

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3258

By Delegates Young and Kump

[Introduced February 03, 2023; Referred to the
Committee on Technology and Infrastructure then
Finance]

1 A BILL to amend and reenact §17-16A-4 and §17-16A-10 of the Code of West Virginia, 1931, as
 2 amended, relating to ending the collection of tolls on the West Virginia Turnpike after the
 3 bonds are paid off.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16A. WEST VIRGINIA PARKWAYS AUTHORITY.

**§17-16A-4. Transfer of powers, duties, functions, assets and liabilities of turnpike
 commission to parkways authority.**

1 (a) The duties, powers and functions of the West Virginia turnpike commission are hereby
 2 transferred to the parkways authority.

3 (b) All obligations, indebtedness and other liabilities of, and all rights, assets and other
 4 property owned by or used in the administration of, the West Virginia turnpike commission as of
 5 June 1, 1989, and all personnel of said turnpike commission as of said date are hereby assumed
 6 by and transferred to the parkways authority, which is hereby constituted the successor in interest
 7 to said commission in all respects.

8 (c) All books, papers, maps, charts, plans, literature and other records in the possession of
 9 the West Virginia turnpike commission as of June 1, 1989, shall be delivered or turned over to the
 10 parkways authority.

11 (d) The unexpended balance of appropriations or other funds available for use of the West
 12 Virginia turnpike commission as of June 1, 1989, is hereby transferred to the parkways authority
 13 for the use of the parkways authority.

1 (e) On or before February 1, 2030, all debt obligations held by the Parkways Authority shall
 2 be satisfied.

3 (f) Upon the full satisfaction of the bond debt of the Parkways Authority and the completion
 4 and affirmative finding of a highway condition assessment measuring compliance with quality
 5 standards promulgated by the Division of Highways, the Governor shall issue a proclamation
 6 finding that the bond debt of the authority is fully satisfied and that the West Virginia Turnpike has

7 been maintained at or above Division of Highways standards and directing the immediate
8 conveyance of the West Virginia Turnpike, buildings and land dedicated exclusively to its
9 maintenance, current and future use, except for the travel plaza buildings, roads and parking
10 facilities and lease properties, all records, maps, charts, schedules and plans relating to the West
11 Virginia Turnpike and all maintenance material and equipment assets not specifically dedicated to
12 the maintenance of travel plazas to the Division of Highways.

13 (g) Upon the issuance of the proclamation provided in subsection (f):

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

17 (2) The Parkways Authority shall first liquidate all publicly traded securities in its holdings
18 and convey all of its monetary assets in excess of \$5 million to the Division of Highways to be
19 deposited in the "Turnpike Transition Fund."

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

22 (4) All employees of the Parkways Authority dedicated to toll collection and toll collection
23 operations shall remain employees of the Parkways Authority until the cessation of tolling as
24 provided by section eighteen of this article.

25 (5) The Commissioner of the Division of Highways and Director of the Division of
26 Personnel shall jointly provide for the evaluation of the skills, education, experience, and
27 qualifications of all full-time, permanent employees of the Parkways Authority dedicated to toll
28 collection and toll collection operations prior to the cessation of tolling, as provided by section
29 eighteen of this article. Any full-time, permanent employee that may be laid off by the Authority or
30 Division of Highways at the time of or within six months following the date of the cessation of tolling
31 as provided by §17-16A-18 of this code is entitled to be placed on an appropriate reemployment
32 list maintained by the Division of Personnel and to be allowed a preference on that list. The

33 Division of Personnel shall maintain such an employee on the reemployment list indefinitely, or
34 until the employee has declined three offers of employment at a paygrade substantially similar to
35 that of his or her position at the time of the Governor's proclamation, or until he or she is
36 reemployed by the executive branch of state government, whichever occurs earlier.
37 Notwithstanding any provision of this code to the contrary, the Parkways Authority shall, to the
38 greatest extent practical, fill vacant toll collection and toll collection operations positions with
39 temporary employees until the cessation of tolling on the West Virginia Turnpike.

40 (h) There is hereby established a special fund in the State Treasury known as the
41 "Parkways Authority Future Trust Fund." The fund shall be administered by the Auditor and shall
42 consist of twenty-five percent of all toll revenue received by the West Virginia Turnpike from the
43 date of satisfaction of all bonded indebtedness until the date of the Governor's proclamation as
44 provided in subsection (f), at which time the Auditor shall disburse the entire balance to the
45 Parkways Authority to provide for future operations. Balances in the fund shall not be expended
46 and at the end of any fiscal year shall not expire, but shall be retained for the Parkways Authority
47 until the Governor's proclamation is made.

48 (i) There is hereby established a special fund in the State Treasury known as the "Turnpike
49 Transition Fund." The fund shall be administered by the Commissioner of the Division of Highways
50 and shall consist of monetary assets of the Parkways Authority to be received under subsection
51 (g) of this section. The Parkways Authority shall also deposit 50% of all toll revenue received for
52 the West Virginia Turnpike from the date of satisfaction of all bonded indebtedness until the date
53 that tolling ceases in accordance with §17-16A-18 of this code. The fund also consists of revenues
54 provided for in subsection (j) and any other funds appropriated by the Legislature to assist the
55 transition to the Division of Highways and the State Road Fund, and the interest or other earnings
56 on the moneys in the fund. The Commissioner of the Division of Highways shall administer the
57 fund to provide for the costs of all West Virginia Turnpike operations and maintenance within the
58 Division of Highways. Balances in the fund at the end of any fiscal year shall not expire, but shall

59 be expended for those purposes in ensuing fiscal years pursuant to appropriation by the
60 Legislature. Upon the depletion of funds in the account, the subject roadways shall be supported
61 by the State Road Fund and any other funds available to the Division of Highways for general
62 maintenance and support.

63 (j) The Parkways Authority shall transfer all remaining assets relating to the West Virginia
64 Turnpike, including travel plazas and lease properties, to the Division of Highways on January 1,
65 2042. All excess revenue produced by these assets shall be deposited into the Turnpike Transition
66 Fund.

67 (k) All obligations and responsibilities of the Parkways Authority for any part or portion of
68 the West Virginia Turnpike shall cease on January 1, 2042.

69 (l) The Commissioner of the Division of Highways and the Director of the Division of
70 Personnel shall jointly propose for promulgation rules pursuant to §29A-3-1 et seq. of this code as
71 may be necessary to provide for the evaluation, transition, termination, and reemployment of
72 Authority and Division of Highways employees during the transition and to otherwise carry out the
73 purposes of this article as they relate to personnel matters.

74 (m) The Commissioner of the Division of Highways shall propose for promulgation rules
75 pursuant to §29A-3-1 et seq. of this code as may be necessary to carry out the purposes of this
76 article as they relate to all matters not concerning personnel.

77 (n) The highway now known and designated as the West Virginia Turnpike shall continue
78 to be maintained to the standards promulgated by the West Virginia Division of Highways, and
79 shall be conveyed to the Division of Highways, as provided by §17-16A-4 of this code. The
80 Division of Highways shall accept ownership of the highway at that time.

81 (o) Except as provided herein in this section, when all bonds issued under the provisions of
82 this article in connection with any parkway project or projects and the interest thereon shall on
83 those bonds secured by West Virginia Turnpike toll revenues have been paid or a sufficient
84 amount for the payment of all such those bonds and the interest thereon on

85 them to the their maturity thereof shall have has been set aside in trust for the benefit of the
86 bondholders, such the project or projects, if then in good condition and repair to the satisfaction of
87 the Commissioner of the State Division of Highways, shall be transferred to the State Division of
88 Highways and shall thereafter be maintained by the State Division of Highways free of tolls.

89 (b) No later than February 1, 2030, on July 1 of the calendar year beginning after the date
90 the bond indebtedness is satisfied, as provided in the provisions of section four of this article, the
91 Division of Highways parkways authority shall discontinue, remove and not relocate all toll
92 collection facilities on the West Virginia Turnpike, except for the three main toll barriers and
93 collection facilities and, provided solely that the provisions of section eighteen-a are complied
94 with, including the toll collection facilities at the intersection of U.S. Route 19 (Corridor "L")
95 and said the turnpike: *Provided*, That the bonds secured by West Virginia Turnpike toll revenues
96 have been paid as scheduled.

§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 no bonds may be issued following the reenactment of this
4 section in the Legislative Regular Session of 2023, except as provided in subsection (i) or except
5 as existing bond debt may be reissued to produce a financial savings or accelerate
6 repayment: *Provided, however*, That in no such reissue may the amount of principal be increased
7 or the final maturity be extended. The principal of and the interest on bonds shall be payable solely
8 from the funds provided for payment, except that:

9 (1) None of the proceeds of the issuance of parkway revenue bonds under this section
10 shall be used to pay all or any part of the cost of any economic development project or tourism
11 project;

12 (2) Nothing in this section shall be construed as prohibiting the Parkways Authority from
13 issuing additional parkway revenue bonds to the extent permitted by applicable federal law for the

14 purpose of constructing, maintaining and operating any highway constructed, in whole or in part,
15 with money obtained from the Appalachian Regional Commission; and

16 (3) The authorization to issue bonds under this section is in addition to the authorization
17 and power to issue bonds under any other section of this code.

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

23 (c) The Parkways Authority shall determine the form of the bonds, including any interest
24 coupons to be attached thereto, and shall fix the denomination of the bonds and the place of
25 payment of principal and interest, which may be at any bank or trust company or securities
26 depository within or without the state.

27 (d) The bonds shall be executed by manual or facsimile signature by the chair of the
28 Parkways Authority, and the official seal of the Parkways Authority shall be affixed to or printed on
29 each bond, and attested, manually or by facsimile signature, by the Secretary and Treasurer of the
30 Parkways Authority. Any coupons attached to any bond shall bear the manual or facsimile
31 signature of the chair of the Parkways Authority.

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

38 (f) All bonds issued under the provisions of this article shall have all the qualities and
39 incidents of negotiable instruments under the negotiable instruments law of the state. The bonds

40 may be issued in coupon or in registered form, or both, as the Parkways Authority may determine,
41 and provision may be made for the registration of any coupon bonds as to principal alone and also
42 as to both principal and interest, and for the recorders into coupon bonds of any bonds registered
43 as to both principal and interest.

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

46 (h) The proceeds of the bonds of each issue shall be used solely for the payment of the
47 cost of the parkway project or parkway projects and by the Division of Highways for any
48 acquisition, construction, reconstruction, maintenance, improvement or repair of public highways
49 and bridges as provided for in this article for which the bonds were issued, and shall be disbursed
50 in a manner consistent with the resolution authorizing the issuance of the bonds or in the trust
51 agreement securing the bonds.

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

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

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

66 (l) All or any portion of the proceeds of any parkway revenue bonds issued pursuant to this
67 section may be credited to the special revenue account within the State Road Fund created in §17-
68 16A-11 of this code. Moneys in such fund shall be used by the Division of Highways for any
69 acquisition, construction, reconstruction, maintenance, improvement or repair of public highways
70 and bridges in this state.

71 (m) Bonds may be issued under the provisions of this article without obtaining the consent
72 of any department, division, commission, board, bureau or agency of the state in accordance with
73 this article: *Provided*, That the Parkways Authority shall comply with the provisions of §5-1-28 of
74 this code.

NOTE: The purpose of this bill is to end the tolls on the West Virginia Turnpike after the bonds have been paid off.

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