

WEST VIRGINIA LEGISLATURE
2016 FIRST EXTRAORDINARY SESSION

Introduced
House Bill 111

BY DELEGATE LANE

[Introduced May 24, 2016; Referred
to Committee on Finance.]

1 A BILL to amend and reenact §17-1-3 of the Code of West Virginia, 1931, as amended; and to
 2 amend said code by adding thereto a new article, designated §17-30-1, §17-30-2, §17-
 3 30-3 and §17-30-4, all relating to the privatization of the Courtesy Patrol Program;
 4 eliminating authority of Department of Highways to collect revenues for the Courtesy
 5 Patrol Program; eliminating authority of Department of Highways to retain and expend
 6 moneys from the Courtesy Patrol Fund; setting forth legislative findings; defining terms;
 7 providing for the continuation of the courtesy patrol program under the Department of
 8 Highways; requiring the Department of Highways to provide the program through a
 9 contract with a private entity; requiring the contract to be based on competitive sealed bids
 10 conducted pursuant to the competitive procedures and process set forth in article three of
 11 chapter five-a; setting forth certain terms and conditions to be included in the contract;
 12 authorizing the use of advertising, logos and sponsorships by the private entity;
 13 authorizing contracts on regional or county basis and with multiple private entities; setting
 14 the duration term of the contract; authorizing renewals; transferring balance of Courtesy
 15 Patrol Fund to general revenue; and closing the Courtesy Patrol Fund special revenue
 16 account.

Be it enacted by the Legislature of West Virginia:

1 That §17-1-3 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that said code be amended by adding thereto a new article, designated §17-30-
 3 1, §17-30-2, §17-30-3 and §17-30-4, all to read as follows:

ARTICLE 1. DEFINITIONS.

§17-1-3. "Road"; "public road"; "highway".

1 The words or terms "road", "public road" or "highway" shall be deemed to include, but shall
 2 not be limited to, the right-of-way, roadbed and all necessary culverts, sluices, drains, ditches,
 3 waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts necessary for
 4 the maintenance of travel, dispatch of freight and communication between individuals and

5 communities; and such public road or highway shall be taken to include any road to which the
6 public has access and which it is not denied the right to use, or any road or way leading from any
7 other public road over the land of another person, and which shall have been established pursuant
8 to law. Any road shall be conclusively presumed to have been established when it has been used
9 by the public for a period of ten years or more, and public moneys or labor have been expended
10 thereon, whether there be any record of its conveyance, dedication or appropriation to public use
11 or not. In the absence of any other mark or record, the center of the traveled way shall be taken
12 as the center of the road and the right-of-way shall be designated therefrom an equal distance on
13 each side, but a road may be constructed on any part of the located right-of-way when it is deemed
14 advisable so to do.

15 The Legislature notes that there are public highways that run over the surface of this land,
16 over and through the navigable streams, rivers and waterways on this earth and above the surface
17 of this earth in the form of highways in the sky, commonly known as airways. The Legislature
18 finds that each of these types of public highways are essential to the development of this state
19 and that the health and safety of each of the citizens of this state are affected daily by the
20 availability of each of these three types of public highways, and that it is the best interests of the
21 people of this state that each of these be recognized and included within the meaning of public
22 highways. The Legislature further recognizes that airports are an important and integral part of
23 the public highways existing above the surface of this state, and that airports are necessary to
24 access such highways, and therefore airports, including runways, taxiways, parking ramps,
25 access roads and air traffic control facilities located at airports, are hereby declared to be part of
26 the public highway system of this state.

27 ~~The Legislature finds that a courtesy patrol program providing assistance to motorists on~~
28 ~~the state's highways is one of a most beneficial public safety service to residents of the state using~~
29 ~~public highways and serves as a showing of the state's hospitality and good will to tourists visiting~~
30 ~~the state. For that reason, on July 1, 2015:~~

31 ~~(1) The administration of the courtesy patrol program shall be transferred to the Division~~
32 ~~of Highways and expenditures made by the division to fund the courtesy patrol program providing~~
33 ~~assistance to motorists on the state's highways shall be made pursuant to appropriation of the~~
34 ~~Legislature from the State Road Fund or as otherwise provided by law; and~~

35 ~~(2) The administration of the special revenue account in the State Treasury known as the~~
36 ~~Courtesy Patrol Fund shall be transferred to the Division of Highways: *Provided*, That any~~
37 ~~balances remaining in the Courtesy Patrol Fund at the end of fiscal year 2015 shall be transferred~~
38 ~~and deposited into the Tourism Promotion Fund. After the June 30, 2015, expenditures from the~~
39 ~~Courtesy Patrol Fund shall be used solely to fund the courtesy patrol program providing~~
40 ~~assistance to motorists on the state's highways. Amounts collected in the Courtesy Patrol Fund~~
41 ~~which are found, from time to time, to exceed funds needed for the purposes set forth in this~~
42 ~~subdivision may be transferred to other accounts or funds and redesignated for other purposes~~
43 ~~by appropriation of the Legislature. Moneys paid into the fund may be derived from the following~~
44 ~~sources:~~

45 ~~(A) Any gifts, grants, bequests, transfers, appropriations or other donations which may be~~
46 ~~received from any governmental entity or unit or any person, firm, foundation, corporation or other~~
47 ~~private entity;~~

48 ~~(B) Any appropriations by the Legislature which may be made for the purposes of this~~
49 ~~section; and~~

50 ~~(C) All interest or other return accruing to the fund.~~

51 ~~Any moneys remaining in the fund at the end of a fiscal year shall remain in the fund and~~
52 ~~be available for expenditure during the ensuing fiscal year.~~

ARTICLE 30. WEST VIRGINIA COURTESY PATROL PROGRAM.

§17-30-1. Legislative findings.

1 (a) The Legislature finds that a courtesy patrol program providing assistance to motorists
2 on the state's highways is a beneficial public safety service to residents of the state using public

3 highways and serves as a showing of the state's hospitality and goodwill to tourists visiting the
4 state.

5 (b) The Legislature further finds that the administration and operation of the courtesy patrol
6 program may be provided by private entities or volunteers at a more efficient structure and fiscal
7 means than that of the Department of Highways, including, but not limited to, allowance of
8 sponsorships and advertising by the private entities to offset costs of operation.

9 (c) Notwithstanding the private administration of the program, it is still the Legislative intent
10 that such program be offered as a free service to those using the public highways of this state.

§17-30-2. Definitions.

1 For purposes of this article, the term:

2 (1) "Contract" means an agreement between the Department of Highways and a private
3 entity relating to the providing of services.

4 (2) "Courtesy Patrol Program" means a combination of roadside assistance services
5 designed to enhance safety, hospitality and goodwill on our state's highways and corridors.

6 (3) "Department" means Department of Highways.

7 (4) "Private Entity" is any person, partnership, corporation or business that is not a
8 government agency, commission or employee of the state, county or municipality.

9 (5) "Program" means the Courtesy Patrol Program.

§17-30-3. Privatization of the program; competitive bid.

1 (a) Effective July 1, 2016, the Courtesy Patrol Program shall remain and continue to be a
2 program of the Department of Highways: *Provided*, That the department shall only provide for the
3 program through a contract with a private entity.

4 (b) The department's selection of the private entity to manage, operate, and perform the
5 services of the program shall be based on competitive sealed bids conducted pursuant to the
6 competitive procedures and process set forth in article three of chapter five-a of this code. Any
7 contract with a private entity for the operation of the program shall contain, at a minimum, the

8 following terms:

9 (1) The private entity shall bear full costs and expenditures in the operation and services
10 of the program, including, but not limited to, all personnel costs; supplies, radios, vehicles,
11 gasoline and vehicle maintenance;

12 (2) The program shall provide services, at a minimum, sixteen hours a day, seven days a
13 week, three hundred and sixty-five days a year;

14 (3) Any and all drivers and employees of the program shall be employees or contractors
15 of the private entity;

16 (4) The private entity shall be insured and indemnify the state for any all conduct or
17 negligence of the private entity in the operation of the program;

18 (5) All vehicles and uniforms utilized in the operation of the program shall prominently and
19 conspicuously display the words "West Virginia Courtesy Patrol Program"; and

20 (6) The private entity may contract a combination of services, but shall provide the
21 following services free of charge to the driver being assisted:

22 (i) Provide up to three gallons of gas;

23 (ii) Change flat tires; and

24 (iii) Assist stranded motorists by providing directions and contacts for more advanced
25 service that may be needed above and beyond basic roadside needs, such as tow truck, medical
26 or law-enforcement entities.

27 (c) A private entity awarded the contract for the program may pursue revenue sources
28 from other third parties, including, but not limited to, sponsorships and advertising. The private
29 entity may additionally place third-party advertisements, logos and sponsorships on vehicles and
30 uniforms used in the program: *Provided*, That any and all advertisements, logos or sponsorships
31 placed or used by the private entity shall not be deemed an endorsement by the department or
32 otherwise a violation of the prohibitions in section five, article two, chapter six-b: *Provided*,
33 however, That no current public official or candidate for public office may place his or her name

34 or candidacy on the vehicle or uniform used in the program services.

35 (d) The department may engage more than one private entity to operate and perform the
36 services of the program. The department may also contract with a private entity to operate and
37 perform the services of the program on a regional or county basis.

38 (e) The contract for services shall be for a term of one year, and may allow, at the
39 discretion of the department, two one-year renewal periods without being rebid. If not renewed,
40 or at the conclusion of the maximum three period, a new contract shall be competitively bid:
41 Provided, That a private entity under the concluding contract to perform the services of the
42 program may competitively bid for a next contract.

§17-30-4. Transfer of funds.

1 The administration of the special revenue account in the State Treasury known as the
2 Courtesy Patrol Fund shall remain with the Division of Highways: *Provided*, That any balances
3 remaining in the Courtesy Patrol Fund at the end of fiscal year 2016 shall be transferred and
4 deposited into General Revenue: *Provided, however*, That following transfer of the balance the
5 special revenue account in the State Treasury known as the Courtesy Patrol Fund shall be closed
6 and terminated.

NOTE: The purpose of this bill is to privatize the Courtesy Patrol Program as of June 30, 2016. The bill additionally terminates the special revenue fund and transfers the balance to General Revenue.

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