

SB291

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

SENATE BILL NO. 291

(By Senator ROSS, ET AL)



PASSED APRIL 12, 1997

In Effect NINETY DAYS FROM Passage

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OFFICE OF THE CLERK
LEGISLATIVE DEPARTMENT

ENROLLED

Senate Bill No. 291

(BY SENATORS ROSS, DITTMAR, LOVE, WIEDEBUSCH,
BALL, MCKENZIE AND BUCKALEW)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-three, article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections thirty-five and thirty-six, all relating to toll bridges; authorizing municipalities to maintain ownership of toll bridges under certain circumstances; establishing permissible uses of tolls collected; and requiring municipalities retaining bridges to provide for their maintenance and inspection.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that

said article be further amended by adding thereto two new sections, designated sections thirty-five and thirty-six, all to read as follows:

ARTICLE 17. TOLL BRIDGES.

§17-17-23. When tolls to cease.

1 Except as otherwise provided in section thirty-five of
2 this article, when the particular bonds issued for any
3 bridge or bridges and the interest thereon shall have been
4 paid, or a sufficient amount shall have been provided for
5 their payment and shall continue to be held for that
6 purpose, and there are no operating or maintenance
7 expenses outstanding, and any advances made from the
8 state road fund toward the construction, operation and
9 maintenance of such bridge or bridges shall have been
10 repaid, the authority operating such bridge or bridges
11 shall cease the collection of tolls for the use thereof:
12 *Provided*, That the commissioner may, in his discretion,
13 continue thereafter tolls for a period sufficient to accumu-
14 late sufficient funds to pay for major maintenance and
15 repairs foreseeable as being needed on such bridge or
16 bridges in the immediate future: *Provided, however*, That
17 tolls may be imposed or reimposed on any such bridge or
18 bridges in the manner provided in section twenty-three-b
19 of this article. Thereafter, and as long as the cost of
20 maintaining, repairing and operating such bridge or
21 bridges is being provided for through means other than
22 tolls, no tolls shall be charged for transit thereover and
23 such bridge or bridges shall be free: *Provided further*,
24 That notwithstanding any other provision of law, if any
25 portion of the cost of construction of a toll bridge is
26 financed, with the aid of federal funds under federal-aid
27 road legislation and the share of the cost of such bridge
28 borne by the state or its subdivisions shall have been
29 repaid from tolls, or a fund sufficient for such repayment
30 shall have been provided or set aside for that purpose,
31 tolls for the use of such bridge shall cease and such bridge
32 shall thereafter be maintained and operated as a free
33 bridge.

§17-17-35. Authorization for municipalities to maintain own-

ership of and continue charging tolls for toll bridges upon the payment of all bonds issued to acquire and construct or refinance the bridge and the interest thereon; permitted use of tolls collected.

1 Any municipality which owns and operates a toll bridge
2 as of the first day of January, one thousand nine hundred
3 ninety-eight, may, at the sole discretion of the municipal-
4 ity, and upon adoption of a resolution to such effect by the
5 council of such municipality and subject to the require-
6 ments of section thirty-six of this article, retain ownership
7 of the toll bridge and may establish and retain toll charges
8 for the use thereof after all bonds issued for the acquisi-
9 tion and construction of the bridge, all bonds issued to
10 refinance such bonds and all interest on such bonds have
11 been paid or such payment has been provided for by
12 defeasement or otherwise. All such tolls collected after a
13 municipality determines to maintain ownership of a toll
14 bridge and the bonds issued for the acquisition and
15 construction of such bridge or issued to refinance such
16 bonds and all interest thereon have been paid or such
17 payment has been provided for by defeasement or other-
18 wise, shall be applied first to provide a fund sufficient to
19 pay the cost of maintaining, repairing, operating and
20 demolishing such bridge pursuant to section thirty-six of
21 this article, and thereafter, for any legal purpose of the
22 municipality. Collected tolls remaining after providing
23 for the payment of the cost of maintaining, repairing,
24 operating and demolishing such bridge may be pledged or
25 otherwise encumbered to effectuate any municipal
26 purpose.

§17-17-36. Maintenance of bridges retained by municipalities after repayment of indebtedness thereon; inspections by commissioner; bridge maintenance fund.

1 (a) Prior to a municipality retaining ownership of a
2 bridge pursuant to section thirty-five of this article, the
3 municipality shall notify the commissioner in writing of
4 its intent to do so. Upon receipt of such notice, the com-

5 commissioner shall make an initial inspection of the bridge to
6 determine what repairs, replacements, improvement and
7 additions are necessary to place the bridge in a safe and
8 efficient condition for use of the public, cause an estimate
9 of the cost of such and shall also provide an estimate of
10 the amount of funds required annually to maintain the
11 bridge after completion of initial improvements. The
12 commissioner shall appoint an engineer to inspect the
13 bridge and to consult and assist the commissioner in
14 making findings. The cost of the engineer's service shall
15 be paid by the municipality.

16 (b) The municipality shall make the improvements to the
17 bridge that are determined to be necessary by the commis-
18 sioner. The commissioner may make periodic inspections
19 during construction of improvements and at the comple-
20 tion of any improvement project. The commissioner shall
21 report on each inspection to the municipality and include
22 identification of any deficiencies with recommended
23 action to correct the deficiencies. The municipality shall
24 reimburse the commissioner for inspections and reports.

25 (c) The municipality shall establish a separate fund,
26 designated as the "bridge maintenance fund". Proceeds in
27 the fund shall be expended for the purpose of improve-
28 ments and maintenance of the bridge in a safe and effi-
29 cient condition for use by the public. Upon the initial
30 inspection of the bridge by the commissioner pursuant to
31 subsection (a) of this section, the municipality shall
32 deposit in the fund an amount equal to the estimate of the
33 commissioner for the costs of the initial improvements to
34 the bridge made pursuant to subsection (a) of this section.
35 Upon completion of the initial improvements, the munici-
36 pality shall maintain an adequate balance of moneys in
37 the fund sufficient to maintain the bridge annually, as
38 determined by the commissioner pursuant to subsection
39 (a) of this section.

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

Ray Schovaner
.....
Chairman Senate Committee

Dick Tomasiola
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Barrett Edlman
.....
Clerk of the Senate

Gregory M. King
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

P. Ki
.....
Speaker House of Delegates

The within *is approved* this the *7th*
day of *May*, 1997.

Leif Anderson
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/28/97

Time

2:20 pm