

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 538

SENATORS CLEMENTS, STOLLINGS, PLYMALE, AND CLINE,

original sponsors

[Originating in the Committee on Transportation and

Infrastructure; Reported on February 21, 2019]

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; modifying monetary
3 project limits of the program and terminology; and allowing use of program with limits for
4 projects financed with 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 ~~expend~~ contractually obligate no more than \$50
6 million in each year in the program: *Provided*, That if any of the \$50 million is ~~unused~~ not so
7 contractually obligated in one year, the remaining amount may be applied to the following year's
8 contractual obligation amount: *Provided, however*, That the total aggregate amount to be
9 ~~expended~~ contractually obligated may not exceed \$150 million in any one year: *Provided further*,
10 That for fiscal years beginning after June 30, 2017, the Division of Highways may ~~expend~~
11 contractually obligate no more than \$200 million on any one project: *And provided further*, That
12 for fiscal years beginning after June 30, 2017, the Division of Highways may ~~expend~~ contractually
13 obligate no more than \$400 million in each year in the program: *And provided further*, That for
14 fiscal years beginning after June 30, 2017, if any of the \$400 million is ~~unused~~ not contractually
15 obligated in any year, the remaining amount may be applied to the following year's contract
16 obligation amount: *And provided further*, That for fiscal years beginning after June 30, 2017, the
17 total aggregate amount to be ~~expended~~ contractually obligated may not exceed \$500 million in
18 any one year: ~~*And provided further*~~, That expenditures made for projects that are necessitated by

19 ~~a declared state of emergency within a county that the Governor has included in a declaration of~~
20 ~~emergency are not to be included against the expenditure limits provided in this subsection.~~

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

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

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

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

27 (3) Notwithstanding and in addition to the limits set forth in §17-2D-2(b)(1) and §17-2D-
28 2(b)(2) of this code, for projects financed with bonds for fiscal years beginning after June 30,
29 2018, the Division of Highways may contractually obligate in the program:

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

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

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

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

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

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

NOTE: The purpose of this bill is to authorize the design-build program to be used for projects financed with bonds. The phrases “contractual obligation” and “contractually obligated” are substituted for the term “expenditure” to be more accurate. The bill also modifies and imposes some financial limits in the program.

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