VI of the West Virginia Constitution to enact a budget each year,
3 thereby providing the legal authority for the expenditures for the operation of the government of
4 West Virginia.

5 Over the course of many years, many statutes have been enacted, the effect of which is
6 to shield moneys which are paid to the state from appropriations as general revenue. The various

7 methods used over time for the insulation of such moneys from appropriation as general revenue
8 include, but are not limited to, the creation and utilization of special revenue accounts, statutory
9 directives on how moneys are to be expended, statutory minimums to be provided for various
10 purposes, and other mechanisms which have been enacted to create ongoing, continuing, or
11 automatically recurring expenditures of designated streams of revenue.

12 The purpose of this article is to make clear that an appropriation by the Legislature in a
13 budget bill or supplementary appropriation bill enacted at any time after the enactment of this
14 article shall take precedence over any and all contrary directives for expenditures established by
15 law for that budget year, and that no repeal or amendment of any statute, rule, or other law that
16 would direct the use or expenditure of money otherwise than as directed by the appropriation is
17 required.

§4-4-4. Legislative authority to appropriate.

1 Notwithstanding any provision of law to the contrary, every statute or rule that directs the
2 expenditure of money in any fashion or for any purpose, whether appropriated or not, including,
3 but not limited to, statutes directing the expenditure, payment, or utilization of moneys or streams
4 of money that are not appropriated, is subject to the provisions of this article, and the Legislature
5 may appropriate such sums, or such portions thereof, as the Legislature shall deem necessary.
6 The enactment by the Legislature of an appropriation of any such money or moneys shall take
7 precedence and priority for the budget year in or for which the appropriation is made over any
8 and all contrary directives contained in any statute or rule as to how such money shall be
9 expended or utilized to the extent of the appropriation.

§4-4-5. Construction of article.

1 This article is to be liberally construed in favor of the Legislature's authority to appropriate
2 funds. Where there is a conflict between an appropriation and any other law, the appropriation
3 shall prevail and be given priority, unless a statute in conflict with an appropriation expressly
4 provides that the directive for an expenditure contained therein supersedes and takes priority over

5 the provisions of this article, which such statute may accomplish only by making a specific
6 reference to this article. This rule of construction is enacted to negate any possibility that a statute
7 enacted or reenacted after the enactment of this article may be construed as to supersede this
8 article, as a subsequent enactment of the Legislature, without a provision therein expressly
9 providing that its directive supersedes the provisions of this article.

§4-4-6. Constitutional constraints upon appropriations recognized.

1 In enacting this article, the Legislature recognizes that, as to some moneys collected by
2 the state, the Constitution of West Virginia imposes upon the Legislature certain restrictions on
3 the authority of the Legislature to appropriate such funds for general purposes. The Legislature
4 recognizes the constitutional restrictions which apply to the Legislature's authority to appropriate
5 moneys, and no provision of this article should be interpreted so as to ascribe to the provisions of
6 this article any intention on the part of the Legislature to thwart or contravene any constitutional
7 prohibitions or mandates.