

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 669

FISCAL
NOTE

BY SENATORS CLINE AND ROBERTS

[Introduced January 31, 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 §20-18-1, §20-18-2, §20-18-3, §20-18-4, §20-18-5, §20-18-6, §20-18-7, §20-
 3 18-8, §20-18-9, §20-18-10, §20-18-11, §20-18-12, and §20-18-13, all relating to the West
 4 Virginia Greenways and Trails Act; providing limitation on liability of private landowners
 5 whose property is designated as part of the statewide system of greenways and trails;
 6 providing for the establishment of the West Virginia Greenways and Trails System,
 7 Greenways, and Trails Program and Greenways and Trails Council; allowing sponsorship
 8 of state greenways and trails and acquisition of land; establishing role of Division of Natural
 9 Resources; requiring coordination with Department of Transportation and the West
 10 Virginia Recreational Trails Advisory Board; authorizing rules; and encouraging
 11 recreational opportunities on mined lands.

Be it enacted by the Legislature of West Virginia:

ARTICLE 18. WEST VIRGINIA GREENWAYS AND TRAILS ACT.

§20-18-1. Short title.

1 This article may be cited as the “West Virginia Greenways and Trails Act”.

§20-18-2. Declaration of policy and legislative intent.

1 (a) In order to recognize the benefits of the outdoor areas of West Virginia, and in order to
 2 conserve, develop, and use the natural resources of this state for healthful and recreational
 3 purposes, it is declared to be the public policy of this state and the purpose of this article to provide
 4 the means and procedures for establishing and expanding a statewide system of greenways and
 5 trails for recreational and conservation purposes and which is designated as the “West Virginia
 6 Greenways and Trails System”. The standards by which the greenways and trails system are
 7 acquired, designated, administered, maintained, used, and expanded shall be consistent with the
 8 provisions of this article. It is the intent of the Legislature that these greenways and trails will serve
 9 to implement the concepts of ecosystems management while providing, where appropriate,
 10 recreational opportunities, including, but not limited to, equestrian activities, hiking, bicycling,

11 canoeing, kayaking, jogging, and historical and archaeological interpretation, thereby improving
12 the health and welfare of the people.

13 (b) It is the intent of the Legislature that a statewide system of greenways and trails be
14 established to provide open space benefiting environmentally sensitive lands and wildlife and
15 providing people with access to healthful outdoor activities. It is also the intent of the Legislature
16 to acquire or designate lands and waterways to facilitate the establishment of a statewide system
17 of greenways and trails; to encourage the multiple use of public rights-of-way and use to the fullest
18 extent existing and future scenic roads, highways, park roads, parkways, greenways, trails, and
19 national recreational trails; to encourage the development of greenways and trails by counties,
20 cities, special districts, and nongovernmental organizations to assist in such development by any
21 means available; to coordinate greenway and trail plans and development by local governments
22 with one another and with the state government and federal government; to encourage, whenever
23 possible, the development of greenways and trails on federal lands by the federal government;
24 and to encourage the owners of private lands to protect the existing ecological, historical, and
25 cultural values of their lands, including those values derived from working landscapes.

26 (c) It is the intent of the Legislature that designated greenways and trails be located on
27 public lands and waterways and, subject to the written agreement of the private landowner, on
28 private lands. Designated greenways and trails located on public lands or waterways or on private
29 lands may or may not provide public access, as agreed by the division or the landowner,
30 respectively.

31 (d) It is the intent of the Legislature that information produced for the purpose of the
32 identification of lands and waterways, both public and private, that are suitable for greenways and
33 trails be used only for the purposes of:

34 (1) Setting priorities for acquisition, planning, and management of public lands and
35 waterways for use as greenways and trails; and

36 (2) Identification of private lands which are eligible for designation as part of the greenways

37 and trails system and are thereby eligible for incentives.

38 (e) The planning, development, operation, and maintenance of the West Virginia
39 Greenways and Trails System authorized by this article is declared to be a public purpose, and
40 the Division of Natural Resources, together with other agencies of this state and all counties,
41 municipalities, and special districts of this state, is authorized to spend public funds for such
42 purposes and to accept gifts and grants of funds, property, or property rights from public or private
43 sources to be used for such purposes.

44 (f) The Legislature recognizes the significant economic benefit of nature-based recreation
45 and the contributions to the state's economy that arise from the creation and completion of the
46 Great Eastern Trail which connects to the Appalachian Trail and other trails and greenways
47 throughout the state. In order to further its commitment to the residents of this state and the United
48 States Government to complete the establishment of the trail in a permanent location, it is further
49 the intent of the Legislature to:

50 (1) Encourage all state, regional, and local agencies that acquire lands to include in their
51 land-buying efforts the acquisition of enough legal interest in the lands over which the trail passes
52 to ensure its continued existence in a permanent location;

53 (2) Consider the inclusion of private funds used to supplement the state's contribution in
54 its efforts to acquire fee or less-than-fee interests in lands that contain designated portions of the
55 trail;

56 (3) Encourage private landowners to continue to allow the use of private property for trail
57 purposes through existing and future incentives and liability protection; and

58 (4) Encourage state and local agencies with economic and ecotourism development
59 responsibilities to recognize the importance of the trail in bringing nature-based tourism to local
60 communities along the trail route and to support acquisition and development activities for
61 completion of the trail in a permanent location.

§20-18-3. Limitation on liability of private landowners whose property is designated as part

of the statewide system of greenways and trails.

1 (a)(1) A private landowner whose land is designated as part of the statewide system of
2 greenways and trails, including a person holding a subservient interest, owes no duty of care to
3 keep that land safe for entry or use by others or to give warning to persons entering that land of
4 any hazardous conditions, structures, or activities thereon. The landowner:

5 (A) Is not presumed to extend any assurance that the land is safe for any purpose;

6 (B) Does not incur any duty of care toward a person who goes on the land; or

7 (C) Is not liable or responsible for any injury to persons or property caused by the act or
8 omission of a person who goes on the land.

9 (2) The provisions of subdivision (1) of this subsection apply whether the person going on
10 the designated greenway or trail is an invitee, licensee, trespasser, or otherwise.

11 (b) The provisions of subsection (a) of this section do not apply if there is any charge made
12 or usually made by the landowner for entering or using the land designated as a greenway or trail,
13 or any part thereof, or if any commercial or other activity whereby profit is derived by the
14 landowner from the patronage of the general public is conducted on the land so designated or
15 any part thereof.

16 (c) The provisions of subsection (a) of this section apply to adjacent land owned by the
17 private landowner who consents to designation of a greenway or trail where the adjacent land is
18 accessed through the land so designated.

19 (d) (1) When a private landowner agrees to make his or her land available for public use
20 as a designated greenway or trail, the division or its designee shall post notices along the
21 boundary of the designated greenway or trail which inform the public that the land adjacent to the
22 greenway or trail is private property upon which unauthorized entry for any purpose is prohibited
23 and constitutes trespassing.

24 (2) The notices shall constitute a warning to unauthorized persons to remain off the private
25 property and not to depart from the designated greenway or trail. Any person who commits such

26 an unauthorized entry commits a trespass under §61-3B-3 of this code.

27 (e) If agreed to by the division and the landowner in the designation agreement, a
28 landowner whose land is designated as part of the statewide system of greenways and trails shall
29 be indemnified for:

30 (1) Any injury or damage incurred by a third party arising out of the use of the designated
31 greenway or trail;

32 (2) Any injury or damage incurred by a third party on lands adjacent to and accessed
33 through the designated greenway or trail; and

34 (3) Any damage to the landowner’s property, including land adjacent to and accessed
35 through the designated greenway or trail, caused by the act or omission of a third person resulting
36 from any use of the land so designated.

37 (f) This section does not relieve any person of liability that would otherwise exist for
38 deliberate, willful, or malicious injury to persons or property. The provisions of this section do not
39 create or increase the liability of any person.

§20-18-4. Definitions.

1 As used in this article:

2 “Designation” means the identification and inclusion of specific lands and waterways as
3 part of the statewide system of greenways and trails pursuant to a formal public process, including
4 the specific written consent of the landowner. When the division determines that public access is
5 appropriate for greenways and trails, written authorization must be granted by the landowner to
6 the division permitting public access to all or a specified part of the landowner’s property. The
7 division’s determination shall be published in the State Register, and the division shall also notify
8 the landowner by certified mail at least 7 days before any public meeting regarding the intent to
9 designate.

10 “Division” means the Division of Natural Resources.

11 “Greenway” means a linear open space established along either a natural corridor, such

12 as a riverfront, stream valley, or ridgeline, or over land along a railroad right-of-way converted to
13 recreational use, a canal, a scenic road, or other route; any natural or landscaped course for
14 pedestrian or bicycle passage; an open space connector linking parks, nature reserves, cultural
15 features, or historic sites with each other and populated areas; or a local strip or linear park
16 designated as a parkway or greenbelt.

17 “Office” means the Office of Greenways and Trails within the Division of Natural
18 Resources.

19 “Trails” means linear corridors and any adjacent support parcels on land or water providing
20 public access for recreation or authorized alternative modes of transportation.

§20-18-5. West Virginia Greenways and Trails System.

1 The West Virginia Greenways and Trails System shall be a statewide system of
2 greenways and trails which consist of individual greenways and trails and networks of greenways
3 and trails which may be designated as a part of the statewide system by the division. Mapping or
4 other forms of identification of lands and waterways as suitable for inclusion in the system of
5 greenways and trails, mapping of ecological characteristics for any purpose, or development of
6 information for planning purposes does not constitute designation. No lands or waterways may
7 be designated as a part of the statewide system of greenways and trails without the specific
8 written consent of the landowner.

§20-18-6. Greenways and Trails Program.

1 There is established within the division the “West Virginia Greenways and Trails Program,”
2 the purpose of which is to facilitate the establishment of a statewide system of greenways and
3 trails. Planning materials, maps, data, and other information developed or used in the program is
4 not a designation of lands as part of the statewide system of greenways and trails. Identification
5 of lands in that information:

6 (1) Does not require or empower any unit of local or regional government, or any state
7 agency, to impose additional or more restrictive environmental, land-use, or zoning regulations;

8 (2) Is not authority to adopt, enforce, or amend any environmental rule or regulation;
9 comprehensive plan goals, policies, or objectives; or zoning or land-use ordinance;

10 (3) May not be used as the basis for permit denial; imposition of any permit condition; or
11 application of any rule, regulation, or ordinance by any subdivision of local, regional, or state
12 government; or

13 (4) Is not authority for any governmental agency to reduce or restrict the rights of owners
14 of lands so identified.

§20-18-7. West Virginia Greenways and Trails Council; composition; powers and duties.

1 (a)(1) There is created within the division the West Virginia Greenways and Trails Council
2 which shall advise the division in the execution of the division’s powers and duties under this
3 article. The council shall be composed of 18 members, consisting of:

4 (A) Five members appointed by the Governor, with two members representing the trail
5 user community, two members representing the greenway user community, and one member
6 representing private landowners;

7 (B) Three members appointed by the President of the Senate, with one member
8 representing the trail user community and two members representing the greenway user
9 community; and

10 (C) Three members appointed by the Speaker of the House of Delegates, with two
11 members representing the trail user community and one member representing the greenway user
12 community.

13 (2) Those eligible to represent the trail user community shall be chosen from, but not be
14 limited to, paved trail users, hikers, off-road bicyclists, users of off-highway vehicles, paddlers,
15 equestrians, disabled outdoor recreational users, and commercial recreational interests. Those
16 eligible to represent the greenway user community shall be chosen from, but not be limited to,
17 conservation organizations, nature study organizations, and scientists and university experts.

18 (3) The seven remaining members shall include:

19 (A) The Secretary of the Department of Environmental Protection or a designee;

20 (B) The Director of the Division of Natural Resources or a designee;

21 (C) The Secretary of the Department of Transportation or a designee;

22 (D) The Commissioner of Agriculture or a designee;

23 (E) The Deputy State Historic Preservation Officer or a designee;

24 (F) A representative of a federal land management agency. The Director of the Division of
25 Natural Resources shall identify the appropriate federal agency and request designation of a
26 representative from the agency to serve on the council; and

27 (G) A representative of local governments to be appointed by the Director of the Division
28 of Natural Resources. Membership shall alternate between a county representative and a
29 municipal representative.

30 (b) The division shall provide necessary staff assistance to the council.

31 (c) The term of all appointees is for 2 years unless otherwise specified. The appointees of
32 the Governor, the President of the Senate, and the Speaker of the House of Delegates may be
33 reappointed for no more than four consecutive terms. The representatives of the local
34 governments may be reappointed for no more than two consecutive terms. All other appointees
35 shall serve until replaced.

36 (d) The council shall:

37 (1) Facilitate a statewide system of interconnected landscape linkages, conservation
38 corridors, greenbelts, recreational corridors and trails, scenic corridors, utilitarian corridors,
39 reserves, regional parks and preserves, ecological sites, and cultural/historic/recreational sites
40 using land-based trails that connect urban, suburban, and rural areas of the state and facilitate
41 expansion of the statewide system of freshwater paddling trails;

42 (2) Recommend priorities for critical links in the West Virginia Greenways and Trails
43 System;

44 (3) Review recommendations of the office for acquisition funding under the West Virginia

45 Greenways and Trails Program and recommend to the Director of the Division of Natural

46 Resources which projects should be acquired;

47 (4) Review designation proposals for inclusion in the West Virginia Greenways and Trails

48 System;

49 (5) Encourage public-private partnerships to develop and manage greenways and trails;

50 (6) Review progress toward meeting established benchmarks and recommend

51 appropriate action;

52 (7) Make recommendations for updating and revising the implementation plan for the West

53 Virginia Greenways and Trails System;

54 (8) Promote greenways and trails support organizations; and

55 (9) Support the West Virginia Greenways and Trails System through intergovernmental

56 coordination, budget recommendations, advocacy, education, and any other appropriate way.

57 (e) The council shall establish procedures for conducting its affairs in execution of the

58 duties and responsibilities stated in this section, which operating procedures shall include

59 determination of a council chair and other appropriate operational guidelines. The council shall

60 meet at the call of the chair, or at such times as may be prescribed by its operating procedures.

61 The council may establish committees to conduct the work of the council and the committees may

62 include nonmembers as appropriate.

63 (f) A vacancy on the council shall be filled for the remainder of the unexpired term in the

64 same manner as the original appointment. Members whose terms have expired may continue to

65 serve until replaced or reappointed.

66 (g) Members of the council may not receive compensation for their services but are entitled

67 to receive reimbursement for reasonable and necessary expenses incurred in the performance of

68 their duties, as provided in the Department of Administration, State of West Virginia Travel Rules.

§20-18-8. Sponsorship of state greenways and trails.

1 (a) The division may enter into a concession agreement with a not-for-profit entity or

2 private sector business or entity for commercial sponsorship to be displayed on state greenway
3 and trail facilities or property specified in this section. The division may establish the cost for
4 entering into a concession agreement.

5 (b) A concession agreement shall be administered by the division and must include the
6 requirements found in this section.

7 (1) Space for a commercial sponsorship display may be provided through a concession
8 agreement on certain state-owned greenway or trail facilities or property.

9 (2) Signage or displays erected under this section shall be limited as follows:

10 (A) One large sign or display, not to exceed 16 square feet in area, may be located at
11 each trailhead or parking area.

12 (B) One small sign or display, not to exceed four square feet in area, may be located at
13 each designated trail public access point.

14 (3) Before installation, each name or sponsorship display must be approved by the
15 division.

16 (4) The division shall ensure that the size, color, materials, construction, and location of
17 all signs are consistent with the management plan for the property and the standards of the
18 division, do not intrude on natural and historic settings, and contain only a logo selected by the
19 sponsor and the following sponsorship wording:

20 (Name of the sponsor) proudly sponsors the costs of maintaining the (Name of the
21 greenway or trail).

22 (5) The division may enter into commercial sponsorship agreements for state greenways
23 or trails as authorized in this section. A qualified entity that desires to enter into a commercial
24 sponsorship agreement shall apply to the division on forms adopted by division rule.

25 (6) All costs of a display, including development, construction, installation, operation,
26 maintenance, and removal costs, shall be paid by the concessionaire.

27 (c) A concession agreement shall be for a minimum of 1 year, but may be for a longer

28 period under a multiyear agreement, and may be terminated for just cause by the division upon
 29 60 days' advance notice. Just cause for termination of a concession agreement includes, but is
 30 not limited to, violation of the terms of the concession agreement or any provision of this section.

31 (d) Commercial sponsorship pursuant to a concession agreement is for public relations or
 32 advertising purposes of the not-for-profit entity or private sector business or entity, and may not
 33 be construed by that not-for-profit entity or private sector business or entity as having a
 34 relationship to any other actions of the division.

35 (e) This section does not create a proprietary or compensable interest in any sign, display
 36 site, or location.

37 (f) Proceeds from concession agreements shall be distributed into the appropriate division
 38 trust fund that is the source of funding for management and operation of state greenway and trail
 39 facilities and properties.

§20-18-9. Acquisition of land.

1 (a) The division is authorized to acquire by gift or purchase the fee simple absolute title or
 2 any lesser interest in land, including easements, for the purposes of this article, except that:

3 (1) The division's power of eminent domain is limited to curing defects in title;

4 (2) Lists of proposed acquisitions for the West Virginia Greenways and Trails Program
 5 shall be prepared according to procedures adopted by the division; and

6 (3) Projects acquired under this article may use the appraisal procedure used by the
 7 Department of Transportation to acquire transportation rights-of-way.

8 (b) For purposes of the West Virginia Greenways and Trails Program, the division may:

9 (1) Accept fee simple title or any lesser interest in lands through methods, including, but
 10 not limited to, purchase, donation, grant, dedication, lease, easement, license, or other
 11 agreement, to facilitate the establishment of a statewide system of greenways and trails;

12 (2) Accept title to abandoned railroad rights-of-way which is conveyed by quitclaim deed
 13 through purchase, dedication, gift, grant, or settlement; and

14 (3) Enter into an agreement with a nonprofit corporation, to assume responsibility for
15 acquisition of lands pursuant to this section.

16 (c) Easements, licenses, and use agreements upon, over, under, across, or along any
17 land, the fee title of which has been acquired for the purposes of this article, may be granted by
18 the division so long as the use of the easement, license, or use agreement does not interfere with
19 the purposes of this article.

§20-18-10. General powers of the division.

1 (a) The division may:

2 (1) Publish and distribute appropriate maps of designated greenways and trails;

3 (2) Adopt appropriate rules to implement or interpret this article relating to greenways and
4 trails, which may include, but are not limited to, rules for:

5 (A) Establishing a designation process;

6 (B) Negotiating and executing agreements with private landowners;

7 (C) Establishing prohibited activities or restrictions on activities to protect the health,
8 safety, and welfare of the public;

9 (D) Charging fees for use;

10 (E) Providing public access to the greatest extent possible while avoiding unnecessary
11 impact upon sensitive environments such as wetlands or animal habitats, wherever encountered;

12 (F) Providing for maintenance; and

13 (G) Any matter necessary to the evaluation, selection, operation, and maintenance of
14 greenways and trails;

15 (3) Coordinate the activities of all governmental units and bodies and special districts that
16 desire to participate in the development and implementation of the West Virginia Greenways and
17 Trails System;

18 (4) Establish, develop, and publicize greenways and trails in a manner that will permit
19 public recreation when appropriate without damaging natural resources and avoiding

20 unnecessary impact upon sensitive environments such as wetlands or animal habitats, wherever
21 encountered;

22 (5) Enter into agreements with any federal, state, or local governmental agency, or any
23 other entity for the management of greenways and trails for recreation and conservation purposes
24 consistent with the intent of this article. Such entities must demonstrate their capabilities of
25 management for the purposes defined in this article;

26 (6) Charge reasonable fees or rentals for the use or operation of facilities and concessions.
27 All such fees, rentals, or other charges collected shall be deposited in the account or trust fund of
28 the managing entity; and

29 (7) Receive or accept from any legal source, grants for the purpose of providing or
30 improving public greenways and trails, and the division is authorized to disburse funds as pass-
31 through grants to federal, state, or local government agencies, recognized tribal units, or to
32 nonprofit entities created for this purpose. The division has authority to adopt rules to implement
33 the provisions of this subsection. Such rules shall provide, but are not limited to, the following:
34 procedures for grant administration and accountability; eligibility, selection criteria; maximum
35 grant amounts and number of pending grants; dedication requirements; and conversion
36 procedures and requirements.

37 (b) The division shall:

38 (1) Evaluate lands for the acquisition of greenways and trails and compile a list of suitable
39 corridors, greenways, and trails, ranking them in order of priority for proposed acquisition. The
40 division shall devise a method of evaluation which includes, but is not limited to, the consideration
41 of the importance and function of such corridors within the statewide system as reflected on the
42 opportunity maps and landowners' willingness to negotiate;

43 (2) Maintain an updated list of abandoned and to-be-abandoned railroad rights-of-way;

44 (3) Provide information to public and private agencies and organizations on abandoned
45 rail corridors which are or will be available for acquisition from the railroads or for lease for interim

46 recreational use from the Department of Transportation;

47 (4) Develop and implement a process for designation of lands and waterways as a part of
48 the statewide system of greenways and trails, which shall include:

49 (A) Development and dissemination of criteria for designation;

50 (B) Development and dissemination of criteria for changes in the terms or conditions of
51 designation, including withdrawal or termination of designation. A landowner may have his or her
52 lands removed from designation by providing the division with a written request that contains an
53 adequate description of such lands to be removed. Provisions shall be made in the designation
54 agreement for disposition of any future improvements made to the land by the division;

55 (C) Public notice through posting information on the division's webpage in all phases of the
56 process;

57 (D) Written authorization from the landowner in the form of a lease or other instrument for
58 the designation and granting of public access, if appropriate, to a landowner's property; and

59 (E) A greenway or trail use plan as a part of the designation agreement which shall, at a
60 minimum, describe the types and intensities of uses of the property.

61 (c) The division or its designee is authorized to negotiate with potentially affected private
62 landowners as to the terms under which the landowners consent to the public use of their lands
63 as part of the greenways and trails system. The division may agree to incentives for a private
64 landowner who consents to this public use of his or her lands for conservation or recreational
65 purposes, including, but not limited to:

66 (1) Retention by the landowner of certain specific rights in his or her lands, including, but
67 not limited to, the right to farm, hunt, graze, harvest timber, or use the lands for other purposes
68 which are consistent with use as greenways or trails;

69 (2) Contracting with the landowner to provide management or other services on the lands;

70 (3) At the option of the landowner, acceleration of the acquisition process or higher
71 consideration in the ranking process when any lands owned by the landowner are under

72 consideration for acquisition by the state or other unit of government;

73 (4) At the option of the landowner, removal of any lands owned by the landowner from
74 consideration for acquisition by the state or other unit of government;

75 (5) Execution of patrol and protection agreements; and

76 (6) Where applicable and appropriate, providing lease fees, not to exceed fair market
77 value of the leasehold interest.

78 (d) Any person who violates or otherwise fails to comply with the rules adopted pursuant
79 to paragraph (C), subdivision (2), subsection (a) of this section commits a noncriminal infraction
80 for which a civil penalty of up to \$500 may be imposed.

**§20-18-11. Coordination with Department of Transportation and the West Virginia
Recreational Trails Advisory Board.**

1 (a) Upon request of the division, the Department of Transportation Grant Administration
2 Unit and the West Virginia Recreational Trails Advisory Board shall coordinate with the division
3 relating to state and federal grants that support or could support the development of greenways
4 and trails, including, but not limited to, Transportation Alternatives Program, Recreational Trails
5 Program, West Virginia State Trails Program, and Bicycle/pedestrian Accommodation, and
6 Engineering Guidance for Grant Administration Programs.

7 (b) Upon the request of the division, the Department of Transportation shall provide
8 information to the division on abandoned and to-be-abandoned railroad rights-of-way.

9 (c) The Department of Transportation and the division shall coordinate their evaluations
10 of potential acquisitions and their acquisition priorities with respect to abandoned railroad rights-
11 of-way in order to avoid competing for the same corridors.

12 (d) After the Department of Transportation acquires abandoned railroad rights-of-way for
13 future transportation purposes, the Department of Transportation shall lease such rights-of-way
14 to a public agency or private organization for interim public greenway or trail use if:

15 (1) The public agency or private organization has requested use of the right-of-way for

16 interim public recreational trail use;

17 (2) The public agency or private organization agrees in writing to assume all liability and
18 management responsibilities as defined by the Department of Transportation; and

19 (3) The use of the right-of-way as a recreational trail does not interfere with the ultimate
20 transportation purposes of the property as determined by the Secretary of the Department of
21 Transportation.

22 (e) If the Department of Transportation determines that an abandoned railroad right-of-
23 way which has been leased for interim recreational trail use is needed for transportation purposes,
24 the Department of Transportation shall work with the leasing agency to accommodate, when
25 feasible, the existing trail use in conjunction with the use of the right-of-way for transportation.

§20-18-12. Restrictions; rules.

1 The division may establish restrictions on the use of motorized watercraft within any
2 defined canoe trail necessary to ensure the safe use of a water body for canoes or kayaks.
3 Restrictions established pursuant to this section must be adopted as a rule pursuant to this article,
4 after proper notice and hearing, and may be enforced by any state or local law-enforcement
5 agency having jurisdiction over the area within which the trail is designated.

§20-18-13. Recreational opportunities on mined lands.

1 The division is encouraged to work with industry, government, and private landowners to
2 create plans and assist in the development of recreational opportunities on mined lands in the
3 state. These opportunities should include walking, hiking, use of off-highway vehicles, canoeing,
4 bicycling, equestrian activities, wildlife viewing, and other trail areas along with developing fishing
5 and hunting lands.

NOTE: The purpose of this bill is to enact the West Virginia Greenways and Trails Act.

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