# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

## Introduced

# House Bill 2353

FISCAL
NOTE

BY DELEGATES STATLER, MAYNARD, ESPINOSA, UPSON,

HILL, HIGGINBOTHAM, WARD AND WILLIAMS

[Introduced February 13, 2017;

Referred Roads and Transportation then Finance.]

1    A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,

2           designated §17-30-1, §17-30-2, §17-30-3, §17-30-4 and §17-30-5, all relating to requiring

3           the Commissioner of Highways to develop a formula for allocating road funds among

4           districts, for the benefit of the counties; making legislative findings; requiring the

5           commissioner to solicit and consider public comments; requiring the commissioner to

6           include certain factors in the formula; and requiring the commissioner to submit the

7           formula to the Legislature for approval as a legislative rule.

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

1           That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new

2    article, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4 and §17-30-5, all to read as follows:

## ARTICLE 30.  ALLOCATION OF FUNDS.

### §17-30-1. Findings.

1           The Legislature finds that:

2           (1) According to an independent audit report submitted to the Joint Committee on

3    Government and Finance on January 10, 2016, the West Virginia Division of Highways currently

4    has no formula in place to allocate and distribute road funds among districts and counties. The

5    audit report recommended that in order to more effectively distribute funds, the division should

6    create a framework to allocate and distribute road funds to each of the districts and county

7    organizations; that a baseline maintenance capital plan should be reexamined and revised

8    periodically; and that metrics for the allocation process should be transparent.

9           (2) A transparent process to develop an official formula for allocating road funds among

10   districts in the state is crucial to ensure that funds are distributed in an effective and efficient

11   manner, based on the needs of the counties within the districts.

### §17-30-2. Definitions.

1           For the purposes of this article:

2           (1) "Commissioner" means the West Virginia Commissioner of Highways.

3        (2) "District" means one of the ten road maintenance districts established by the West

4    Virginia Division of Highways.

5        (3) "Heavy truck" means an on-road vehicle with a gross vehicle weight rating of fifty

6    thousand pounds or more.

7        (4) "Road funds" means federal or state funds appropriated or otherwise available to the

8    West Virginia Division of Highways for the purpose of:

9        (A) New construction;

10       (B) Maintenance; or

11       (C) New capacity improvements.

### §17-30-3. Formula for allocation of funds.

1        (a) Prior to the beginning of the regular legislative session in 2018, the commissioner must

2    develop and propose a formula for the effective and efficient allocation of state and federal road

3    funds among the districts and counties in this state, to be promulgated as a legislative rule.

4        (b) The commissioner must include the following factors in the formula developed pursuant

5    to this section:

6        (1) The population served in each county according to the most recent United States

7    Census;

8        (2) The amount of population growth in each county according to the most recent United

9    States Census projection;

10       (3) The number of total lane miles in a county;

11       (4) The approximate number of vehicle miles travelled within a county;

12       (5) The approximate number of heavy truck miles travelled within a county; and

13       (6) The number of bridges in a county and their condition.

14       (c) Before developing the formula required by this section, the commissioner must review

15   and consider all public comments submitted to the commissioner pursuant to section four of this

16   article.

**§17-30-4. Public comment period.**

1        (a) On or before October 1, 2017, the commissioner must develop and implement a

2    mechanism to proactively seek public comments and recommendations regarding the division's

3    current allocation of road funds.

4        (b) In developing and implementing a mechanism to seek public comments, the

5    commissioner must, at a minimum:

6        (1) Use multimedia resources to publicize the public comment period;

7        (2) Allow a period of six weeks for members of the public to submit comments to the

8    commissioner through written and electronic forms of communication; and

9        (3) Make all public comments received by the commissioner available for the public to

10   view on the department's website.

11       (c) The commissioner must issue targeted communications to the following entities to

12   encourage representatives of those entities to participate in the public comment period required

13   by this subsection:

14       (1) Division of Highways district offices;

15       (2) County commissions; and

16       (3) Metropolitan planning organizations.

**§17-30-5. Legislative rule.**

1        (a) During the regular legislative session of 2018, the commissioner must submit the

2    formula developed pursuant to this section to the Legislature for approval as a legislative rule, in

3    accordance with the requirements of article three, chapter twenty-nine-a of this code.

4        (b) The legislative rule promulgated pursuant to this article must allow districts to exercise

5    discretion over how to distribute funds among counties within the district over a period of five

6    years: *Provided*, That at the end of the five year period, all counties within the district must have

7    received the funds apportioned to them by the formula developed pursuant to this article.

NOTE: The purpose of this bill is to require the Commissioner of Highways to develop a formula for allocating road funds among districts, for the benefit of the counties; to make legislative findings; to require the commissioner to solicit and consider public comments; to require the commissioner to consider certain factors when developing the formula; and to require the commissioner to submit the formula to the Legislature for approval as a legislative rule.

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