WEST VIRGINIA CODE CHAPTER 17 ARTICLE 3

WV Legislature

§17-3-1. What constitutes fund; payments into fund; use of money in fund.

There shall be a State Road Fund, which shall consist of the proceeds of all state license taxes imposed upon automobiles or other motor or steam driven vehicles; the registration fees imposed upon all owners, chauffeurs, operators and dealers in automobiles or other motor driven vehicles; all sums of money which may be donated to such fund; all proceeds derived from the sale of state bonds issued pursuant to any resolution or act of the Legislature carrying into effect the Better Roads Amendment to the Constitution of this state, adopted in November, 1964, except that the proceeds from the sale of these bonds shall be kept in a separate and distinct account in the State Road Fund; all proceeds from the sale of state bonds issued pursuant to any resolution or act of the Legislature carrying into effect the Safe Roads Amendment of 1996 to the Constitution of this state, adopted in November, 1996, except that the proceeds from the sale of these bonds shall be kept in a separate and distinct account in the State Road Fund; all proceeds from the sale of state bonds issued pursuant to any resolution or act of the Legislature carrying into effect the Roads to Prosperity Amendment of 2017 to the Constitution of this state, adopted in October, 2017, except that the proceeds from the sale of these bonds shall be kept in a separate and distinct account in the State Road Fund; all moneys and funds appropriated to it by the Legislature; and all moneys allotted or appropriated by the federal government to this state for road construction and maintenance pursuant to any act of the Congress of the United States; the proceeds of all taxes imposed upon and collected from any person, firm or corporation and of all taxes or charges imposed upon and collected from any county, district or municipality for the benefit of the fund; the proceeds of all judgments, decrees or awards recovered and collected from any person, firm or corporation for damages done to, or sustained by, any of the state roads or parts thereof; all moneys recovered or received by reason of the violation of any contract respecting the building, construction or maintenance of any state road; all penalties and forfeitures imposed, recovered or received by reason thereof; and any and all other moneys and funds appropriated to, imposed and collected for the benefit of such fund, or collected by virtue of any statute and payable to such fund.

When any money is collected from any of the sources aforesaid, it shall be paid into the State Treasury by the officer whose duty it is to collect and account for the same, and credited to the State Road Fund, and shall be used only for the purposes named in this chapter, which are: (a) To pay the principal and interest due on all state bonds issued for the benefit of said fund, and any costs related to the issuance thereof, and set aside and appropriated for that purpose; (b) to pay the expenses of the administration of the Division of Highways; and (c) to pay the cost of maintenance, construction, reconstruction and improvement of all state roads.

WV Legislature

§17-3-1a. Annual audit to be made of receipts and expenditures of state road commission.

The Legislature acting through the Joint Committee on Government and Finance shall cause an annual audit to be made by a resident independent certified public accountant of all books, accounts and records relating to all receipts and expenditures of the state road commission which are not audited by the United States bureau of public roads or the United States general accounting office. The state road commissioner shall make available to such independent Auditor or Auditors performing such audit all of the commission's books, accounts and records pertaining to all funds received and expended. The Auditor or Auditors performing such audit shall make available annually the audit report with copies thereof to the members of the Legislature, the Governor, the state road commissioner, the Secretary of State, the State Treasurer, the Attorney General and the State Auditor; and the audit report shall be available to the public in the office of the Secretary of State.

The Legislature acting through the Joint Committee on Government and Finance shall obtain the services of a resident independent certified public accountant for this purpose, the cost of which shall be payable out of funds appropriated by the Legislature. Any audits of the funds which have been made by any official auditing agency of the United States government shall be accepted and its work not duplicated.

WV Legislature

§17-3-2. Payment of state road costs from moneys received by commission.

The cost and expense of the construction, reconstruction, improvement or maintenance of all state roads shall be paid out of any moneys received by or appropriated to the state road commission for that purpose.

WV Legislature

§17-3-3. Report on and disposition of moneys collected by commission.

The commission shall make a full and detailed semimonthly report in duplicate, on the first and third Tuesdays of each month, to the treasurer and to the Auditor of the state, of all moneys collected by it from licenses or other fees, and all moneys and funds coming into its hands from any source whatsoever, except funds advanced to the commission pursuant to section five of this article, and shall at the same time pay to the treasurer all moneys so collected by it. The moneys so paid by the commission shall be deposited by the State Treasurer to the credit of the state road fund: Provided, That the commission may pay to the treasurer at any time such funds as may have been received by it, and the treasurer shall deliver to the commission a receipt therefor, and the commission shall be duly credited for such payments in its semimonthly reports.

WV Legislature

§17-3-4. Disbursements from road fund.

The commissioner shall certify monthly to the State Auditor the amount due to each member of the commission, himself and each employee of the commission for services rendered as such members, commissioner and employees and the Auditor shall issue his warrant therefor on the State Treasurer, payable out of the state road fund appropriated for such purpose.

Any claim of a contractor or others, not otherwise provided for, for labor done or for materials, services or supplies furnished to the state road commission, pursuant to the provisions of any article to this chapter, shall be audited by the commissioner, and, if found correct, the commissioner shall issue the commission's requisition upon the Auditor of the state therefor, showing the nature of such claim and whether it is for labor done or materials, services or supplies furnished for construction of state roads, or for other purposes, and the Auditor shall issue his warrant upon the State Treasurer therefor, and the treasurer shall pay the same to the person, firm or corporation entitled thereto, out of the funds in the treasury provided for that purpose.

WV Legislature

§17-3-4a. Advancement of compensation for property immediately needed.

When the state road commissioner has commenced an action for condemnation of any real or personal property, or estate, right, or interest therein, and immediate entry upon, possession of, appropriation or use thereof, is deemed necessary by the commissioner, he may certify to the State Auditor such facts, and issue the commission's requisition upon the Auditor for advancement of the sum the commissioner estimates to be the fair value of the property, or estate, right, or interest therein, sought to be condemned, and the damages, if any, to the residue beyond the benefits, if any, to such residue, by reason of the taking. Upon receipt of such certificate and requisition, the Auditor shall issue his warrant upon the State Treasurer in favor of the clerk of the court wherein the action was commenced, for the sum requisitioned by the commission, to the use of the defendants in that action, and the treasurer shall pay the same to the clerk of that court out of the funds in the treasury provided for this purpose.

WV Legislature

§17-3-5. Emergency fund.

To provide a fund for the purpose of making prompt payments, refunds on license fees, and to secure cash discounts wherever possible, the state road commission may, from time to time, issue its requisition upon the State Auditor for such sum as it deems necessary to pay such claims, and the said Auditor shall issue his warrant upon the State Treasurer for such amount, subject to the limitation imposed by this section, and the treasurer shall pay the same to the said commission out of the road fund or funds provided for that purpose. The commission shall immediately deposit such funds to its credit in some bank, or banks, designated pursuant to article one, chapter twelve of this code, as a state depository or depositories. Such requisition upon the Auditor shall be accompanied with a statement duly verified by a member of the commission, showing the amount of money in the hands of the commission to the credit of the fund at the time the requisition is presented to the Auditor. The amount of such funds in the hands of the commission shall not exceed at any one time the sum of $5,000. When the commission makes such requisition it shall at the same time file with the State Auditor an itemized statement, showing what items and amounts have been paid by it out of such fund and for what purpose, and such statement shall be accompanied with a voucher for each item, duly signed by the party receiving payment, and showing the purpose for which made. The amounts so reported as paid by the commission, under its direction or authority, out of such fund, if found to be correct, shall be reported by the Auditor to the treasurer and credited by him to the commission on account of the advances made to it pursuant to this section.

WV Legislature

§17-3-6. Apportionment of state road fund for construction and reconstruction purposes; reserve fund; budget request; appropriation of funds.

On or before January 1, of each year the state road commissioner shall ascertain and determine the total amount of available funds for expenditure in the whole state for the construction and reconstruction of state roads for the succeeding fiscal year, and shall also submit such determination of available funds together with the proposed expenditure thereof as a part of his budget request for such succeeding fiscal year. Of the amount so ascertained the commissioner may set aside as a "reserve fund" not to exceed twenty percent thereof, to be used and expended by him in his discretion in making desirable connections or economizing in construction.

All moneys received from the federal government for road construction shall be expended as provided, or as may hereafter be provided by act of Congress.

If at the end of any annual period, any money in the reserve fund remains unexpended or unappropriated, it shall be placed in the General Fund for reserve and distribution during the next annual period.

The remaining eighty percent, or, if such reserve fund is not set aside, then all the funds shall be appropriated in the following order and preference:

(1) For the construction, reconstruction, and maintenance of expressway and trunkline roads, and to comply with the requirements for the receipt of aid from the federal government;

(2) For the maintenance of all feeder and state local service roads, as provided in section six-a of this article;

(3) For the construction and reconstruction of feeder and state local service roads as prescribed in section six-a of this article.

WV Legislature

§17-3-6a. Allotment of funds for feeder and state local service roads.

On or before January 1, of each year the state road commissioner shall ascertain and determine the total amount of available funds for expenditure in the whole state for the construction, reconstruction and maintenance of feeder and state local service roads during such annual period. Of the amount so ascertained the commissioner may set aside as a reserve fund not to exceed twenty percent thereof, to be used and expended by him in his discretion in such manner as will best serve the interests of the state and the convenience of its inhabitants.

The remaining eighty percent, or, if such reserve fund is not set aside, then all the funds shall be appropriated in the following order and preference:

(1) Maintenance funds. -- To be allocated to the various counties on the basis of the mileage of various types or road surfaces:

(a) Paved surfaces of all types, such as, brick, cement, concrete, bituminous, etc.

(b) Traffic-bound surfaces, such as, slag, crushed stone, gravel, chert, red dog, shale, etc.

(c) Unimproved earth roads; by applying certain weights or percentages, based on past experience, to the various types of road surfaces.

(2) Construction and reconstruction. -- To be allocated to the various counties on the basis of the ratio of the unimproved mileage of feeder and state local service roads in the county to the total unimproved mileage of feeder and state local service roads in the state.

For the purposes of this section, the words "unimproved mileage" are defined and shall be construed to mean roads which are not passable for all-weather travel by motor vehicle.

All moneys received from the federal government for road construction or reconstruction shall be expended as provided, or as may hereafter be provided by act of Congress.

WV Legislature

§17-3-6b. Matching funds with counties for the construction, reconstruction, repair and maintenance of feeder and state local service roads.

When the state road commissioner determines that there are funds available for the purpose of participating, on a matching fund basis, with the county court of one or more counties for the construction, reconstruction, repair and maintenance of any feeder and state local service roads within said county or counties, he shall in his discretion determine the amount the county court must deposit or place in escrow for matching purposes before the state road commissioner will commit any funds to a proposed project.

Nothing in this section shall be construed to alter or change in any way the allotment of funds for feeder and state local service roads as provided by section six-a of this article: Provided, however, That the feeder and state local service road fund of the county or counties participating under this section shall be charged with the amount advanced by the state road commissioner.

WV Legislature

§17-3-7. Assent to federal aid.

The Legislature of the State of West Virginia hereby renews its assent to the provisions of the act of Congress approved July eleventh, nineteen hundred and sixteen, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes." The state road commission is hereby authorized to enter into contracts and agreements with the United States government relating to the survey, construction and maintenance of roads under the provisions of said act of Congress, to submit such scheme or program of construction and maintenance as may be required by the secretary of agriculture, or other authorized representative of the federal government, and to do all other things necessary to carry out the cooperation contemplated and provided for by said act. For the construction and maintenance of rural post roads, the good faith of the state is hereby pledged to the government of the United States to make available funds sufficient at least to equal the sums apportioned to this state by the United States government during the period for which federal funds are appropriated by section three of said act, and to maintain the roads constructed with the aid of funds so appropriated, and to make adequate provision for carrying out such maintenance.

The state of West Virginia hereby further assents to any similar provision or provisions that may be made by any subsequent act of Congress making appropriation for the survey, construction and maintenance of rural post roads.

WV Legislature

§17-3-8. Issuance of duplicate road bond when registered original is lost or destroyed.

Upon the filing with the State Treasurer of proof, which in his judgment and discretion is full and satisfactory, of the loss or destruction of any registered West Virginia state road bond issued by virtue of the laws of this state, and a corporate surety bond in an amount equal to the face value of the lost bond, conditioned to indemnify the State of West Virginia and all persons against any loss in consequence of the issuance of a duplicate bond, the treasurer and Auditor of the state shall be authorized to issue and deliver to the last registered holder of any such lost or destroyed bond, a duplicate thereof.

Each duplicate bond issued under the provisions of this section shall correspond with the original as to date, maturity, form and execution, except it may be given a number different from the original. It shall have printed or engraved on the face thereof the word "duplicate," and on its back a certificate executed by the treasurer in the following form: "The within duplicate bond is executed and issued under and by virtue of an act of the West Virginia Legislature passed on February 19, 1929, in lieu of road bond number ..... in the amount of $....., dated ....., 19 ..... , and maturing ....., 19 ....."

Any duplicate bond issued hereunder shall be taken and treated in all respects as the original, and the original shall be deemed cancelled.

The finder of any lost bond for which a duplicate has been issued shall forthwith transmit the same to the treasurer, who shall cancel it. Any person who shall retain possession of any such bond with knowledge that a duplicate has been issued therefor, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding $1,000 or confined in jail not exceeding one year.

WV Legislature

§17-3-9. Signs along interstate highways.

The state road commissioner shall agree in behalf of this state to permit the erection of signs within the rights-of-way of the interstate highway system, as authorized by subsection (f) of section 131, Title 23, United States code, to the full extent authorized or agreed to by the secretary of transportation.

WV Legislature

§17-3-10. Special fund.

There is hereby created a special fund, to the credit of which shall be paid all federal funds allocated and distributed to the State of West Virginia in implementation of the provisions of Title 23, United States Code, Section 135, relating to a traffic operations program to increase capacity and safety, to be administered by the state road commissioner in the carrying out of that program. There shall also be paid to the credit of this special fund funds received from municipalities, which funds represent the municipalities' share of the cost of participating in the traffic operations program.

WV Legislature