

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **Senate Bill 517**

BY SENATORS HAMILTON, PREZIOSO, STOLLINGS, AND

LINDSAY

[Introduced January 16, 2020; referred  
to the Committee on Natural Resources; and then to  
the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §20-5A-1, §20-5A-2, §20-5A-3, §20-5A-4, §20-5A-5, and §20-5A-6, all relating  
 3 to the creation of the State Parks and Recreation Endowment Fund; establishing a Board  
 4 of Trustees for the State Parks and Recreation Endowment Fund; designating sources of  
 5 funds for the State Parks and Recreation Endowment Fund; establishing how and for what  
 6 purpose expenditures may be made from the State Parks and Recreation Endowment  
 7 Fund; and relating to other administrative matters of the State Parks and Recreation  
 8 Endowment Fund.

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

**ARTICLE 5A. STATE PARKS AND RECREATION ENDOWMENT FUND.**

**§20-5A-1. Purpose.**

1 Recognizing the inestimable importance to the state and its people of maintaining,  
 2 improving, and preserving the state parks, state forests, and state rail trails, as the same are  
 3 defined in §20-1-19 and §20-5-3, and recreational facilities of West Virginia, as the same are  
 4 defined in §20-5-4 of this code, for the purpose of providing the opportunity for citizens and  
 5 residents of the state to invest in the future of its state parks, state forests, state rail trails, and  
 6 recreational facilities, there is created the West Virginia State Park and Recreation Endowment  
 7 Fund, the interest and principal of which shall be used only for the purpose of supporting state  
 8 parks, state forests, state rail trails, and recreational facilities of the state in accordance with this  
 9 article.

**§20-5A-2. Board created; composition.**

1 The Board of Trustees of the State Parks and Recreation Endowment Fund of the Division  
 2 of Natural Resources has full authority over the administration of the State Parks and Recreation  
 3 Endowment Fund. The board shall be composed of the Director of the Division of Natural  
 4 Resources serving as chair, the Chief of the Parks and Recreation Section of the Division of  
 5 Natural Resources, the executive secretary of the division, the division fiscal officer and the

6 President of the West Virginia State Parks Foundation, who shall serve as voting ex officio  
 7 members and six voting members to be appointed by the Governor. Two of the appointed  
 8 members shall be state park superintendents and four of the appointed members shall be  
 9 selected from citizen membership of state park associations that represent a lodge state park, a  
 10 cabin state park, a day-use state park, a state forest, or a state rail trail under the jurisdiction of  
 11 the division. To the extent possible the Governor shall appoint the citizen members to ensure an  
 12 equal geographic representation throughout the state and their terms shall be staggered from July  
 13 1, 2020. Two citizen members shall be appointed for a term of three years; and two citizen  
 14 members shall be appointed for a term of four years. Successors to appointed citizen members  
 15 whose terms expire shall be appointed for terms of four years. Vacancies shall be filled for the  
 16 unexpired term. An appointed citizen member may not serve for more than two successive terms.  
 17 Appointment to fill a vacancy may not be considered as one of two terms. The State Treasurer is  
 18 the custodian of the State Parks and Recreation Fund and shall invest its assets in accordance  
 19 with the provisions of §12-6-1 et seq. of this code.

**§20-5A-3. Source of fund assets.**

1 The assets of the State Parks and Recreation Endowment Fund shall be derived from the  
 2 following:

3 (a) The royalties received from the leasing of state-owned gas, oil, and other mineral  
 4 rights, beneath the Ohio River and its tributaries; and

5 (b) The proceeds of any gifts, grants, contributions, or other moneys accruing to the state  
 6 which are specifically designated for inclusion in the fund.

**§20-5A-4. Status of fund; expenditures of the fund.**

1 The State Parks and Recreation Endowment Fund is declared to constitute a special fund  
 2 within the division, to be expendable only after legislative approval, with the following limitations  
 3 and restrictions on expenditures from the funds:

4 (a) The income received and accruing from the investments of the State Parks and

5 Recreation Endowment Fund shall be spent only in furthering the maintaining, improving, and  
6 preserving the state parks, state forests, state rail trails, and recreational facilities in the state;

7 (b) The income received and accruing from the investments of the State Parks and  
8 Recreation Endowment Fund shall be distributed to the Parks and Recreation Section within the  
9 division as prescribed by §20-5A-6 of this code;

10 (c) No expenditure or disbursement shall be made from the principal of the State Parks  
11 and Recreation Endowment Fund except at such time as the income received and accruing from  
12 the investments of the State Parks and Recreation Endowment Fund is expended or disbursed  
13 for purposes other than maintaining, improving, and preserving the state parks, state forests, state  
14 rail trails, and recreational facilities;

15 (d) Any disbursement of the principal of the State Parks and Recreation Endowment Fund  
16 shall be made in the same manner as that prescribed for investment income in §20-5A-6 of this  
17 code; and

18 (e) Any expenditure or disbursement from the State Parks and Recreation Fund must  
19 result in benefits to the Division of Natural Resources and must be spent only for maintaining,  
20 improving, and preserving the state parks, state forests, state rail trails, and recreational facilities.

**§20-5A-5. Accumulation of investment income; how expenditures made; fund exclusive of  
other receipts and appropriations; dissolution of department.**

1 (a) The Board of Trustees of the State Parks and Recreation Endowment Fund may  
2 accumulate investment income of the fund within the fund until the income, in the sole judgment  
3 of the trustees, can provide a significant supplement to the budget of the Division of Natural  
4 Resources. After that time the trustees, in their sole discretion and authority, may direct  
5 expenditures from the income of the fund to further the maintaining, improving, and preserving of  
6 the state parks, state forests, state rail trails, and recreational facilities of West Virginia.

7 (b) Expenditure of the income derived from the State Parks and Recreation Endowment  
8 Fund shall be made through the state budget accounts of the Division of Natural Resources. The

9 State Parks and Recreation Endowment Fund is subject to the oversight of the State Auditor.

10 (c) The State Parks and Recreation Endowment Fund and the income derived therefrom  
11 shall not take the place of any other receipts or appropriations accruing to the Division of Natural  
12 Resources, or any part thereof, but any portion of the income of the State Parks and Recreation  
13 Endowment Fund shall be used to supplement other income of and appropriations to the Division  
14 of Natural Resources to the end that the division may improve and increase its services to the  
15 people of the state and the maintaining, improving, and preserving the state parks, state forests,  
16 state rail trails, and recreational facilities of West Virginia.

17 (d) In the event of the future dissolution of the Division of Natural Resources, such state  
18 agency as shall succeed to its statutory authority to manage the state parks, state forests, state  
19 rail trails, and recreational facilities of the state shall, ex officio, assume the trusteeship of the  
20 State Parks and Recreation Endowment Fund and shall be bound by all the limitations and  
21 restrictions placed by §20-5A-5 of this code on expenditures from the fund. No appeal or  
22 modification of §20-5A-5 of this code shall alter the fundamental purposes to which the State  
23 Parks and Recreation Endowment Fund may be applied.

**§20-5A-6. Expenditure of funds for specific and general purposes.**

1 In accordance with the intent of §20-5-2 and §20-5-3 of this code and pursuant to §20-5A-  
2 3 and §20-5A-4 of this code, income accruing from the investments of the State Parks and  
3 Recreation Endowment Fund shall be distributed in the following manner in furtherance of these  
4 needs:

5 (1) Maintenance, repair, and improvement of any existing recreational facilities, including  
6 any supporting or related infrastructure and associated recreational features, all to provide  
7 uninterrupted enjoyment and public use of state parks, state forests, and state rail trails.

8 (2) Maintenance, repair, and procurement of any fixture, furnishing, and equipment  
9 necessary to provide uninterrupted enjoyment and public use of state parks, state forests, and  
10 state rail trails.

NOTE: The purpose of this bill is to create the State Parks and Recreation Endowment Fund, to be funded from the proceeds of the leasing of gas, oil, and minerals from beneath the Ohio River and its tributaries.

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