

**H. B. 2778**

(By Delegates Gearheart, McCuskey, Storch, Hamrick, Espinosa,  
E. Nelson, Westfall, Mr. Speaker, (Mr. Armstead), O'Neal, Pethtel and Ferro)

[Introduced February 16, 2015; referred to the

Committee on Roads and Transportation then Finance.]

**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-17B-1, §17-17B-2, §17-17B-3, §17-17B-4 and §17-17B-5, all relating to authorizing West Virginia Division of Highways to enter into cooperative agreements with United States Secretary of Transportation to establish infrastructure revolving funds; creating State Infrastructure Fund Program; creating State Infrastructure Fund; and permitting Commissioner of the Division of Highways to propose rules for legislative approval.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §17-17B-1, §17-17B-2, §17-17B-3, §17-17B-4 and §17-17B-5, all to read as follows:

**ARTICLE 17B. STATE INFRASTRUCTURE FUND PROGRAM.**

**§17-17B-1 Short title; legislative findings and purpose.**

(a) This article may be known and cited as the "State Infrastructure Fund Program."

(b) The Legislature finds and declares that new financing mechanisms will provide greater

1 flexibility and additional funds for needed transportation infrastructure projects in the state. The  
2 creation of a financing mechanism, in conformance with the federal State Infrastructure Bank  
3 Program, will enable the state, counties and municipalities to use federal and state highway funds  
4 to construct transportation projects eligible for assistance under the federal State Infrastructure  
5 Bank Program.

6 **§17-17B-2. Definitions.**

7 As used in this article, the following words and terms shall have the following meaning:

8 "Capitalized" means depositing funds as initial capital into a State Infrastructure Fund to  
9 establish the infrastructure fund.

10 "Commissioner" means the West Virginia Commissioner of Highways.

11 "Cooperative agreement" means written consent between the state and the United States  
12 Department of Transportation Secretary.

13 "Department" means the West Virginia Department of Transportation.

14 "Division" means the Division of Highways, a division within the West Virginia Department  
15 of Transportation.

16 "Initial assistance" means the first round of funds that are loaned or used for credit  
17 enhancement by the State Infrastructure Fund for projects eligible for assistance under this section.

18 "Loan" means any form of direct financial assistance from the infrastructure fund that is  
19 required to be repaid over a period of time and that is provided to a project sponsor for all or part of  
20 the costs of the project.

21 "US DOT Secretary" means the United States Department of Transportation Secretary.

22 **§17-17B-3. Purpose and scope.**

1        The West Virginia State Infrastructure Fund is created as a revolving fund in the division,  
2 to be administered by the division and used for the purposes described in this article. The fund  
3 consists of certain federal and state highway funds and other funds eligible for deposit under  
4 applicable federal law, payments received by the division in connection with the State Infrastructure  
5 Fund, investment earnings on money in state infrastructure fund accounts, and other funds as may  
6 be provided by law. Separate accounts may be established within the State Infrastructure Fund if  
7 required for its proper administration. The fund is a nonlapsing fund. The Commissioner of  
8 Highways shall use the State Infrastructure Fund to make loans to municipalities, counties, state  
9 agencies and quasi-state government agencies for eligible transportation projects. For purposes of  
10 this article, a project is an "eligible transportation project" and is "eligible for assistance" when it  
11 complies with the eligibility criteria established in the National Highway System Designation Act  
12 of 1995, Public Law 104-59, Section 350. Initial assistance provided with respect to a project from  
13 federal funds deposited into an infrastructure fund under this article may not be made in the form of  
14 a grant.

15 **§17-17B-4. Authority to enter into agreements.**

16        The loans shall be made upon such terms as the commissioner shall determine, including  
17 secured and unsecured loans, and in connection with the secured and unsecured loans. The  
18 commissioner may enter into loan agreements, subordination agreements and other agreements;  
19 accept notes and other forms of obligation to evidence the indebtedness, and mortgages, liens,  
20 pledges, assignments or other security interest to secure the indebtedness, which may be prior or  
21 subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments,  
22 other security interests or liens or encumbrances, and take such actions as are appropriate to protect

1 the security and safeguard against losses, including foreclosure and the funds for other projects.

2 **§17-17B-5. Enforcement of provisions by commissioner; rules.**

3 It is the function and duty of the Commissioner of Highways to administer and enforce the  
4 provisions of this article, and in the performance of duties hereunder, the commissioner may assign  
5 to other employees in the department, such duties as he or she may deem proper. The commissioner  
6 may propose rules for legislative approval in accordance with the provisions of article three, chapter  
7 twenty-nine-a of this code relating to the implementation and exercise of the authority granted by  
8 this article, including rules permitting the State of West Virginia to comply with the provisions of  
9 Title 23, Chapter 6 of the United States Code relating to the federal State Infrastructure Bank  
10 Program; and for receiving, reviewing, evaluating and selecting projects for which financial  
11 assistance will be approved.

NOTE: The purpose of this bill is to establish the West Virginia State Infrastructure Fund within the Division of Highways, in cooperation with a federal program, to provide funds for transportation infrastructure projects within the state.

This article is new; therefore, it has been completely underscored.