

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 538

SENATORS CLEMENTS, STOLLINGS, PLYMALE, AND CLINE,

original sponsors

[Passed March 9, 2019; in effect from passage]

1 AN ACT 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; modifying and defining
3 monetary project limits of the program and changing terminology; allowing exceptions for
4 declared states of emergency; and allowing use of the program with limits for projects
5 financed with and without bonds.

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)(1) The Division of Highways may contractually obligate no more than \$50 million in
6 each year in the program: *Provided*, That if any of the \$50 million is not so contractually obligated
7 in 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 contractually obligated may
9 not exceed \$150 million in any one year: *Provided further*, That for fiscal years beginning after
10 June 30, 2017, the Division of Highways may contractually obligate no more than \$200 million on
11 any one project: *And provided further*, That for fiscal years beginning after June 30, 2017, the
12 Division of Highways may contractually obligate no more than \$400 million in each year in the
13 program: *And provided further*, That for fiscal years beginning after June 30, 2017, if any of the
14 \$400 million is not contractually obligated in any year, the remaining amount may be applied to
15 the following year's contract obligation amount: *And provided further*, That for fiscal years
16 beginning after June 30, 2017, the total aggregate amount to be contractually obligated may not
17 exceed \$500 million in any one year.

18 (2) Notwithstanding the limits set forth in §17-2D-2(b)(1) of this code, for projects financed
19 without bonds for fiscal years beginning after June 30, 2019, the Division of Highways may
20 contractually obligate in the program:

21 (A) No more than \$200 million on any one project;

22 (B) No more than \$200 million in each year; and

23 (C) No more than \$300 million in the total aggregate amount in any one year.

24 (3) Notwithstanding and in addition to the limits set forth in §17-2D-2(b)(1) and §17-2D-
25 2(b)(2) of this code, for projects financed with bonds for fiscal years beginning after June 30,
26 2018, the Division of Highways may contractually obligate in the program:

27 (A) No more than \$300 million on any one project;

28 (B) No more than \$600 million in each year; and

29 (C) No more than \$700 million in the total aggregate amount in any one year.

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

32 (d) Projects receiving funding above the amount of federal core funding as appropriated
33 to the state by formula in a federal highway authorization, currently titled MAP-21, may utilize the
34 program, but shall not be included in calculating contractual obligation limits provided by §17-2D-
35 2(b) of this code.

36 (e) The contractual obligations made for projects that are necessitated by a declared state
37 of emergency within a county that the Governor has included in a declaration of emergency shall
38 not be included in calculating contractual obligation limits provided in §17-2D-2(b) of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2019.

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Governor