

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 148

FISCAL
NOTE

BY SENATORS SYPOLT, CLINE, AND FACEMIRE

[Introduced January 8, 2020; referred
to the Committee on Transportation and
Infrastructure; and then to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto six new
 2 sections, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4, §17-30-5, and §17-30-6, all
 3 relating to creating the Road Maintenance Program; providing for legislative intent;
 4 providing for certain maintenance activities to be performed by private contractors;
 5 providing for payment; providing for purchasing requirements; providing for reports and
 6 audit reviews; providing an effective date; and providing severability.

Be it enacted by the Legislature of West Virginia:

ARTICLE 30. ROAD MAINTENANCE PROGRAM.

§17-30-1. Legislative intent; purpose.

1 Whereas, the Legislature finds that the Division of Highways, through no fault of its own,
 2 struggles to maintain roadways to the expectation of the citizens of this state. The purpose of the
 3 Road Maintenance Program is to allow private companies to provide maintenance services for
 4 the Division of Highways in each state district so that this state’s roads will be properly maintained
 5 and usable by the citizens of this state.

17-30-2. Creation of the program; minimum amount of work; funds.

1 (a) The Division of Highways shall permit each district to contract with a private contractor
 2 or private contractors to perform certain maintenance activities, including, but not limited to,
 3 ditching, snow removal, and mowing along each district’s roadways.

4 (b) Each district shall contract with a private contractor or private contractors to complete
 5 a portion of maintenance activities for the district.

6 (c) Each district must use funds appropriated by the Division of Highways or additional
 7 funds provided by the Division of Highways for the purpose of contracting with a private contractor
 8 or private contractors to perform certain maintenance activities for the district.

§17-30-3. Purchasing requirements.

1 (a) Whenever a district reasonably anticipates a contract for services under §17-30-2 of
 2 this code, the purchase or contract shall be based on competitive bids based on mileage or feet,

3 whichever is feasible for the contract to be performed. The district may solicit bids or price quotes
4 in any manner that the Division of Highways deems appropriate, and the district shall obtain its
5 commodities or services by the lowest responsible bidder.

6 (b) The district may solicit sealed bids for such commodities or services: *Provided, That*
7 the district may permit bids by electronic transmission be accepted in lieu of sealed bids. Bids
8 shall be solicited by public notice. The notice shall be published as a Class II legal advertisement
9 in all participating counties in compliance with the provisions of §59-3-1 *et seq.* of this code and
10 by such other means as the Division of Highways deems appropriate. The notice shall state the
11 general character of the work and general character of the materials to be furnished, the place
12 where plans and specifications therefor may be examined, and the time and place of receiving
13 bids. After all bids are received, the district shall enter into a written contract with the lowest
14 responsible bidder; however, the district may reject any or all bids that fail to meet the
15 specifications required by the district or that exceed the district's budget estimation for those
16 commodities or services. If the district determines in writing that there is only one responsive and
17 responsible bidder and that there has been sufficient public notice to attract competitive bids, the
18 Division of Highways may negotiate the price for a noncompetitive award or the specifications for
19 a noncompetitive award based solely on the original purpose of the solicitation.

20 (c) The district may require the vendors to post a bond, with form and surety to be
21 approved by the Division of Highways, in an amount equal to at least 50 percent of the contract
22 price conditioned upon faithful performance and completion of the contract.

§17-30-4. Reporting requirements; Legislative Auditor review; program automatically continued.

1 (a) At the end of the first three fiscal years following the effective date of this article, the
2 Division of Highways shall present a report to the Interim Committee on Government Operations
3 no later than November of the following fiscal year. After November 2022, such reports will no
4 longer be required.

5 (b) The Legislative Auditor will review the program to determine efficacy, economic
6 responsibility, and other such factors relating to the program three years after the effective date.
7 After the initial review, the Legislative Auditor shall have the power to review the program to
8 ensure efficient operations, economic responsibility, and any other factors for the continued
9 success of the program.

10 (c) The Road Maintenance Program will continue indefinitely until an act of the Legislature
11 terminates the program.

§17-30-5. Effective Date.

1 This article will take effect on July 1, 2020.

§17-30-6. Severability.

1 The provisions of this article are severable and accordingly, if any part of this article is
2 adjudged to be unconstitutional or invalid, that determination does not affect the continuing validity
3 of the remaining provisions of this article.

NOTE: The purpose of this bill is to create the Road Maintenance Program for each district to contract with private contractors to perform certain road maintenance activities in each district.

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