

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4222

**FISCAL
NOTE**

DELEGATES GEARHEART, HOUSEHOLDER, ELLINGTON,
FAST, AMBLER, COOPER, HOWELL, AZINGER, MCGEEHAN,
WAGNER AND SHOTT

[Introduced January 21, 2016; Referred
to the Committee on Roads and Transportation then
Finance]

1 A BILL to amend and reenact §15-2-12 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §17-16A-10 and §17-16A-18 of said code, all relating to providing for
3 the transfer of ownership, operation and maintenance of certain assets of the West
4 Virginia Parkways Authority to the Division of Highways; reimbursement to the West
5 Virginia State Police for performance of police duties on the West Virginia Turnpike after
6 the transfer; requiring that the parkways authority bring the West Virginia Turnpike into
7 compliance with Division of Highways standards by June 30, 2019; requiring assessments
8 of the turnpike by the Division of Highways to identify certain deficiencies; requiring the
9 division to report its findings upon the assessments to the Joint Committee on Government
10 and Finance and the Governor; requiring the division to certify certain findings upon the
11 assessments to the Joint Committee on Government and Finance and the Governor;
12 requiring certain bonded indebtedness of the Parkways Authority to be satisfied by June
13 30, 2019; prohibiting new bonds from being issued; directing the Governor to issue a
14 proclamation upon finding that certain bonded indebtedness obligations are satisfied and
15 certain other conditions are met and directing the transfer of certain assets and employees
16 of the Parkways Authority be transferred to the Division of Highways; providing for
17 employees of the Parkways Authority whose positions are eliminated as result of the
18 transfer; requiring certain moneys be used for operation and maintenance of, and for the
19 provision of police services by the West Virginia State Police on the West Virginia
20 Turnpike; cessation of tolls and removal of toll collection facilities; providing an exception;
21 establishing the "Turnpike Transition Fund"; funding sources and administration of the
22 fund; providing that all obligations and responsibilities of the parkways authority for the
23 West Virginia Turnpike cease and remaining assets be transferred to Division of Highways
24 on or before June 30, 2020; and authorizing rule-making.

Be it enacted by the Legislature of West Virginia:

1 That §15-2-12 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that §17-16A-10 and §17-16A-18 of said code be amended and reenacted, all to
 3 read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

**§15-2-12. Mission of the State Police; powers of superintendent, officers and members;
 patrol of turnpike.**

1 (a) The West Virginia State Police shall have the mission of statewide enforcement of
 2 criminal and traffic laws with emphasis on providing basic enforcement and citizen protection from
 3 criminal depredation throughout the state and maintaining the safety of the state's public streets,
 4 roads and highways.

5 (b) The superintendent and each of the officers and members of the division are hereby
 6 empowered:

7 (1) To make arrests anywhere within the state of any persons charged with the violation
 8 of any law of this state, or of the United States, and when a witness to the perpetration of any
 9 offense or crime, or to the violation of any law of this state, or of the United States, to make arrests
 10 without warrant; to arrest and detain any persons suspected of the commission of any felony or
 11 misdemeanor whenever a complaint is made and a warrant is issued thereon for the arrest, and
 12 the person arrested shall be immediately brought before the proper tribunal for examination and
 13 trial in the county where the offense for which the arrest has been made was committed;

14 (2) To serve criminal process issued by any court or magistrate anywhere within this state:
 15 *Provided*, That they may not serve civil process; and

16 (3) To cooperate with local authorities in detecting crime and in apprehending any person
 17 or persons engaged in or suspected of the commission of any crime, misdemeanor or offense
 18 against the law of this state, or of the United States, or of any ordinance of any municipality in this

19 state; and to take affidavits in connection with any application to the Division of Highways, Division
20 of Motor Vehicles and of West Virginia State Police for any license, permit or certificate that may
21 be lawfully issued by these divisions of state government.

22 (c) Members of the West Virginia State Police are hereby designated as forest patrolmen
23 and natural resources police officers throughout the state to do and perform any duties and
24 exercise any powers of forest patrolmen and natural resources police officers, and may
25 apprehend and bring before any court or magistrate having jurisdiction of these matters, anyone
26 violating any of the provisions of chapters twenty, sixty and sixty-one of this code. The West
27 Virginia State Police is at any time subject to the call of the West Virginia Alcohol Beverage Control
28 Commissioner to aid in apprehending any person violating any of the provisions of chapter sixty
29 of this code. They shall serve and execute warrants for the arrest of any person and warrants for
30 the search of any premises issued by any properly constituted authority, and shall exercise all of
31 the powers conferred by law upon a sheriff. They may not serve any civil process or exercise any
32 of the powers of an officer in civil matters.

33 (d) Any member of the West Virginia State Police knowing or having reason to believe that
34 any person has violated the law may make complaint in writing before any court or officer having
35 jurisdiction and procure a warrant for the offender, execute the warrant and bring the person
36 before the proper tribunal having jurisdiction. The member shall make return on all warrants to
37 the tribunals and his or her official title shall be "Member of the West Virginia State Police".
38 Members of the West Virginia State Police may execute any summons or process issued by any
39 tribunal having jurisdiction requiring the attendance of any person as a witness before the tribunal
40 and make return thereon as provided by law. Any return by a member of the West Virginia State
41 Police showing the manner of executing the warrant or process has the same force and effect as
42 if made by a sheriff.

43 (e) Each member of the West Virginia State Police, when called by the sheriff of any
44 county, or when directed by the Governor by proclamation, has full power and authority within the

45 county, or within the territory defined by the Governor, to direct and command absolutely the
46 assistance of any sheriff, deputy sheriff, chief of police, policeman, natural resources police officer
47 and peace officer of the state, or of any county or municipality therein, or of any able-bodied
48 citizen of the United States, to assist and aid in accomplishing the purposes expressed in this
49 article. When called, any officer or person is, during the time his or her assistance is required, for
50 all purposes a member of the West Virginia State Police and subject to all the provisions of this
51 article.

52 (f)(1) The superintendent may also assign members of the division to perform police duties
53 on any turnpike or toll road, or any section of any turnpike or toll road, operated by the West
54 Virginia Parkways, Economic Development and Tourism Authority: *Provided*, That the authority
55 shall reimburse the West Virginia State Police for salaries paid to the members and shall either
56 pay directly or reimburse the division for all other expenses of the group of members in
57 accordance with actual or estimated costs determined by the superintendent.

58 (2) The superintendent may also assign members of the division to perform police duties
59 on the highway now known and designated as the West Virginia Turnpike after it is transferred to
60 the Division of Highways pursuant to section eighteen, article sixteen-a, chapter seventeen of this
61 code. The Division of Highways shall either partially or fully reimburse the West Virginia State
62 Police for the cost of providing the police services in accordance with section eighteen, article
63 sixteen-a, chapter seventeen of this code.

64 (g) The West Virginia State Police may develop proposals for a comprehensive county or
65 multicounty plan on the implementation of an enhanced emergency service telephone system
66 and may cause a public meeting on the proposals, all as set forth in section six-a, article six,
67 chapter twenty-four of this code.

68 (h) By July 1, 1993, the superintendent shall establish a network to implement reports of
69 the disappearance of children by local law-enforcement agencies to local school division
70 superintendents and the state Registrar of Vital Statistics. The network shall be designed to

71 establish cooperative arrangements between local law-enforcement agencies and local school
72 divisions concerning reports of missing children and notices to law-enforcement agencies of
73 requests for copies of the cumulative records and birth certificates of missing children. The
74 network shall also establish a mechanism for reporting the identities of all missing children to the
75 state Registrar of Vital Statistics.

76 (i) The superintendent may at his or her discretion and upon the written request of the
77 West Virginia Alcohol Beverage Control Commissioner assist the commissioner in the
78 coordination and enforcement of article sixteen, chapter eleven of this code and chapter sixty of
79 this code.

80 (j) Notwithstanding the provisions of article one-a, chapter twenty of this code, the
81 superintendent of the West Virginia State Police may sell any surplus real property to which the
82 West Virginia State Police or its predecessors retain title, and deposit the net proceeds into a
83 special revenue account to be utilized for the purchase of additional real property and for repairs
84 to or construction of detachment offices or other facilities required by the West Virginia State
85 Police. There is hereby created a special revolving fund in the State Treasury which shall be
86 designated as the "Surplus Real Property Proceeds Fund". The fund shall consist of all money
87 received from the sale of surplus real property owned by the West Virginia State Police. Moneys
88 deposited in the fund shall only be available for expenditure upon appropriation by the Legislature:
89 *Provided*, That amounts collected which are found from time to time to exceed the funds needed
90 for the purposes set forth in this subsection may be transferred to other accounts or funds and
91 redesignated for other purposes by appropriation of the Legislature.

92 (k) Notwithstanding any other provision of this code, the agency for surplus property is
93 hereby empowered to transfer funds generated from the sale of vehicles, other equipment and
94 commodities belonging to the West Virginia State Police to a special revenue account within the
95 West Virginia State Police entitled the West Virginia State Police surplus transfer account.
96 Moneys deposited in the fund shall only be available for expenditure upon appropriation by the

97 Legislature: *Provided*, That amounts collected which are found from time to time to exceed the
 98 funds needed for the purposes set forth in this subsection may be transferred to other accounts
 99 or funds and redesignated for other purposes by appropriation of the Legislature. Any funds
 100 transferred to this account may be utilized by the superintendent to defray the cost of normal
 101 operating needs of the division.

102 (l) If the State Police or any other law-enforcement agency in this state receives a report
 103 that a person who has Alzheimer's disease and related dementia is missing, the State Police or
 104 any other law-enforcement agency shall immediately open an investigation for the purpose of
 105 determining the whereabouts of that missing person. Any policy of the State Police or any other
 106 law-enforcement agency relating to a waiting period prior to initiation of an investigation of a
 107 missing person does not apply in the case of a person who has Alzheimer's disease or other
 108 related dementia of the type referred to in this subsection.

109 (m) Notwithstanding any provision of this code to the contrary, effective on and after July
 110 1, 2007, the expenses and salaries paid to the members of the West Virginia State Police for the
 111 monitoring and enforcement duties defined in chapter seventeen-c of this code may not be paid
 112 from the State Road Fund or subject to reimbursement from the Division of Motor Vehicles but is
 113 subject to appropriation by the Legislature.

CHAPTER 17. ROADS AND HIGHWAYS.

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

§17-16A-10. Parkway revenue bonds generally.

1 (a) The Parkways Authority is authorized to provide by resolution for the issuance of
 2 parkway revenue bonds of the state for the purpose of paying all or any part of the cost of one or
 3 more parkway projects: *Provided*, That this section shall not be construed as authorizing the
 4 issuance of parkway revenue bonds for the purpose of paying the cost of the West Virginia

5 Turnpike, which parkway revenue bonds may be issued only as authorized under section eleven
6 of this article: Provided, however, That no bonds may be issued or reissued following the
7 reenactment of this section during the 2016 Regular Legislative Session. The principal of and the
8 interest on bonds shall be payable solely from the funds provided for payment.

9 (b) The bonds of each issue shall be dated, shall bear interest at a rate as may be
10 determined by the Parkways Authority in its sole discretion, shall mature at a time not exceeding
11 forty years from their date or of issue as may be determined by the Parkways Authority, and may
12 be made redeemable before maturity, at the option of the Parkways Authority at a price and under
13 the terms and conditions as may be fixed by the Parkways Authority prior to the issuance of the
14 bonds.

15 (c) The Parkways Authority shall determine the form of the bonds, including any interest
16 coupons to be attached thereto, and shall fix the denomination of the bonds and the place of
17 payment of principal and interest, which may be at any bank or trust company within or without
18 the state.

19 (d) The bonds shall be executed by manual or facsimile signature by the chair of the
20 Parkways Authority, and the official seal of the Parkways Authority shall be affixed to or printed
21 on each bond, and attested, manually or by facsimile signature, by the secretary and treasurer of
22 the Parkways Authority. Any coupons attached to any bond shall bear the manual or facsimile
23 signature of the chair of the Parkways Authority.

24 (e) In case any officer whose signature or a facsimile of whose signature appears on any
25 bonds or coupons shall cease to be an officer before the delivery of the bonds, the signature or
26 facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained
27 in office until delivery. In case the seal of the Parkways Authority has been changed after a
28 facsimile has been imprinted on the bonds, then the facsimile seal will continue to be sufficient
29 for all purposes.

30 (f) All bonds issued under the provisions of this article shall have all the qualities and

31 incidents of negotiable instruments under the negotiable instruments law of the state. The bonds
32 may be issued in coupon or in registered form, or both, as the Parkways Authority may determine,
33 and provision may be made for the registration of any coupon bonds as to principal alone and
34 also as to both principal and interest, and for the recorders into coupon bonds of any bonds
35 registered as to both principal and interest.

36 (g) The Parkways Authority may sell the bonds at a public or private sale at a price it
37 determines to be in the best interests of the state.

38 (h) The proceeds of the bonds of each issue shall be used solely for the payment of the
39 cost of the parkway project or parkway projects for which the bonds were issued, and shall be
40 disbursed in a manner consistent with the resolution authorizing the issuance of the bonds or in
41 the trust agreement securing the bonds.

42 (i) If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be
43 less than the cost, then additional bonds may in like manner be issued to provide the amount of
44 the deficit. Unless otherwise provided in the resolution authorizing the issuance of the bonds or
45 in the trust agreement securing the bonds, the additional bonds shall be deemed to be of the
46 same issue and shall be entitled to payment from the same fund without preference or priority of
47 the bonds first issued.

48 (j) If the proceeds of the bonds of any issue exceed the cost of the parkway project or
49 parkway projects for which the bonds were issued, then the surplus shall be deposited to the
50 credit of the sinking fund for the bonds.

51 (k) Prior to the preparation of definitive bonds, the Parkways Authority may, under like
52 restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for
53 definitive bonds when the bonds have been executed and are available for delivery. The
54 Parkways Authority may also provide for the replacement of any bonds that become mutilated or
55 are destroyed or lost.

56 (l) Bonds may be issued under the provisions of this article without obtaining the consent

57 of any department, division, commission, board, bureau or agency of the state in accordance with
58 this article: *Provided*, That the Parkways Authority shall comply with the provisions of section
59 twenty-eight, article one, chapter five of this code.

**§17-16A-18. Transfer of powers, duties, functions, assets, liabilities of parkways authority
to the Division of Highways; cessation of tolls.**

1 (a) Except as provided ~~herein~~ in this section, when all bonds issued under ~~the provisions~~
2 ~~of this article in connection with any parkway project or projects and the interest thereon shall on~~
3 those bonds secured by West Virginia Turnpike toll revenues have been paid or a sufficient
4 amount for the payment of ~~all such~~ those bonds and the interest ~~thereon~~ on them to the their
5 maturity ~~thereof shall have~~ has been set aside in trust for the benefit of the bondholders, such
6 project or projects, ~~if then in good condition and repair to the satisfaction of the Commissioner of~~
7 ~~the state Division of Highways~~, shall be transferred to the state Division of Highways and shall
8 thereafter be maintained by the state Division of Highways free of tolls in accordance with this
9 section.

10 (b) On or before June 30, 2019, the Parkways Authority shall bring the West Virginia
11 Turnpike into compliance with all quality standards promulgated by the Division of Highways for
12 interstate highways in this state. The Division of Highways shall conduct an initial assessment to
13 determine compliance and identify any discrepancies that need to be corrected not later than
14 January 1, 2017, and shall thereafter monitor all action to meet compliance requirements
15 periodically to ensure that deficiencies are being corrected in order for the turnpike to be in
16 compliance by June 30, 2019. Upon identification of any deficiencies, the parkways authority
17 shall make all reasonable efforts to correct the deficiencies on or before November 1, 2018. The
18 Division of Highways shall thereafter conduct a follow-up assessment to determine whether or
19 not the West Virginia Turnpike substantially complies with the quality standards. The
20 Commissioner of the Division of Highways shall submit a report of its findings and
21 recommendations from the assessments to the Joint Committee on Government and Finance and

22 the Governor on or before January 1, 2019. If the report finds that there is substantial compliance
23 with the quality standards, the Division of Highways shall certify the findings of the same to the
24 Joint Committee on Government and Finance and to the Governor on or before January 15, 2019.
25 If the report finds that there is not substantial compliance with the quality standards, the report
26 shall identify all deficiencies that are preventing substantial compliance as material deficiencies
27 and make a further finding on possible remedial action that can be taken to correct each of the
28 material deficiencies together with: (1) An estimate of the time period and estimated date of when
29 each of the material deficiencies can be corrected; and (2) whether or not there are adequate
30 funds from all funding sources available, including the State Road Fund, to correct the material
31 deficiencies on or before June 30, 2020. If the division further finds that there are adequate funds
32 from all funding sources available to correct all material deficiencies by June 30, 2020, then the
33 Division of Highways shall certify these findings to the Joint Committee on Government and
34 Finance and that the West Virginia Turnpike can substantially comply with the quality standards
35 promulgated by the Division of Highways by June 30, 2020.

36 (c) On or before June 30, 2019, all bonded indebtedness of the Parkways Authority
37 secured by West Virginia Turnpike toll revenues shall be paid and satisfied.

38 (d) Upon the full satisfaction of the bonded indebtedness of the Parkways Authority
39 secured by West Virginia Turnpike toll revenues and upon certification pursuant to subsection (b)
40 of this section that the West Virginia Turnpike either: (1) Is in substantial compliance with; or (2)
41 by June 30, 2020 can be in substantial compliance with the quality standards promulgated by the
42 Division of Highways, the Governor shall issue a proclamation finding that the bond debt of the
43 authority is fully satisfied and that the West Virginia Turnpike in substantial compliance with the
44 quality standards promulgated by the Division of Highways for interstate highways in this state
45 and directing the immediate conveyance of the West Virginia Turnpike to the Division of
46 Highways. The conveyance shall be made immediately upon the issuance of the proclamation
47 and shall include, but not be limited to, the West Virginia Turnpike, buildings and land dedicated

48 exclusively to its maintenance, current and future use, travel plaza buildings, roads and parking
49 facilities, leasehold properties, all maintenance material and equipment assets specifically
50 dedicated to its maintenance, and all records, maps, charts, schedules and plans relating to the
51 West Virginia Turnpike.

52 (e) Upon the issuance of the proclamation and the completion of the conveyance provided
53 in subsection (d) of this section:

54 (1) All obligations, indebtedness and other liabilities pertaining exclusively to the West
55 Virginia Turnpike and other assets expressly described under subsection (d) of this section, as of
56 the date of the proclamation, are hereby assumed by and transferred to the Division of Highways.

57 (2) The Parkways Authority shall liquidate all publicly traded securities in its holdings and
58 convey all of its monetary assets and accounts to the Division of Highways to be deposited in the
59 "Turnpike Transition Fund", created in subsection (g) of this section.

60 (3) All the Parkways Authority employees dedicated to highway maintenance and upkeep
61 shall be transferred to employment by the West Virginia Division of Highways.

62 (4) All employees of the Parkways Authority dedicated to toll collection and toll collection
63 operations shall remain employees of the Parkways Authority until the cessation of tolling.

64 (5) Those full-time, permanent employees of the Parkways Authority that may be laid off
65 by the Parkways Authority or the Division of Highways as of the date of cessation of tolling as
66 provided in this section may apply for other positions filled under the classified service system,
67 and shall be given five preference points in addition to the regular numerical score received on
68 examination, having qualified for appointment by making a minimum passing grade. The Division
69 of Personnel shall notify those full-time, permanent Parkways Authority employees who have
70 been laid off at the date tolling ceases who have applied for examination for the classified service
71 system of job postings for one year after their application has been scored. Notwithstanding any
72 provision of this code to the contrary, the Parkways Authority shall, to the greatest extent practical,
73 fill vacant toll collection and toll collection operations positions with temporary employees until the

74 cessation of tolling on the West Virginia Turnpike.

75 ~~(b)(f) No later than February 1, 1999~~ On July 1, 2020 the Parkways Authority shall cease
76 and discontinue all toll collection and the Division of Highways shall remove and not relocate all
77 toll collection facilities on the West Virginia Turnpike ~~as the same existed on June 1, 1989, except~~
78 ~~for the three main toll barriers and collection facilities and, provided solely that the provisions of~~
79 ~~section eighteen-a are complied with,~~ including the toll collection facilities at the intersection of
80 U.S. Route 19 (Corridor "L") and ~~said~~ the turnpike: Provided, That the bonds secured by West
81 Virginia Turnpike toll revenues have been paid as scheduled.

82 (g) (1) There is hereby established a special fund in the State Treasury known as the
83 "Turnpike Transition Fund." The fund shall be administered by the Commissioner of the Division
84 of Highways and shall consist of monetary assets of the Parkways Authority to be received
85 pursuant to subdivision (2), subsection (e) of this section. The Parkways Authority shall also
86 deposit all toll revenue received for the West Virginia Turnpike from the date of satisfaction of all
87 bonded indebtedness until the date that tolling ceases. The fund also consists of any other funds
88 appropriated by the Legislature to assist in the transfer of assets, powers and duties of the
89 Parkways Authority pursuant to this section to the Division of Highways and the State Road Fund,
90 and the interest or other earnings on the moneys in the fund.

91 (2) The Commissioner of the Division of Highways shall administer the fund to:

92 (A) Provide for the costs of all West Virginia Turnpike operations and maintenance within
93 the Division of Highways;

94 (B) Pay either directly or to the parkways authority all costs and expenses necessary for
95 toll collection and toll collections operations until June 30, 2020, and all administrative expenses
96 necessarily incurred by the parkways authority incidental thereto, removal of the toll collection
97 facilities and any other expenses necessarily incurred by the parkways authority or the Division
98 of Highways related or incidental to the transfer of all of the assets and liabilities of the parkways
99 authority to the Division of Highways; and

100 (C) Pay directly or reimburse the West Virginia State Police for the costs of police services
101 performed by members of the State Police assigned to the highway now known as the West
102 Virginia Turnpike, including salaries and all other expenses incurred to provide the police services
103 by its members so assigned, not to exceed \$2 million per fiscal year, from the time the bonded
104 indebtedness is paid in full until its transfer to the Division of Highways, and thereafter until
105 January 1,2035, pursuant to section twelve, article two, chapter fifteen of this code.

106 (3) Balances in the fund at the end of any fiscal year shall not expire, but shall be expended
107 for those purposes set forth in this subsection in ensuing fiscal years pursuant to appropriation by
108 the Legislature. Upon the depletion of funds in the account, the subject roadways shall be
109 supported by the State Road Fund and any other funds available to the Division of Highways.

110 (h) All obligations and responsibilities of the Parkways Authority for any part or portion of
111 the West Virginia Turnpike shall cease on June 30, 2020. On or before June 30, 2020, all property
112 remaining in the possession of the Parkways Authority shall be transferred to the Division of
113 Highways.

114 (i) The Commissioner of the Division of Highways and the Director of the Division of
115 Personnel shall jointly propose rules for legislative approval pursuant to article three, chapter
116 twenty-nine-a of this code as may be necessary to provide for the evaluation, transition,
117 termination, and reemployment of Authority and Division of Highways employees during the
118 transition and to otherwise carry out the purposes of this article as they relate to personnel
119 matters.

120 (j) The Commissioner of the Division of Highways shall propose rules for legislative
121 approval pursuant to article three, chapter twenty-nine-a of this code as may be necessary to
122 carry out the purposes of this article as they relate to all matters not concerning personnel.

NOTE: The purpose of this bill is to provide for the transfer of ownership, operation and maintenance of certain assets of the West Virginia parkways authority, including the road now known as the West Virginia Turnpike to the Division of Highways. The bill also provides

for the termination of the Parkways Authority after transfer of all of its assets to the Division of Highways on June 30, 2020.

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