

SB 393

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2014**



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 393**

(By SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,  
BY REQUEST OF THE EXECUTIVE)

[PASSED MARCH 8, 2014; IN EFFECT FROM PASSAGE.]

**FILED**  
2014 MAR 24 P 4: 03  
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SECRETARY OF STATE

**FILED**

2014 MAR 24 P 4:1

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**E N R O L L E D**  
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**Senate Bill No. 393**

(BY SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,  
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[Passed March 8, 2014; in effect from passage.]

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**AN ACT to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating to the Revenue Shortfall Reserve Fund; and allowing the Governor to borrow money from the fund prior to the first day of April, 2014, if revenues are inadequate to make timely payments of the state's obligations.**

*Be it enacted by the Legislature of West Virginia:*

That §11B-2-20 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. STATE BUDGET OFFICE.**

**§11B-2-20. Reduction of appropriations; powers of Governor; Revenue Shortfall Reserve Fund and permissible expenditures therefrom.**

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(a) Notwithstanding any provision of this section, the Governor may reduce appropriations according to any of the methods set forth in sections twenty-one and twenty-two of this article. The Governor may, in lieu of imposing a reduction in appropriations, request an appropriation by the Legislature from the Revenue Shortfall Reserve Fund established in this section.

(b) The Revenue Shortfall Reserve Fund is continued within the State Treasury. The Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance with this subsection up to an aggregate amount not to exceed thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. The Revenue Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus revenues, if any, in the State Fund, General Revenue, as the surplus revenues may accrue from time to time.

Within sixty days of the end of each fiscal year, the secretary shall cause to be deposited into the Revenue Shortfall Reserve Fund such amount of the first fifty percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended, as may be necessary to bring the balance of the Revenue Shortfall Reserve Fund to thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. If at the end of any fiscal year the Revenue Shortfall Reserve Fund is funded at an amount equal to or exceeding thirteen percent of the state's General Revenue Fund budget for the fiscal year just ended, then there shall be no further deposit by the secretary under the provisions of this section of any surplus revenues as set forth in this subsection until that time the Revenue Shortfall Reserve Fund balance is less than thirteen percent of the total appropriations from the State Fund, General Revenue.

35           (c) Not earlier than November 1 of each calendar year, if  
36 the state's fiscal circumstances are such as to otherwise  
37 trigger the authority of the Governor to reduce appropriations  
38 under this section or section twenty-one or twenty-two of this  
39 article, then in that event the Governor may notify the  
40 presiding officers of both houses of the Legislature in writing  
41 of his or her intention to convene the Legislature pursuant to  
42 section nineteen, article VI of the Constitution of West  
43 Virginia for the purpose of requesting the introduction of a  
44 supplementary appropriation bill or to request a  
45 supplementary appropriation bill at the next preceding regular  
46 session of the Legislature to draw money from the surplus  
47 Revenue Shortfall Reserve Fund to meet any anticipated  
48 revenue shortfall. If the Legislature fails to enact a  
49 supplementary appropriation from the Revenue Shortfall  
50 Reserve Fund during any special legislative session called for  
51 the purposes set forth in this section or during the next  
52 preceding regular session of the Legislature, then the  
53 Governor may proceed with a reduction of appropriations  
54 pursuant to sections twenty-one and twenty-two of this  
55 article. Should any amount drawn from the Revenue  
56 Shortfall Reserve Fund pursuant to an appropriation made by  
57 the Legislature prove insufficient to address any anticipated  
58 shortfall, then the Governor may also proceed with a  
59 reduction of appropriations pursuant to sections twenty-one  
60 and twenty-two of this article.

61           (d) Upon the creation of the fund, the Legislature is  
62 authorized and may make an appropriation from the Revenue  
63 Shortfall Reserve Fund for revenue shortfalls, for emergency  
64 revenue needs caused by acts of God or natural disasters or  
65 for other fiscal needs as determined solely by the Legislature.

66           (e) Prior to October 31 in any fiscal year in which  
67 revenues are inadequate to make timely payments of the  
68 state's obligations, the Governor may, by executive order,

69 after first notifying the presiding officers of both houses of  
70 the Legislature in writing, borrow funds from the Revenue  
71 Shortfall Reserve Fund: *Provided*, That for the fiscal year  
72 2014, pursuant to this subsection and subject to all other  
73 conditions, requirements and limitations set forth in this  
74 section, the Governor may borrow funds from the Revenue  
75 Shortfall Reserve Fund prior to the first day of April. The  
76 amount of funds borrowed under this subsection shall not  
77 exceed one and one-half percent of the general revenue  
78 estimate for the fiscal year in which the funds are to be  
79 borrowed, or the amount the Governor determines is  
80 necessary to make timely payment of the state's obligations,  
81 whichever is less. Any funds borrowed pursuant to this  
82 subsection shall be repaid, without interest, and redeposited  
83 to the credit of the Revenue Shortfall Reserve Fund within  
84 ninety days of their withdrawal.

85 (f) The Revenue Shortfall Reserve Fund – Part B is  
86 continued within the State Treasury. The Revenue Shortfall  
87 Reserve Fund – Part B shall consist of moneys transferred  
88 from the West Virginia Tobacco Settlement Medical Trust  
89 Fund pursuant to the provisions of section two, article  
90 eleven-a, chapter four of this code, repayments made of the  
91 loan from the West Virginia Tobacco Settlement Medical  
92 Trust Fund to the Physician's Mutual Insurance Company  
93 pursuant to the provisions of article twenty-f, chapter  
94 thirty-three of this code and all interest and other return  
95 earned on the moneys in the Revenue Shortfall Reserve Fund  
96 – Part B. Moneys in the Revenue Shortfall Reserve Fund –  
97 Part B may be expended solely for the purposes set forth in  
98 subsection (d) of this section, subject to the following  
99 conditions:

100 (1) No moneys in the Revenue Shortfall Reserve Fund –  
101 Part B nor any interest or other return earned thereon may be  
102 expended for any purpose unless all moneys in the Revenue

103 Shortfall Reserve Fund described in subsection (b) of this  
104 section have first been expended, except that the interest or  
105 other return earned on moneys in the Revenue Shortfall  
106 Reserve Fund – Part B may be expended as provided in  
107 subdivision (2) of this subsection;

108 (2) Notwithstanding any other provision of this section to  
109 the contrary, the Legislature may appropriate any interest and  
110 other return earned thereon that may accrue on the moneys in  
111 the Revenue Shortfall Reserve Fund – Part B after June 30,  
112 2025, for expenditure for the purposes set forth in section  
113 three, article eleven-a, chapter four of this code; and

114 (3) Any appropriation made from Revenue Shortfall  
115 Reserve Fund – Part B shall be made only in instances of  
116 revenue shortfalls or fiscal emergencies of an extraordinary  
117 nature.

118 (g) Subject to the conditions upon expenditures from the  
119 Revenue Shortfall Reserve Fund – Part B prescribed in  
120 subsection (f) of this section, in appropriating moneys  
121 pursuant to the provisions of this section, the Legislature may  
122 in any fiscal year appropriate from the Revenue Shortfall  
123 Reserve Fund and the Revenue Shortfall Reserve Fund – Part  
124 B a total amount up to, but not exceeding, ten percent of the  
125 total appropriations from the State Fund, General Revenue,  
126 for the fiscal year just ended.

127 (h) (1) Of the moneys in the Revenue Shortfall Reserve  
128 Fund, \$100 million, or such greater amount as may be  
129 certified as necessary by the Director of the Budget Office for  
130 the purposes of subsection (e) of this section, shall be made  
131 available to the West Virginia Board of Treasury Investments  
132 for management and investment of the moneys in accordance  
133 with the provisions of article six-c, chapter twelve of this  
134 code. All other moneys in the Revenue Shortfall Reserve

135 Fund shall be made available to the West Virginia Investment  
136 Management Board for management and investment of the  
137 moneys in accordance with the provisions of article six,  
138 chapter twelve of this code. Any balance of the Revenue  
139 Shortfall Reserve Fund, including accrued interest and other  
140 return earned thereon at the end of any fiscal year, does not  
141 revert to the General Fund but shall remain in the Revenue  
142 Shortfall Reserve Fund for the purposes set forth in this  
143 section.

144 (2) All of the moneys in the Revenue Shortfall Reserve  
145 Fund – Part B shall be made available to the West Virginia  
146 Investment Management Board for management and  
147 investment of the moneys in accordance with the provisions  
148 of article six, chapter twelve of this code. Any balance of the  
149 Revenue Shortfall Reserve Fund – Part B, including accrued  
150 interest and other return earned thereon at the end of any  
151 fiscal year, shall not revert to the General Fund but shall  
152 remain in the Revenue Shortfall Reserve Fund – Part B for  
153 the purposes set forth in this section.

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

*Paul Ferguson*  
.....  
Member ~~Chairman~~ Senate Committee

*Ronny Wells*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*Joseph M. Minard*  
.....  
Clerk of the Senate

*Suzey D. Bray*  
.....  
Clerk of the House of Delegates

*Jeffrey H.*  
.....  
President of the Senate

*Robert C. Byrd*  
.....  
Speaker of the House of Delegates

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2014 MAR 24 P 4: 03

FILED

The within *is approved* this  
the *24th* Day of *March*, 2014.

*Earl Ray Tomblin*  
.....  
Governor



PRESENTED TO THE GOVERNOR

MAR 21 2014

Time 2:50 pm