

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 538

FISCAL
NOTE

BY SENATORS CLEMENTS, STOLLINGS, PLYMALE, AND

CLINE

[Introduced February 6, 2019; Referred
to the Committee on Transportation and Infrastructure]

1 A BILL to amend and reenact §17-2D-2 of the Code of West Virginia, 1931, as amended, relating
 2 generally to the West Virginia Highway Design-Build Pilot Program; allowing Division of
 3 Highways to contractually obligate no more than \$350 million on any one design-build
 4 project for fiscal years beginning after June 30, 2019; allowing up to \$350 million to be
 5 contractually obligated for individual projects financed with bonds under authority of the
 6 Roads to Prosperity Amendment of 2017 after June 30, 2019; providing that design-build
 7 projects financed with bonds under authority of the Roads to Prosperity Amendment of
 8 2017 do not count toward the annual cap on the design-build program; and clarifying
 9 terminology.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2D. HIGHWAY DESIGN-BUILD PILOT PROGRAM.

§17-2D-2. Highway Design-Build Program.

1 (a) Notwithstanding any provision of this code to the contrary, the Commissioner of the
 2 West Virginia Division of Highways may expedite the construction of projects by combining the
 3 design and construction elements of a highway or bridge project into a single contract as provided
 4 in this article.

5 (b) The Division of Highways may ~~expend~~ contractually obligate no more than \$50 million
 6 in each year in the program: *Provided*, That if any of the \$50 million is ~~unused~~ not so obligated in
 7 one year, the remaining amount may be applied to the following year's contractual obligation
 8 amount: *Provided, however*, That the total aggregate amount to be ~~expended~~ contractually
 9 obligated may not exceed \$150 million in any one year: *Provided further*, That for fiscal years
 10 beginning after June 30, 2017, the Division of Highways may ~~expend~~ obligate no more than \$200
 11 million on any one project: *And provided further*, That for fiscal years beginning after June 30,
 12 2017, the Division of Highways may ~~expend~~ contractually obligate no more than \$400 million in
 13 each year in the program: *And provided further*, That for fiscal years beginning after June 30,
 14 2017, if any of the \$400 million is ~~unused~~ not contractually obligated in any year, the remaining

15 amount may be applied to the following year's contract obligation amount: *And provided further,*
16 That for fiscal years beginning after June 30, 2017, the total aggregate amount to be ~~expended~~
17 obligated may not exceed \$500 million in any one year: *And provided further,* That for fiscal years
18 beginning after June 30, 2019, the Division of Highways may contractually obligate no more than
19 \$350 million on any one project: *And provided further,* That ~~expenditures~~ contractual obligations
20 made for projects that are necessitated by a declared state of emergency within a county that the
21 Governor has included in a declaration of emergency are not to be included against the
22 ~~expenditure~~ contractual obligation limits provided in this subsection.

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

25 (d) Projects receiving funding above the amount of federal core funding as appropriated
26 to the state by formula in a federal highway authorization, currently titled MAP-21, may utilize the
27 program, but shall not be included in expenditure limits provided by subsection (b) of this section.

28 (e) Notwithstanding the contractual obligation limitations contained in this section, projects
29 financed with bonds under authority of the Roads to Prosperity Amendment of 2017 may be
30 constructed as design-build projects with an obligation limitation of \$350 million for any one
31 project. Contract obligations made by the Division of Highways for projects financed with bonds
32 under authority of the Roads to Prosperity Amendment of 2017 are not counted toward the yearly
33 total aggregate obligation amount limits contained in this section.

NOTE: The purpose of this bill is to authorize the design-build program to be used for projects financed with bonds under authority of the Roads to Prosperity Amendment of 2017 with an obligation limitation of \$350 million per project. The phrases "contractual obligation" and "contractually obligated" are substituted for the term "expenditure" to be more accurate.

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