

**Senate Bill No. 475**

(By Senators Chafin, Barnes, Beach, Carmichael, Cole, Green, D. Hall, Laird, McCabe, Miller, Nohe, Sypolt, Walters, Williams, Stollings, Kessler (Mr. President) and Unger)

[Introduced March 7, 2013; referred to the Committee on Transportation and Infrastructure; and then to the Committee on Finance.]

A BILL to amend and reenact §17-16A-13 of the Code of West Virginia, 1931, as amended, relating to requiring the West Virginia Parkways, Economic Development and Tourism Authority to transfer a certain portion of the revenues generated from its operation of the highway formerly known as the West Virginia Turnpike to the county commissions where that highway is located.

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

That §17-16A-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 16A. WEST VIRGINIA PARKWAYS, ECONOMIC DEVELOPMENT AND TOURISM AUTHORITY.**

1 **§17-16A-13. Tolls, rents, fees, charges and revenues; competitive**  
2 **bidding on contracts.**

3 (a) (1) The parkways authority is hereby authorized to fix,  
4 revise, charge and collect tolls for the use of each parkway  
5 project and the different parts or sections thereof and to fix,  
6 revise, charge and collect rents, fees, charges and other revenues,  
7 of whatever kind or character, for the use of each economic  
8 development project or tourism project, or any part or section  
9 thereof, and to contract with any person, partnership, association  
10 or corporation desiring the use of any part thereof, including the  
11 right-of-way adjoining the paved portion, for placing thereon  
12 telephone, telegraph, electric light, power or other utility lines,  
13 gas stations, garages, stores, hotels, restaurants and advertising  
14 signs, or for any other purpose except for tracks for railroad or  
15 railway use, and to fix the terms, conditions, rents and rates of  
16 charges for such use. Such tolls, rents, fees and charges shall be  
17 so fixed and adjusted in respect of the aggregate of tolls, or in  
18 respect of the aggregate rents, fees and charges, from the project  
19 or projects in connection with which the bonds of any issue shall  
20 have been issued as to provide a fund sufficient with other  
21 revenues, if any, to pay: (A) The cost of maintaining, repairing  
22 and operating such project or projects; and (B) the principal of  
23 and the interest on such bonds as the same shall become due and  
24 payable and to create reserves for such purposes. Such tolls,

1 rents, fees and other charges shall not be subject to supervision  
2 or regulation by any other commission, board, bureau, department or  
3 agency of the state. The tolls, rents, fees, charges and all other  
4 revenues derived from the project or projects in connection with  
5 which the bonds of any issue shall have been issued, except such  
6 part thereof as may be necessary to pay the cost of maintenance,  
7 repair and operation and to provide such reserves therefor as may  
8 be provided in the resolution authorizing the issuance of such  
9 bonds or in the trust agreement securing the same, shall be set  
10 aside at regular intervals as may be provided in the resolution or  
11 the trust agreement in a sinking fund which is hereby pledged to,  
12 and charged with, the payment of: (i) The interest upon the bonds  
13 as such interest shall fall due; (ii) the principal of the bonds as  
14 the same shall fall due; (iii) the necessary charges of paying  
15 agents for paying principal and interest; and (iv) the redemption  
16 price or the purchase price of bonds retired by call or purchase as  
17 therein provided. The use and disposition of moneys to the credit  
18 of such sinking fund shall be subject to the provisions of the  
19 resolution authorizing the issuance of the bonds or of the trust  
20 agreement. Except as may otherwise be provided in the resolution  
21 or the trust agreement, such sinking fund shall be a fund for all  
22 bonds without distinction or priority of one over another. The  
23 moneys in the sinking fund, less such reserve as may be provided in  
24 the resolution or trust agreement, if not used within a reasonable

1 time for the purchase of bonds for cancellation as above provided,  
2 shall be applied to the redemption of bonds at the redemption price  
3 then applicable.

4 (2) (A) In fiscal year 1998, after the parkways authority has  
5 met or provided for the satisfaction of each requirement imposed by  
6 the provisions of subdivision (1) of this subsection, the parkways  
7 authority shall pay \$250,000 to the Hatfield-McCoy regional  
8 recreation authority from any remaining balance of revenues  
9 received from economic development projects and tourism projects.

10 (B) Upon the effective date of this act, the parkways  
11 authority shall seek authorization from the federal highway  
12 administration, the state Department of Transportation and the  
13 trustee under any trust indenture or agreement existing as the  
14 result of the issuance of any revenue bonds under the provisions of  
15 this article to issue additional revenue bonds in a total amount  
16 not to exceed \$6,000,000 for the purpose of funding projects of the  
17 Hatfield-McCoy regional recreation authority. Upon the agreement  
18 of all of such entities that the parkways authority be authorized  
19 to do so, as certified to the parkways authority, the Governor and  
20 the Joint Committee on Government and Finance, the parkways  
21 authority is authorized to issue additional revenue bonds in a  
22 total amount not to exceed \$6,000,000. The proceeds of the revenue  
23 bonds shall be used to fund projects of the Hatfield-McCoy regional  
24 recreation authority. Each issuance of such revenue bonds and the

1 application of the proceeds thereof shall be subject to each  
2 condition, restriction or other provision of this article  
3 applicable to the issuance of parkway revenue bonds. In the event  
4 the agreement is not certified as required by this subsection, and  
5 until the same is certified, the parkways authority shall pay  
6 \$250,000 to the Hatfield-McCoy regional recreation authority in the  
7 fiscal year ending June 30, 2000, and in each fiscal year  
8 thereafter, for a total of nine consecutive years, for the purpose  
9 of funding projects of the Hatfield-McCoy regional recreation  
10 authority. These amounts shall be paid in quarterly installments  
11 from remaining balances in each fiscal year of revenues received  
12 from economic development projects and tourism projects as  
13 determined in the manner provided in paragraph (A) of this  
14 subdivision.

15 (C) Beginning on July 1, 2013, and continuing thereafter, the  
16 parkways authority shall transfer one half of one per cent of the  
17 gross revenues it receives from operating the highway formerly  
18 known as the West Virginia Turnpike to the county commissions of  
19 those counties where the highway is located. Those counties are  
20 Kanawha, Fayette, Raleigh and Mercer.

21 (b) The parkways authority shall cause, as soon as it is  
22 legally able to do so, all contracts to which it is a party and  
23 which relate to the operation, maintenance or use of any  
24 restaurant, motel or other lodging facility, truck and automobile

1 service facility, food vending facility or any other service  
2 facility located along the West Virginia turnpike, to be renewed on  
3 a competitive bid basis. All contracts relating to any facility or  
4 services entered into by the parkways authority with a private  
5 party with respect to any project constructed after the effective  
6 date of this legislation shall be let on a competitive bid basis  
7 only. If the parkways authority receives a proposal for the  
8 development of a project, such proposal shall be made available to  
9 the public in a convenient location in the county wherein the  
10 proposed facility may be located. The parkways authority shall  
11 publish a notice of the proposal by a Class I legal advertisement  
12 in accordance with the provisions of article three, chapter fifty-  
13 nine of this code. The publication area shall be the county in  
14 which the proposed facility would be located. Any citizen may  
15 communicate by writing to the parkways authority his or her  
16 opposition to or approval to such proposal within a period of time  
17 not less than forty-five days from the publication of the notice.  
18 No contract for the development of a project may be entered into by  
19 the parkways authority until a public hearing is held in the  
20 vicinity of the location of the proposed project with at least  
21 twenty days' notice of such hearing by a Class I publication  
22 pursuant to section two of said article. The parkways authority  
23 shall make written findings of fact prior to rendering a decision  
24 on any proposed project. All studies, records, documents and other

1 materials which are considered by the parkways authority in making  
2 such findings shall be made available for public inspection at the  
3 time of the publication of the notice of public hearing and at a  
4 convenient location in the county where the proposed project may be  
5 located. The parkways authority shall promulgate rules in  
6 accordance with chapter twenty-nine-a of this code for the conduct  
7 of any hearing required by this section. Persons attending any  
8 such hearing shall be afforded a reasonable opportunity to speak  
9 and be heard on the proposed project.

NOTE: The purpose of this bill is to require the West Virginia  
Parkways, Economic Development and Tourism Authority to transfer  
one half of one per cent of the gross revenues it receives from  
operating the highway formerly known as the West Virginia Turnpike  
to the county commissions where the highway is located. The bill  
identifies those counties as Kanawha, Fayette, Raleigh and Mercer.

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