WEST VIRGINIA CODE: §17-28-4

§17-28-4. Governmental entities to submit transportation project requests to commissioner of highways generally; commissioner's powers and duties to implement the act; transportation project plan requirements; Division of Highways plan review; proprietary information.

(a) In addition to any other powers which a governmental entity may now have, a governmental entity seeking state funds for a transportation project may submit a transportation project plan to the commissioner as a project sponsor. The commissioner shall review the transportation project plan and the available financing for the project and shall encourage project sponsors to pursue alternative funding sources. Alternative funding sources may include, without limitation, utilization of tax increment financing, issuance of general obligations bonds, special revenue bonds or anticipation notes, cooperation with other governmental units, dedicated user fees and public-private partnerships.

(b) To implement and carry out the intent of this article, the commissioner shall propose legislative rules in accordance with article three, chapter twenty-nine-a of this code. The commissioner shall establish comprehensive, uniform guidelines in order to evaluate any transportation project plan. The guidelines shall address the following:

(1) The use of alternative sources of funding which could finance all or a portion of the transportation project;

(2) The transportation needs of the region;

(3) Project costs;

(4) Whether dedicated revenues from a project sponsor are offered for project costs;

(5) Available federal and state funds;

(6) The degree to which the transportation project impacts other infrastructure projects and implements cost-effective and efficient development of transportation projects with other infrastructure improvements;

(7) The cost effectiveness of the transportation project as compared with alternatives which achieve substantially the same economic development benefits;

(8) The project sponsor's ability to operate and maintain the transportation project or finance the continued operation and maintenance of the transportation project if approved;

(9) The degree to which the transportation project achieves other state or regional planning goals;

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(10) The estimated date upon which the transportation project could commence if funding were available and the estimated completion date of the transportation project; and

(11) Other factors the commissioner considers necessary or appropriate to accomplish the purpose and intent of this article.

(c) The commissioner shall create a transportation project plan application form that is to be used by project sponsors requesting funding assistance from the state for transportation projects. The application must require a preliminary proposal that includes:

(1) The location of the transportation project and affected local jurisdictions;

(2) The estimated total project cost of the transportation project;

(3) The amount of funding assistance desired from the Division of Highways and the specific uses of the funding;

(4) Other sources of funding available for the transportation project;

(5) Information demonstrating the need for the transportation project and documentation that the proposed funding of the project is the most economically feasible alternative to completing the transportation project;

(6) A timeline for activities to be performed by the project sponsors;

(7) A statement setting forth the financing of the project costs, including the sources of the funds and identification of any dedicated revenues, proposed debt, tax increment financing plans, issuance of bonds or notes, in-kind services or equity investment of project sponsors;

(8) A list of utilities that can be constructed in coordination with the transportation project and a statement of the plans to accommodate those utilities;

(9) Project sponsor contact information;

(10) A statement of the projected availability and use of dedicated revenues from user fees, lease payments, taxes, and other service payments over time; and

(11) Other information as the commissioner considers necessary to enable the review of the transportation project.

(12) The commissioner may also require the submission of geographic information system mapping of the transportation project and electronic filing of the preliminary proposal.

(d) If a preliminary proposal is approved by the commissioner for detailed review, the division will advise the project sponsors of the estimated cost of a detailed review. The project sponsor must deposit a bond with the commissioner, irrevocable letter of credit or

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other acceptable instrument guaranteeing payment by the project sponsors of the actual costs incurred by the division to perform a detailed transportation project plan review, to the maximum of the estimated costs, before a detailed review may begin.

(e) In evaluating any transportation project, the commissioner may rely upon internal staff reports or the advice of outside advisors or consultants.

(f) The commissioner is to encourage collaboration among project sponsors, affected local jurisdictions and private entities through intergovernmental agreements and public-private partnerships including, without limitation, recommending the amounts and sources of funding which affected local jurisdictions or project sponsors may pursue, which state transportation or infrastructure agency or agencies may be consulted for appropriate investment of public funds and alternatives to carry out the intent of this article.

(g) After a detailed review, the commissioner may recommend to the Governor those transportation projects which are a prudent and resourceful expenditure of public funds. No proposal may be recommended or approved which is inconsistent with the division's twenty-year long range plans or other transportation plans.

(h) The commissioner must prepare and publish an annual report of activities and accomplishments and submit it to the Governor and to the Joint Committee on Government and Finance on or before December 15 of each year. The commissioner must also prepare and submit an annual report to the Governor and the Legislature outlining alternative road funding models and incentive packages. The report may also recommend legislation relating to third-party donation of funds, materials or services, federal credit instruments, secured loans, federal Transportation Infrastructure Finance and Innovation Act funds, state infrastructure banks (SIBS), private activity bonds or other matters respecting transportation considered by the commissioner to be in the public interest. The commissioner may consider alternatives to the current system of taxing highway use through motor vehicle fuel taxes including, without limitation, pilot programs for testing technology and methods for the collection of mileage fees.

(i) All documents maintained pursuant to this article shall be subject to the requirements of chapter twenty-nine-b of this code.

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