Enrolled

Committee Substitute

for

Senate Bill 538

SENATORS CLEMENTS, STOLLINGS, PLYMALE, AND CLINE,

original sponsors

[Passed March 9, 2019; in effect from passage]
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[Passed March 9, 2019; in effect from passage]
AN ACT to amend and reenact §17-2D-2 of the Code of West Virginia, 1931, as amended, relating
generally to the West Virginia Highway Design-Build Pilot Program; modifying and defining
monetary project limits of the program and changing terminology; allowing exceptions for
declared states of emergency; and allowing use of the program with limits for projects
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.

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

(b)(1) The Division of Highways may contractually obligate no more than $50 million in
each year in the program: Provided, That if any of the $50 million is not so contractually obligated
in one year, the remaining amount may be applied to the following year’s contractual obligation
amount: Provided, however, That the total aggregate amount to be contractually obligated may
not exceed $150 million in any one year: Provided further, That for fiscal years beginning after
June 30, 2017, the Division of Highways may contractually obligate no more than $200 million on
any one project: And provided further, That for fiscal years beginning after June 30, 2017, the
Division of Highways may contractually obligate no more than $400 million in each year in the
program: And provided further, That for fiscal years beginning after June 30, 2017, if any of the
$400 million is not contractually obligated in any year, the remaining amount may be applied to
the following year’s contract obligation amount: And provided further, That for fiscal years
beginning after June 30, 2017, the total aggregate amount to be contractually obligated may not
exceed $500 million in any one year.
(2) Notwithstanding the limits set forth in §17-2D-2(b)(1) of this code, for projects financed without bonds for fiscal years beginning after June 30, 2019, the Division of Highways may contractually obligate in the program:

(A) No more than $200 million on any one project;
(B) No more than $200 million in each year; and
(C) No more than $300 million in the total aggregate amount in any one year.

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

(A) No more than $300 million on any one project;
(B) No more than $600 million in each year; and
(C) No more than $700 million in the total aggregate amount in any one year.

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

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

(e) The contractual obligations made for projects that are necessitated by a declared state of emergency within a county that the Governor has included in a declaration of emergency shall not be included in calculating contractual obligation limits provided in §17-2D-2(b) of this code.
Enr CS for SB 538

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

Chairman, Senate Committee

Chairman, House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within was approved this the 27th Day of March 2019.

Governor