WEST VIRGINIA CODE CHAPTER 17 ARTICLE 16A

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§17-16A-1. Constructing, operating, financing, etc., parkway, economic development and tourism projects.

In order to remove the present handicaps and hazards on the congested highways and roads in the State of West Virginia, to facilitate vehicular traffic throughout the state, to promote and enhance the tourism industry and to develop and improve tourist facilities and attractions in the state, to promote the agricultural, economic and industrial development of the state and to provide for the construction of modern express highways, including center divisions, ample shoulder widths, longsight distances, the bypassing of cities, multiple lanes in each direction and grade separations at all intersections with other highways and railroads, to provide for the development, construction, improvement and enhancement of state parks, tourist facilities and attractions and to provide for the improvement and enhancement of state parks presently existing, the West Virginia Parkways, Economic Development and Tourism Authority (hereinafter created) is hereby authorized and empowered to construct, reconstruct, improve, maintain, repair and operate parkway projects, economic development projects and tourism projects (as those terms are hereinafter defined in section five of this article) at such locations as shall be approved by the state Department of Transportation.

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§17-16A-2. Parkway revenue bonds and revenue refunding bonds not debt of state or political subdivisions; statement on bonds.

Parkway revenue bonds and revenue refunding bonds issued under the provisions of this article shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds herein provided therefor from revenues. All such parkway revenue bonds and revenue refunding bonds shall contain on the face thereof a statement to the effect that neither the state nor any political subdivision thereof shall be obligated to pay the same or the interest thereon except from revenues of the project or projects for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

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§17-16A-3. West Virginia Parkways Authority.

(a) The West Virginia Parkways, Economic Development, and Tourism Authority is continued as an agency of the state, and commencing July 1, 2010, it shall be known as the West Virginia Parkways Authority. Any reference to the West Virginia Parkways, Economic Development, and Tourism Authority within this code shall mean the West Virginia Parkways Authority.

(b) The authority shall consist of the following seven members:

(1) The Governor or a designee;

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

(3) Two public members representing the first congressional district;

(4) Two public members representing the second congressional district;

and

(5) One at-large public member.

(c) The term for the public members shall be five years. All public members' appointments shall be made by the Governor, by and with the advice and consent of the Senate.

(d) A public member may not serve more than two consecutive full five-year terms. A public member may continue to serve until a successor has been appointed and has qualified.

(e) Each public member shall be a resident of this state during the appointment term and shall have been a qualified elector for a period of at least one year next preceding the appointment.

(f) A vacancy on the authority shall be filled by appointment by the Governor for the unexpired term of the public member whose office is vacant and the appointment shall be made within 60 days of the vacancy.

(g) The Governor may remove any public member from the authority for neglect of duty, incompetency, or official misconduct.

(h) A public member immediately and automatically forfeits membership to the authority if he or she is convicted of a felony under the laws of any jurisdiction, or becomes a nonresident of this state.

(i) The Governor or designee shall serve as chair of the authority. The authority shall annually elect one of the public members as vice chair, and shall also elect a secretary and treasurer who need not be members of the authority.

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(j) The Governor shall appoint an executive director of the authority, by and with the advice and consent of the Senate. The executive director serves at the will and pleasure of the Governor. The executive director is responsible for managing and administering the daily functions of the authority and performing all other functions necessary to the effective operation of the authority. The compensation of the executive director is annually set by the Governor.

(k) The public members of the authority are not entitled to compensation for their services, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with guidelines of the Travel Management Office of the Department of Administration.

(l) Four members of the authority constitutes a quorum and the vote of a majority of members present shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(m) The authority shall meet at least monthly. The chair or any four members of the authority may call a special meeting: *Provided*, That notice shall be given to all members of the authority not less than 10 days prior to any special meeting.

(n) Prior to commencing his or her duties as a member of the authority, each public member shall take and subscribe to the oath required by section five, article IV of the Constitution of this state.

(o) Before the issuance of any revenue bonds or revenue refunding bonds under the provisions of this article, each public member of the authority shall execute a surety bond in the penal sum of $25,000. The secretary and treasurer of the authority shall execute a surety bond in the penal sum of $50,000. Each surety bond shall be conditioned upon the faithful performance of the duties of his or her office, shall be executed by a surety company authorized to transact business in West Virginia as a surety, shall be approved by the Governor and filed in the Office of the Secretary of State.

(p) All expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under this article and no liability or obligation shall be incurred by the authority beyond the extent to which moneys shall have been provided under this article.

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

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

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

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

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

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§17-16A-5. Definitions.

As used in this article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "Cost" means the cost of construction, reconstruction, maintenance, improvement, repair and operation of the project, the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the Parkways Authority or the Department of Transportation for such construction, reconstruction, maintenance, improvement and repair, the cost of all machinery, equipment, material and labor which are deemed essential thereto, the cost of improvements, the cost of financing charges, interest prior to and during construction and for one year after completion of construction, the cost of traffic estimates and of engineering, consultant, accounting, architects', trustees' and legal fees and expenses, plans, specifications, surveys, estimates of cost and of revenues, other costs and expenses necessary or incident to determining the feasibility or practicability of constructing any such project, administrative expenses and such other costs and expenses as may be necessary or incident to the construction of the project, the financing of such construction and the placing of the project in operation or to the operation of the project. Any obligation or expense hereafter incurred by the Department of Transportation with the approval of the Parkways Authority, regardless of whether the approval was authorized before or after the obligation or expense was incurred, for traffic surveys, borings, preparation of plans and specifications, and other engineering and consulting services in connection with the construction of a parkway project shall be regarded as a part of the cost of such project and may be reimbursed to the state out of the proceeds of parkway revenue bonds or revenue refunding bonds hereinafter authorized.

(b) "Department of Transportation" means the West Virginia Department of Transportation and each of its respective divisions and subordinate agencies, including, without limitation, the Division of Highways.

(c) "Economic development project" means any land or water site, structure, facility or equipment which the Parkways Authority may acquire, create, develop, construct, reconstruct, improve or repair, or previously may have acquired, created, developed, constructed, reconstructed, improved or repaired under the provisions of this article to promote the agricultural, economic or industrial development of the state, together with all property rights, easements and interests which may be acquired by the Parkways Authority for the development, construction or operation of such project.

(d) "Expressway" means any road serving major intrastate and interstate travel, including federal interstate routes.

(e) "Feeder roads" means any road serving community-to-community travel or collects and feeds traffic to an expressway or turnpike.

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(f) “Local service road” means any local arterialized and spur roads which provide land access and socioeconomic benefits to abutting properties.

(g) “Owner” means all individuals, co-partnerships, associations or corporations having any title or interest in any property, rights, easements and interests authorized to be acquired by this article.

(h) “Park and forest roads” means any road serving travel within state parks, state forests and public hunting and fishing areas.

(i) “Parkways Authority” or “authority” means the West Virginia Parkways Authority, or if the Parkways Authority is abolished, the board, body, commission or authority succeeding to the principal functions thereof or to whom the powers given by this article to the Parkways Authority shall be given by law.

(j) “Parkway project” means any expressway, turnpike, bridge, tunnel, trunk line, feeder road, state local service road or park and forest road, or any portion or portions of any expressway, turnpike, trunk line, feeder road, state local service road or park and forest road, whether contiguous or noncontiguous to the West Virginia Turnpike or to any such portion or portions thereof, which the Parkways Authority or the Department of Transportation may acquire, construct, reconstruct, maintain, operate, improve, repair or finance under the provisions of this article, which shall include for all purposes of this article, any acquisition, construction, reconstruction, maintenance, operation, improvement, repair or financing that the authority may undertake by agreement with the Department of Transportation, or any expressway, turnpike or other road constructed by the West Virginia Turnpike Commission pursuant to the authority granted to it under the laws of this state prior to June 1, 1989, and shall embrace all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations and administration, storage and other buildings, which the Parkways Authority or the Department of Transportation may deem necessary for the operation of a parkway project, or which is used in the operation of a parkway project, together with all property, rights, easements and interests which may be acquired by the Parkways Authority or the Department of Transportation for the construction or the operation of a parkway project or which were acquired in connection with or are used in the operation of the turnpike or any other existing parkway project. A parkway project shall also include any enhancements or improvements to the turnpike or any parkway project, including, without limitation, projects involving lane widening, resurfacing, surface replacement, bridge replacement, bridge improvements and enhancements, other bridge work, drainage system improvements and enhancements, drainage system replacements, safety improvements and enhancements, and traffic flow improvements and enhancements, which have been recommended by the authority’s or the Department of Transportation’s consulting engineers or traffic engineers, or both.

(k) “Project” or “projects” means a parkway project, economic development project or tourism project, or any combination thereof.

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(l) "Public meeting" means a meeting designed to solicit input and provide information sufficient to allow the public to understand the scope and the costs of a particular project.

(m) "State Road Fund" means the State Road Fund created in article three, chapter seventeen of this code.

(n) "Transportation secretary" means the Secretary of the Department of Transportation.

(o) "Toll revenues" means any amount received by the Parkways Authority from any source as a fee for the right of transit over the West Virginia Turnpike or any other parkway project and any fees paid by owners of registered motor vehicles in the state or any other state collected pursuant to section seventeen, article ten, chapter seventeen-a of this code.

(p) "Tourism project" means:

(1) Any park or tourist facility and attraction which the Parkways Authority may create, develop, construct, reconstruct, improve, maintain or repair or may have previously created, developed, constructed, reconstructed, improved, maintained or repaired under the provisions of this article, and shall include all roads, interchanges, entrance plazas, approaches, service stations, administration, storage and any other buildings or service stations, structures which the Parkways Authority may deem necessary for the operation of the tourism project, together with all property rights, easements and interests which may be acquired by the Parkways Authority for the construction or operation of the tourism project; and

(2) The construction, reconstruction, improvement, maintenance and repair of any park or tourist facility and attraction owned by the state as of June 1, 1989.

(q) "Tourist facility and attraction" mean cabins, lodges, recreational facilities, restaurants and other revenue producing facilities, any land or water site, and any information center, visitors' center or rest stop which the Parkways Authority determines may improve, enhance or contribute to the development of the tourism industry in the state.

(r) "Trunk line" means any road serving major city-to-city travel.

(s) "Turnpike" means the West Virginia Turnpike or any other toll road in the state.

(t) "West Virginia Turnpike Commission" means the State Turnpike Commission existing as of June 1, 1989.

(u) "West Virginia Turnpike" means the turnpike from Charleston to a point approximately one mile south of the intersection of Interstate 77 and U. S. Route 460 near Princeton in Mercer County, West Virginia, which road is presently a part of the Federal Interstate Highway System.

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§17-16A-6. Parkways Authority's powers.

(a) The Parkways Authority is hereby authorized and empowered:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) To adopt an official seal and alter the same at pleasure;

(3) To maintain an office at such place or places within the state as it may designate;

(4) To sue and be sued in its own name, plead and be impleaded. Any and all actions against the Parkways Authority shall be brought only in the county in which the principal office of the Parkways Authority is located;

(5) To construct, reconstruct, improve, maintain, repair, operate or finance projects, at such locations within the state or adjacent to the state pursuant to a reciprocal toll enforcement agreement as may be determined by the Parkways Authority: Provided, That after July 1, 2010, the Parkways Authority is prohibited from constructing new tourism projects or new economic development projects, but this prohibition shall not prevent the authority from entering into lease agreements, development agreements or other agreements with private businesses or companies allowing and providing for such private businesses or companies to acquire, develop, construct and operate motels, lodging facilities or other businesses and business facilities on land owned by the authority and located adjacent to the Tamarack project and facilities at Exit 45 of the West Virginia Turnpike;

(6) To issue parkway revenue bonds of the State of West Virginia, payable solely from toll revenues, for the purpose of paying all or any part of the cost of any one or more parkway projects;

(7) To issue parkway revenue refunding bonds of the State of West Virginia, payable solely from toll revenues, for any one or more of the following purposes:

(A) Refunding any bonds which shall have been issued under the provisions of this article or any predecessor thereof; and

(B) Repaying to the state all or any part of the state funds used to upgrade the West Virginia Turnpike to federal interstate standards;

(8) To charge, fix and revise, from time to time, tolls or fees for transit over each parkway project constructed or improved or financed by it, by the Department of Transportation or by the West Virginia Turnpike Commission: Provided, That the Parkways Authority may not charge tolls or fees for transit over an existing road without express legislative authorization for the charging of such tolls or fees: Provided, however, That an existing road does not include the West Virginia Turnpike, new lanes or sections of an existing road, the replacement or construction of any bridge or tunnel, or related facilities;

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(9) To fix and revise, rents, fees or other charges, of whatever kind or character, for the use of each tourism project or economic development project constructed by it or for the use of any building, structure or facility constructed by it or financed in connection with a parkway project;

(10) To acquire, hold, lease and dispose of real and personal property in the exercise of its powers and the performance of its duties under this article;

(11) To acquire in the name of the state by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in the manner hereinafter provided, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements and interests, as it may deem necessary for carrying out the provisions of this article. No compensation shall be paid for public lands, playgrounds, parks, parkways or reservations so taken, and all public property damaged in carrying out the powers granted by this article shall be restored or repaired and placed in its original condition as nearly as practicable;

(12) To designate the locations of, and establish, limit and control such points of ingress to and egress from, each project as may be necessary or desirable in the judgment of the Parkways Authority to ensure the proper operation and maintenance of such project and to prohibit entrance to such project from any point or points not so designated;

(13) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article, and to employ consulting engineers, attorneys, accountants, architects, construction and financial experts, trustees, superintendents, managers and such other employees and agents as may be necessary in its judgment, and to fix their compensation. All such expenses shall be payable solely from the proceeds of parkway revenue bonds or parkway revenue refunding bonds issued under the provisions of this article or from toll revenues;

(14) To make and enter into all contracts, agreements or other arrangements with any agency, department, division, board, bureau, commission, authority or other governmental unit of the state to operate, maintain or repair any project;

(15) To receive and accept from any federal agency grants for or in aid of the construction of any project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(16) To study, investigate, evaluate and, if feasible, develop and implement a “single fee” program the purpose of which is to charge a flat fee to owners of motor vehicles registered in this state who opt into any such program or any other state which opts into any such program: Provided, That any single fee program shall apply only to passenger motor vehicles, divided into classes based on size and usage, and shall not apply to commercial

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motor vehicles. The flat fee shall be set by the authority at a rate or amount so that the aggregate of all toll revenues estimated to be received by the authority at the time of fixing any such rate or amount, or any increase thereof, provides sufficient toll revenues consistent with the purposes set forth in section thirteen of this article and to cover the administrative costs of any such single fee program. The separate fee shall be collected by adding it to the annual cost of vehicle registration as an additional fee payable solely to the authority pursuant to section seventeen, article ten, chapter seventeen-a of this code. A registered motor vehicle for which such single program fee has been paid shall be entitled to traverse all toll roads within the state without stopping to pay individual tolls during the effective period of said vehicle registration. The single fee program may also include comparable provisions which would allow vehicles registered in other states to traverse West Virginia toll roads in like fashion to West Virginia vehicles as set forth in this section upon the payment of a single fee for each and every vehicle registered in such state, in accordance with the same classification system adopted for West Virginia vehicles. The Parkways Authority, in consultation with the Division of Motor Vehicles, shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement any single fee program under this subdivision (16);

(17) To enter into reciprocal toll enforcement agreements with other toll agencies in this state or in any other state or foreign country;

(18) To do all acts and things necessary or convenient to carry out the powers expressly granted in this article; and

(19) To file the necessary petition or petitions pursuant to federal bankruptcy laws.). The State of West Virginia hereby consents to the application of Title 11 of the United States Code to the Parkways Authority.

(b) Nothing in this article shall be construed to prohibit the issuance of parkway revenue refunding bonds in a common plan of financing with the issuance of parkway revenue bonds.

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§17-16A-7. Parkways authority's incidental powers.

The parkways authority shall have authority to construct grade separations at intersections of any project with public roads and state highways and to change and adjust the lines and grades of such roads and highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such roads and highways shall be ascertained and paid by the parkways authority as a part of the cost of such project.

If the parkways authority shall find it necessary to change the location of any portion of any public road or state highway, it shall cause the same to be reconstructed at such location as the parkways authority shall deem most favorable and of substantially the same type and in as good condition as the original road or highway. The cost of such reconstruction and any damage incurred in changing the location of any such road or highway shall be ascertained and paid by the parkways authority as a part of the cost of such project.

Upon the request of the parkways authority, the commissioner of the state department of highways shall relocate or discontinue any road or highway over which he has authority and control which is affected by the construction of any project.

In addition to the foregoing powers, the parkways authority and its authorized agents and employees may enter upon any lands, waters and premises in the state for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of this article, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The parkways authority shall make reimbursement for any actual damages resulting to such lands, waters and premises as a result of such activities.

The state of West Virginia hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the parkways authority to be necessary for the construction or operation of any project.

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§17-16A-8. Acquisition of land, property, easements, etc.

The parkways authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, any land, property, rights, rights-of-way, franchises, easements and other interests in lands as it may deem necessary or convenient for the construction or operation of any project upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the parkways authority and the owner thereof, and to take title thereto in the name of the state.

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§17-16A-9. Condemnation of property.

Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated, or is absent, unknown or unable to convey valid title, the parkways authority is hereby authorized and empowered to acquire, by the exercise of the power of condemnation in accordance with and subject to the provisions of any and all existing laws and statutes applicable to the exercise of the power of condemnation of property for public use, any land, property, rights, rights-of-way, franchises, easements or other property deemed necessary or convenient for the construction or the efficient operation of any project or necessary in the restoration of public or private property damaged or destroyed. In any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such orders as may be just to the parkways authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the parkways authority to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the parkways authority shall impose any liability upon the state or the parkways authority except such as may be paid from the funds provided under the authority of this article.

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§17-16A-10. Parkway revenue bonds, generally.

(a) The Parkways Authority is authorized to provide by resolution for the issuance of parkway revenue bonds of the state for the purpose of paying all or any part of the cost of one or more parkway projects. The principal of and the interest on bonds shall be payable solely from the funds provided for payment, except that:

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

(2) Nothing in this section shall be construed as prohibiting the Parkways Authority from issuing additional parkway revenue bonds to the extent permitted by applicable federal law for the purpose of constructing, maintaining and operating any highway constructed, in whole or in part, with money obtained from the Appalachian Regional Commission; and

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

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

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

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

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

(f) All bonds issued under the provisions of this article shall have all the qualities and

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incidents of negotiable instruments under the negotiable instruments law of the state. The bonds may be issued in coupon or in registered form, or both, as the Parkways Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the recorders into coupon bonds of any bonds registered as to both principal and interest.

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

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

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

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

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

(l) All or any portion of the proceeds of any parkway revenue bonds issued pursuant to this section may be credited to the special revenue account within the State Road Fund created in section eleven of this article. Moneys in such fund shall be used by the Division of Highways for any acquisition, construction, reconstruction, maintenance, improvement or repair of public highways and bridges in this state.

(m) Bonds may be issued under the provisions of this article without obtaining the consent of any department, division, commission, board, bureau or agency of the state in accordance with this article: Provided, That the Parkways Authority shall comply with the provisions of section twenty-eight, article one, chapter five of this code.

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§17-16A-11. State Road Construction Account.

(a) There is hereby created within the State Road Fund a special revenue account to be known as the State Road Construction Account held in the State Treasury to be expended by the Division of Highways for construction, maintenance and repair of public highways and bridges in this state. The State Road Construction Account created in this section is a special revenue account in the State Treasury and is not part of the state General Revenue Fund.

(b) The State Road Construction Account shall consist of:

(1) All or any portion of the proceeds of any parkway revenue bonds issued pursuant to section ten of this article that the Parkways Authority, in its discretion, may credit to the State Road Construction Account, notwithstanding any provision of said section to the contrary;

(2) Any appropriations, grants, gifts, contributions or other revenues received by the State Road Construction Account from any source; and

(3) All interest earned on moneys held in the account.

(c) The funds in the special revenue account created by this section will be expended by the Division of Highways for the costs of acquisition, construction, reconstruction, maintenance, improvement or repair of public highways and bridges, as contained in the Division of Highways' Statewide Transportation Improvement Plan as it existed on June 1, 2017, or the West Virginia Division of Highways SOS Transportation Investment Program Candidate Project List dated May 3, 2017, in the following counties:

(1) Raleigh County;

(2) Fayette County;

(3) Wyoming County;

(4) Mercer County;

(5) Kanawha County;

(6) Greenbrier County;

(7) Monroe County;

(8) Summers County;

(9) McDowell County; and

(10) Nicholas County.

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§17-16A-11a. West Virginia Parkways Authority Single Fee Program Fund.

There is hereby created within the State Treasury a special account within the State Road Fund, designated the West Virginia Parkways Authority Single Fee Program Fund. The account shall consist of any fees received from owners of registered motor vehicles in the state or any other state that have opted in under any single fee program that may be created and implemented by the authority pursuant to section six of this article. The account shall be administered by the Parkways Authority and expenditures from the fund shall be used exclusively by the authority for the purposes authorized in section thirteen of this article and for administrative costs related to any single fee program implemented by the Parkways Authority under subdivision (16), subsection (a), section six of this article.

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§17-16A-12. Parkway revenue bonds -- Trust agreement.

In the discretion of the parkways authority any bonds issued under the provisions of this article may be secured by a trust agreement by and between the parkways authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Any such trust agreement may pledge or assign the tolls, rents, fees, charges and other revenues to be received, but shall not convey or mortgage any project or any part thereof. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the parkways authority in relation to the acquisition of property and the construction, reconstruction, improvement, maintenance, repair, operation and insurance of the project or projects in connection with which such bonds shall have been authorized, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such project or projects. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds, or to pledge such securities as may be required by the parkways authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the parkways authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the project or projects to which the trust agreement applies.

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§17-16A-13. Tolls, rents, fees, charges and revenues; competitive bidding on contracts.

(a) The Parkways Authority is hereby authorized to fix, revise, charge and collect tolls and fees for the use of each parkway project and the different parts or sections thereof and to fix, revise, charge and collect rents, fees, charges and other revenues, of whatever kind or character, for the use of each economic development project or tourism project, or any part or section thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, fiber optic or other data transmission lines or devices, electric light, power or other utility lines, gas stations, garages, stores, hotels, restaurants and advertising signs, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use: Provided, That the Parkways Authority may not charge tolls or fees for transit over an existing road without express legislative authorization for the charging of such tolls or fees: Provided, however, That an existing road does not include the West Virginia Turnpike, new lanes or new sections of an existing road, the replacement or construction of any bridge or tunnel, or related facilities. Such tolls, rents, fees and charges shall be so fixed and adjusted in respect of the aggregate of tolls, or in respect of the aggregate rents, fees and charges, from the project or projects in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any: (1) To pay the cost of acquiring, constructing, reconstructing, maintaining, repairing, improving and operating such project or projects and to create reserves therefor; (2) to pay the principal of and the interest on such bonds and related costs and expenses as the same shall become due and payable, and to create reserves for such purposes; and (3) to comply with any covenants under any trust agreement securing any bonds issued by the Parkways Authority, or any predecessor thereof, or to maintain bond credit ratings. Such tolls, rents, fees and other charges shall not be subject to supervision or regulation by any other commission, board, bureau, department or agency of the state. The tolls, rents, fees, charges and all other revenues derived from the project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay the cost of acquiring, constructing, reconstructing, maintaining, improving, repairing and operating such project or projects and to provide such reserves therefor as may be provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at regular intervals as may be provided in the resolution or the trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of: (i) The interest upon the bonds as such interest shall fall due; (ii) the principal of the bonds as the same shall fall due; (iii) the necessary charges of paying agents and trustees for paying principal and interest; and (iv) the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of the bonds or of the trust agreement. Except as may otherwise be provided in the resolution or the trust agreement, such sinking fund shall be a fund for all bonds without distinction or priority of one over another. The moneys in the sinking fund, less such reserve as may be provided in

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the resolution or trust agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable.

(b) The Parkways Authority shall cause, as soon as it is legally able to do so, all contracts to which it is a party and which relate to the operation, maintenance or use of any restaurant, motel or other lodging facility, truck and automobile service facility, food vending facility or any other service facility located along the West Virginia Turnpike, to be renewed on a competitive bid basis. All contracts relating to any facility or services entered into by the Parkways Authority with a private party with respect to any project constructed after the effective date of this legislation shall be let on a competitive bid basis only. If the Parkways Authority receives a proposal for the development of a project, except for a parkway project, such proposal shall be made available to the public in a convenient location in the county wherein the proposed facility may be located. The Parkways Authority shall publish a notice of the proposal by a Class I legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code. The publication area shall be the county in which the proposed facility would be located. Any citizen may communicate by writing to the Parkways Authority his or her opposition to or approval to such proposal within a period of time not less than forty-five days from the publication of the notice. No contract for the development of an economic development project or a tourism project may be entered into by the Parkways Authority until a public hearing is held in the vicinity of the location of the proposed economic development project or tourism project with at least twenty days' notice of such hearing by a Class I publication pursuant to section two of said article. The Parkways Authority shall make written findings of fact prior to rendering a decision on any such proposed project. All studies, records, documents and other materials which are considered by the Parkways Authority in making such findings shall be made available for public inspection at the time of the publication of the notice of public hearing and at a convenient location in the county where the proposed economic development project or tourism project may be located. The Parkways Authority shall promulgate rules in accordance with chapter twenty-nine-a of this code for the conduct of any hearing required by this section. Persons attending any such hearing shall be afforded a reasonable opportunity to speak and be heard on the proposed economic development project or tourism project.

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§17-16A-13a. Public notice and meeting requirements.

(a) Notwithstanding any provision of the law to the contrary, on and after the effective date of the amendment and reenactment of this section in 2017, the Parkways Authority is authorized after prior public notice and meeting, as set forth in this section, to:

(1) Fix initial rates, tolls or charges along any portion of a parkway project and fix fees for any single fee program implemented in accordance with section six of this article including, without limitation, fixing initial rates, tolls or charges that may be subject to adjustment or escalation from time to time, or approve any proposal or contract that would require the Parkways Authority to fix any initial rates, tolls or charges along any portion of a parkway project or any fees under any single fee program;

(2) Increase any rates, tolls or charges along any portion of the parkway project, increase fees for any single fee program implemented in accordance with section six of this article, or approve any proposal or contract that would result in or require an increase in any rates or tolls along any portion of the parkway project or any fees under any single fee program: Provided, That the Parkways Authority may not increase any passenger vehicle rates, tolls or charges without establishing either a single fee program pursuant to subdivision (16), subsection (a), section six of this article or a passenger motor vehicle unlimited use single fee EZ Pass transponder discount program pursuant to section twenty-nine of this article: Provided, however, That the program shall extend at least through the period that any rates, tolls or charges are imposed: Provided further, That the single annual fee proposed to be charged under either such program may not exceed:

(A) An amount of $25 per year: Provided, That the Parkways Authority may adjust this amount every three years: Provided, however, That an increase in such amount may not exceed five percent of the amount at each adjustment; and

(B) A usage fee for the EZ Pass transponder, radio frequency identifying tag or other device issued by the Parkways Authority to participate in such program, which fee shall not exceed the actual cost of issuing such device;

(3) Issue any parkway revenue bond pursuant to section ten of this article or any parkway revenue refunding bond pursuant to sections twenty-one and twenty-two of this article which would require the Parkways Authority to increase or adjust rates, tolls, fees under any single fee program, or charges whether at the time of issuance of the bonds or at any time during the term of any bonds;

(4) Approve any contract or project which would require or result in an increase in the rates, tolls or charges along any portion of the parkway project or fees under any single fee program implemented in accordance with section six of this article; or

(5) Take any other action which would require or result in an increase in the rates, tolls or

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charges along any portion of the parkway project or fees under any single fee program implemented in accordance with section six of this article.

(b) The Parkways Authority shall publish notice of any proposed contract, project or bond which would require the Parkways Authority to fix any initial toll rates or charges or fees or result in an increase of any toll rates or charges or fees, along with the associated initial rate or fee and rate or fee increase, by a Class II legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code, published and of general circulation in each county which borders the parkway project or proposed parkway project affected by the proposed contract, project or bond.

(c) Once notice has been provided in accordance with the provisions of this section, the Parkways Authority shall conduct at least one public meeting at a reasonable time and location in any county which borders the parkway project or proposed parkway project affected by the proposed contract, project or bond, to allow interested members of the public an opportunity to ask questions and give written comments during the meeting respecting the proposed contract, project or bond which would require the Parkways Authority to fix any initial toll rates or charges or fees or result in an increase of any toll rates or charges or fees. Any citizen may also communicate by writing to the Parkways Authority his or her opposition to or approval of such proposal, initial rate or toll or fee, rate or toll or fee increase or amended bond terms. The public notice and written public comment period shall be conducted not less than forty-five days from the publication of the notice and the affected public must be provided with at least twenty days' notice of any scheduled public meeting.

(d) All studies, records, documents and other materials which were considered by the Parkways Authority before recommending the approval of any such project or recommending the adoption of any such initial rate or increase shall be made available for public inspection for a period of at least twenty days prior to the scheduled meeting at a convenient location in each county where a public meeting is held or online.

(e) Any final action taken by the Parkways Authority to approve or implement any proposed initial rate or fee, rate or fee increase, contract or project which would require or result in a proposed initial rate or toll or fee or a proposed increase of any rate or tolls along any portion of a parkway project or fee for any single fee program without first satisfying the public notice and meeting requirements of this section, shall be null and void.

(f) Nothing in this section shall be construed to permit or authorize the Parkways Authority to charge tolls or fees on any existing road without express legislative authorization for the charging of such tolls or fees: Provided, That an existing road does not include the West Virginia Turnpike, new lanes or new sections of an existing road, the replacement or construction of any bridge or tunnel, or related facilities.

WV Legislature

§17-16A-14. Trust funds.

All moneys received pursuant to the authority of this article, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this article. The resolution authorizing the issuance of bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this article and such resolution or trust agreement may provide.

WV Legislature

§17-16A-15. Remedies.

Any holder of bonds issued under the provisions of this article or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this article or by such trust agreement or resolution to be performed by the parkways authority or by any officer thereof, including the fixing, charging and collecting of tolls, rents, fees and charges.

WV Legislature

§17-16A-16. Exemption from taxation.

(a) The exercise of the powers granted by this article will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of projects by the parkways authority will constitute the performance of essential governmental functions, the parkways authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the parkways authority under the provisions of this article or upon the income therefrom, and the bonds issued under the provisions of this article, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state.

(b) In lieu of payment by the parkways authority of county property taxes and other assessments on restaurant and gas service facilities owned by it, or upon any facility described in subsection (b) of section thirteen herein which is leased to any private person, corporation, or entity, the parkways authority shall make an annual payment as provided herein to the county commission of such county. Any parkways authority project which is leased and is exempt from taxation shall be subject to a payment in lieu of taxes. Said payment shall be made to the county commission of the county in which the project is located and shall be in an amount equal to the property taxes otherwise payable. The county commission receiving such in lieu of payment shall distribute such payment to the different levying bodies in that county in the same manner as are property taxes. Nothing contained herein may be construed to prohibit the parkways authority from collecting such in lieu payment from any private party by contract or otherwise.

WV Legislature

§17-16A-17. Repair, etc., of damaged property; conveyances, etc., by counties, cities, etc., to parkways authority; maintenance and policing of projects; defrauding parkways authority; evading payment of tolls, rents, fees or charges; trespassing.

All private property damaged or destroyed in carrying out the powers granted by this article shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this article.

All counties, cities, villages, townships and other political subdivisions and all public agencies and commissions of the State of West Virginia, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the parkways authority at its request upon such terms and conditions as the proper authorities of such counties, cities, villages, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the parkways authority, including public roads and other real property already devoted to public use.

Each project when constructed and opened to traffic or use shall be maintained and kept in good condition and repair by the parkways authority. The parkways authority and the superintendent of the department of public safety may by agreement provide that such project or projects shall be policed by members of such department under such terms and conditions as they may determine, excepting that all costs thereof, either direct or indirect, including overhead costs attributable thereto, shall be paid unto such department by the parkways authority at regular intervals not to exceed one year.

Whoever shall knowingly or intentionally defraud or attempt to defraud the parkways authority, any of its tolltakers or other employees in regard to the payment of tolls, rents, fees or charges established by the parkways authority for the use of any such project or evade or attempt to evade or whoever shall aid another to evade or attempt to evade the payment of such toll, rent, fee or charge or whoever shall intentionally and knowingly trespass upon any project shall be guilty of a misdemeanor; and for every such offense shall upon conviction thereof be fined not in excess of $50. Magistrate courts shall have jurisdiction of misdemeanors created by this paragraph concurrently with circuit courts.

WV Legislature

§17-16A-17a.

Repealed.

Acts, 1989 Reg. Sess., Ch. 187.

WV Legislature

§17-16A-18. Corridor L toll fees authorized; commuter pass.

(a) The Parkways Authority is hereby authorized to operate the currently existing toll collection facility located at the interchange of U. S. Route 19 (Corridor L) and to fix, revise, charge and collect tolls for the use of such toll collection facility in accordance with the provisions of section thirteen of this article. Any proposed increase of any rate or toll for use of the toll collection facility located at Corridor L shall be subject to the public notice and meeting requirements of section thirteen-a of this article. (1) The Parkways Authority shall maintain, advertise, implement and otherwise make generally available to all qualified members of the public, resident or nonresident, a system of commuter passes, in a form to be determined by the authority. Applications for these commuter passes are to be made available by the Parkways Authority to Division of Motor Vehicles offices in the state;

(2) The system of commuter passes implemented in accordance with the provisions of subdivision (1), subsection (a) of this section, shall be available only for use when operating or traveling in a Class A motor vehicle as herein defined. Any person who knowingly or intentionally utilizes any commuter pass issued in accordance with this section while operating a vehicle other than a Class A motor vehicle, as herein defined, at the U. S. Route 19 (Corridor L) turnpike toll facility, or any other toll facility at or upon which such pass may later be usable, is guilty of a misdemeanor and, for every such offense, upon conviction thereof, shall be punished in accordance with the provisions of section seventeen, article sixteen-a of this chapter; and the Parkways Authority shall hereafter be authorized and empowered to cancel any such commuter pass or passes improperly used in accordance with this section;

(3) For the purpose of this section, a "Class A vehicle" shall be defined as a motor vehicle of passenger type and truck with a gross weight of ten thousand pounds or less and registered or eligible for registration as a Class A vehicle in accordance with section one, article ten, chapter seventeen-a of this code as the same is currently constituted; and

(4) Notwithstanding any other provisions of this code to the contrary, the Parkways Authority may not promulgate emergency rules in accordance with section fifteen, article three, chapter twenty-nine-a of this code to increase or decrease tolls, "single program" fees or the commuter pass fee established herein.

(b) Nothing in this section is to be construed to apply to, regulate or in any manner affect the operation of the three main line toll barriers and toll collection facilities currently located on the West Virginia Turnpike and operated by the Parkways Authority as Barrier A, Barrier B and Barrier C (I-64, I-77).

WV Legislature

§17-16A-18a

Repealed

Acts, 2017 Reg. Sess., Ch.

WV Legislature

§17-16A-19. Preliminary expenses.

(a) The Secretary of the Department of Transportation is authorized in his or her discretion to expend out of any funds available for the purpose, such moneys as may be necessary for the study of any parkway, economic development or tourism project or projects and to use the Department of Transportation's engineering and other forces, including consulting engineers and traffic engineers, for the purpose of effecting such study and to pay for such additional engineering and traffic and other expert studies as he or she may deem expedient.

(b) All such expenses incurred by the Department of Transportation prior to the issuance of parkway revenue bonds or revenue refunding bonds under the provisions of this article shall be paid by the Department of Transportation and charged to the appropriate project or projects, and the Department of Transportation shall keep proper records and accounts showing each amount so charged.

(c) Upon the sale of parkway revenue bonds or revenue refunding bonds for any project or projects, the funds so expended by the Department of Transportation in connection with such project or projects may be reimbursed to the Department of Transportation from the proceeds of such bonds.

WV Legislature

§17-16A-19a.

Repealed.

Acts, 1989 Reg. Sess., Ch. 187.

WV Legislature

§17-16A-20. Parkway projects part of state road system.

It is hereby declared that any expressway, turnpike, feeder road, state local service road or park and forest road or other road, or any subsequent expressway, turnpike feeder road, state local service road, park and forest road or other road constructed pursuant to this article shall be a part of the state road system, although subject to the provisions of this article and of any bonds or trust agreements entered into pursuant thereto, and that the construction of such parkway projects shall be considered as developments of the state road system.

WV Legislature

§17-16A-21. Parkway revenue refunding bonds, generally.

The Parkways Authority is hereby authorized to provide by resolution for the issuance of parkway revenue refunding bonds of the state for the purpose of refunding any bonds then outstanding which shall have been issued or may be issued under the provisions of this article in connection with the construction of any parkway project, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds; and, if deemed advisable by the Parkways Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued: Provided, That this section shall not be construed as authorizing the issuance of parkway revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this article, or any predecessor thereof, in connection with the construction of the West Virginia Turnpike, which revenue refunding bonds may be issued only as authorized under section twenty-two of this article. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the Parkways Authority in respect of the same shall be governed by the provisions of this article insofar as the same may be applicable. No issuance of a refunding bond may extend the maturity date of such bond being refunded and may not exceed the outstanding principal of such bond being refunded. Any refunding bond shall be structured to provide for approximately level annual debt service savings each fiscal year through the final maturity or structured to approximate the level of debt service that would have been paid prior to the refunding, with a preponderance of the savings being deferred toward eliminating or reducing the most distant maturities. For purposes of this section, the outstanding principal is to be determined as of the date on which the revenue bond is refinanced.

WV Legislature

§17-16A-22. Parkway revenue refunding bonds—West Virginia Turnpike.

The Parkways Authority is hereby authorized to provide by resolution for the issuance of parkway revenue refunding bonds of the state for the purpose of refunding any bonds which shall have been issued under this article, or any predecessor thereof, in connection with the construction of the West Virginia Turnpike, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, to the extent permissible under federal law and if deemed advisable by the Parkways Authority, for repaying to the state all or any part of the state funds used to upgrade the West Virginia Turnpike to federal interstate standards: Provided, That none of the proceeds of the issuance of parkway revenue refunding bonds issued under this section shall be used to pay all or any part of the cost of any economic development project or tourism project. Except as otherwise specifically provided in this section, the issuance of parkway revenue refunding bonds pursuant to this section, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the parkways authority in respect of the same, shall be governed by the provisions of this article insofar as the same may be applicable.

The authority to issue parkway revenue refunding bonds under the provisions of this section and section twenty-one of this article does not extend to the refunding of any parkway revenue refunding bonds outstanding on the effective date of the amendment and reenactment of such sections in 2017.

No issuance of a refunding bond may extend the maturity date of such bond being refunded and may not exceed the outstanding principal of such bond being refunded. Any refunding bond six shall be structured to provide for approximately level annual debt service savings each fiscal year through the final maturity or structured to approximate the level of debt service that would have been paid prior to the refunding, with a preponderance of the savings being deferred toward eliminating or reducing the most distant maturities. For purposes of this section, the outstanding principal is to be determined as of the date on which the revenue bond is refinanced.

WV Legislature

§17-16A-23

Repealed

Acts, 2017 Reg. Sess., Ch.

WV Legislature

§17-16A-24. Article deemed to provide additional and alternative methods.

This article shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing. The issuance of special obligation bonds under the provisions of this article need not comply with the requirements of any other law applicable to the issuance of bonds.

WV Legislature

§17-16A-25. Additional powers of parkways authority; issuance of special obligation bonds.

(a) In addition to all powers granted by the foregoing sections of this article, the parkways authority in connection with a proceeding prosecuted to completion under Title 11, United States Code, Secs. 401-403, as permitted by subdivision (17), section six of this article is hereby authorized to provide by resolution for the issuance of special obligation bonds of the state for the purpose of exchanging such special obligation bonds for all bonds then outstanding which shall have been issued under the provisions of this article. Special obligation bonds issued under the provisions of this section shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds herein provided therefor from pledged property and income therefrom as provided in subdivision (1) of this subsection. All such special obligation bonds shall contain on the face thereof a statement in accordance with the preceding sentence. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the parkways authority in respect of the same shall be governed by the provisions of this article insofar as the same may be applicable with the following express exceptions:

(1) The principal of and the interest on such special obligation bonds shall not be payable from tolls, rents, fees, charges or revenues of any parkway project but shall be payable solely from such other property purchased and pledged as security therefor as the parkways authority shall determine together with the income derived therefrom which other property may include direct obligations of, or obligations the principal of and the interest on which are guaranteed by, the United States government or participation certificates or other obligations issued by or by authority of the United States government; and

(2) Following the issuance of such special obligation bonds there shall be no obligation to fix, revise, charge and collect tolls for the use of any parkway project and any parkway project shall be transferred to the state department of highways and shall thereafter be maintained by the state department of highways free of tolls. At such time as the special obligation bonds are issued, then section eighteen of this article shall be of no further force and effect.

(b) Financial, legal, engineering and feasibility consultants may be employed to perform such services as the parkways authority shall deem necessary or desirable in connection with the Title 11 proceedings mentioned above and the issuance and exchange of the special obligation bonds.

(c) The entire powers herein granted by this section to the parkways authority may be exercised by the state department of highways in which event the special obligation bonds herein authorized shall be executed by manual or facsimile signature by the Governor and by the commissioner of the department of highways, and the official seal of the department of highways shall be affixed to or printed on each bond, and any coupons attached to such

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bonds shall bear the manual or facsimile signature of the commissioner of the state department of highways. In the event that the state department of highways shall elect to exercise the powers granted by this section, it shall file a statement to that effect in the office of the chairman of the parkways authority and in the office of the Secretary of State, and upon the issuance of the special obligation bonds herein provided for, the state department of highways shall succeed immediately to the principal functions of the parkways authority and the parkways authority shall then be abolished.

(d) The state department of highways is hereby empowered to acquire by purchase the parkways authority and all its rights-of-way, equipment, facilities and any and all other rights or interest the parkways authority has or had in any project, from any funds available to it, and to pay any expenses incident to such acquisition under the provisions of this article: Provided, That the contribution of the state department of highways in making such acquisition shall not exceed the sum of $20 million from all sources of public moneys of the State of West Virginia, excluding any funds reimbursed or reimbursable or otherwise provided or to be provided by the federal government. No funds derived from the sale of the $350 million bond issue authorized by the roads development amendment shall be included in the acquisition of the West Virginia Turnpike.

WV Legislature

§17-16A-26. Annual report; audit.

(a) Annually, the Parkways Authority shall prepare and provide to each member of the West Virginia Legislature who so requests, an annual report detailing the financial condition and operations of the Parkways Authority. The Parkways Authority shall provide to the Joint Committee on Government and Finance any financial statements that are required under any trust agreement to which the Parkways Authority is a party.

(b) Annually, the Parkways Authority shall file with the Legislative Auditor's office a full and complete accounting of its activities, including the collection of all revenues, expenditures, liabilities, assets, bonds and disbursement of funds. The Legislative Auditor shall conduct an annual audit of the information provided by the Parkways Authority and the audit report of the Legislative Auditor shall be provided to each member of the Legislature requesting a copy.

WV Legislature

§17-16A-27. Exit awareness signs.

Consistent with applicable federal laws, rules and regulations, the parkways authority shall develop and prepare a uniform roadway sign identifying the availability of restaurants, gas stations, hotel accommodations and emergency services available off each exit of the West Virginia Turnpike. At every tourism project maintained or operated by the parkways authority and which is constructed after the effective date of this legislation, and, to the extent permitted under the terms of the applicable lease, at every currently existing service station, gas station, hotel or restaurant, garage or store maintained, operated or leased by the parkways authority, the parkways authority shall at no charge or cost permit the placement of, in a conspicuous place, all reasonably sized advertising literature prepared and delivered by hotels, restaurants and other tourist attractions, whether public or private, located within the State of West Virginia.

WV Legislature

§17-16A-28. Severability.

If any section, subsection, subdivision, subparagraph, sentence or clause of this article is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portions of this article, and, to this end, the provisions of this article are hereby declared to be severable.

WV Legislature

§17-16A-29. Discount program for purchasers of West Virginia EZ Pass transponders.

(a) The Parkways Authority is hereby authorized to create a discount program for purchasers of West Virginia EZ Pass transponders: Provided, That prior to the fixation of any initial rates, tolls or charges or any increase in any rates, tolls or charges along any portion of the parkway project, the Parkways Authority may create a discount program for purchasers of West Virginia EZ Pass transponders. Any discount program created pursuant to this section shall provide discounts for each class of motor vehicles: Provided, however, That any single fee program implemented by the authority pursuant to subdivision (16), subsection (a), section six of this article shall apply only to passenger motor vehicles.

(b) The authority shall provide public notice and hold a public meeting on any proposed discount program as required in section thirteen-a of this article prior to implementation of such program.

(c) For purposes of this section, a "West Virginia EZ Pass transponder" means a device issued by the Parkways Authority which allows the purchaser to attach the device to his or her motor vehicle and travel through a Parkways Authority toll facility and be billed for such travel by the authority.

WV Legislature

§17-16A-30. Coordination with county commission in counties where a parkway project may be located.

Once a parkway project for a new toll road is identified by the authority, the Governor shall appoint, with the advice and consent of the Senate, two persons from each county where the parkway project for the new toll road is located to serve on a local committee to provide recommendations and suggestions to the authority on all matters regarding the local identified project. The local committee shall also report any of its findings to the county commission or county commissions of the counties in which the parkway project for the new toll road is located. Prior to any final approval of a parkway project for a new toll road, the county commissions of the counties in which the parkway project road is located shall by resolution approve the parkway project: Provided, That a resolution approving the parkway project for a new toll road is only required from a simple majority of the county commissions of the counties in which the parkway project for a new toll road is located.

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