WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 408

(By Mr. Johnston)

PASSED Mar 10

1955

In Effect 90 Days from Passage

MAR 17 1955
ENROLLED

House Bill No. 408
(By Mr. Speaker, Mr. Flannery)

[Passed March 10, 1955; in effect ninety days from passage.]

AN ACT to repeal chapter one hundred ten, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to freeways, which said act purported to amend article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding four new sections to said article four, to be designated sections twenty-one, twenty-two, twenty-three and twenty-four, and which said designation was erroneous, since in fact there already existed in said article four other sections twenty-one, twenty-two, twenty-three and twenty-four, and which said erroneously designated sections have for many years been listed in Michie's code of West Virginia as sections thirty-nine, forty, forty-one and forty-two of said article; and to amend said article four, chapter seventeen of the code of West Virginia, one thou-
sand nine hundred thirty-one, as amended, by adding thereto seven new sections, to be designated sections thirty-nine, forty, forty-one, forty-two, forty-three, forty-four and forty-five, relating to the planning, construction, designation, establishment, use, regulation, alteration, improvement, maintenance and vacation of controlled-access highway facilities as part of the state road system, the acquisition of lands and property rights required therefor, the restriction of intersections and control of approaches and the establishment of local service roads in connection therewith.

*Be it enacted by the Legislature of West Virginia:*

That chapter one hundred ten, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be repealed; and that article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto seven new sections, to be designated sections thirty-nine, forty, forty-one, forty-two, forty-three, forty-four and forty-five, to read as follows:

*Section 39. Definition of a Controlled-Access Facility.—*

2 For the purpose of this chapter, a controlled-access facility
is defined as a highway or portion of a highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled-access facility or for any other reason. Such highways may be freeways open to use by all customary forms of highway traffic; or they may be parkways from which trucks, buses, and other commercial vehicles shall be excluded.

Sec. 40. Authority to Establish Controlled-Access Facilities.—The state road commissioner is hereby authorized to plan, construct, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled-access facilities for public use as a part of the state road system wherever present or reasonably anticipated future traffic conditions render such special facilities necessary. The commissioner, in addition to specific powers granted in connection with controlled-access facilities, shall also have and may exercise, relative to such controlled-access facilities, any and all additional authority now or here-
after vested in him relative to highways or the state road
system. He may also regulate, restrict, or prohibit the
use of such controlled-access facilities by the various
classes of vehicles or traffic in a manner consistent with
section thirty-nine of this article.

Sec. 41. Design of Controlled-Access Facilities.—The
state road commissioner is authorized to so design any
controlled-access facility and to so regulate, restrict or
prohibit access as to best serve the traffic for which such
facility is intended. In this connection the commissioner
is authorized to divide and separate any controlled-access
facility into separate roadways by the construction of
raised curbings, central dividing sections, or other physi-
cal separations, or by designating such separate roadways
by signs, markers, or stripes, and the proper lane for such
traffic by appropriate curbs, barriers, signs, markers,
stripes or other devices. No person shall have any right
of ingress or egress to, from, or across controlled-access
facilities to or from abutting lands, except at such desig-
nated points at which access may be permitted, upon such
terms and conditions as may be specified by the commis-

tioner.

Sec. 42. Acquisition of Property and Property Rights.—

The state road commissioner may acquire private or

public property rights or any interests in lands for con-
trolled-access facilities and service roads, including exist-
ing and vested rights of access, air, view and light, by

grant, gift, devise, purchase or condemnation in the same

manner as the commissioner is now or may hereafter be

authorized by law to acquire such property or property

rights in connection with the highways of the state road

system. In connection with the acquisition of such proper-
ty or property rights for any controlled-access facility or

portion thereof, or service road in connection therewith,

the commissioner may, in his discretion, acquire an entire

lot, block, or tract of land, if by so doing, the interests of

the public will best be served even though said entire

lot, block, or tract is not immediately needed for the

right of way proper.

Sec. 43. New and Existing Facilities; Grade Crossing

Eliminations.—The state road commissioner may desig-
nate and establish controlled-access highways as new and additional facilities, or he may designate and establish an existing street or highway as a controlled-access facility or as a part of a controlled-access facility, and in the event such existing street or highway be so designated, the commissioner may acquire, by grant, gift, purchase or if the exercise of the right of eminent domain be necessary for acquisition purposes, shall condemn existing and vested access rights of abutting landowners to such existing street or highway if such access rights are taken or destroyed. The commissioner is authorized to provide for the elimination of intersections at grade of controlled-access facilities with existing state roads, city streets or other public or private roads or ways by grade separation or service road, or by closing off such roads and streets at the right of way boundary line of such controlled-access facility. No city street, state road or other public or private road or way shall be opened into or connected with any such controlled-access facility without the written consent and previous approval of the state road commissioner, which consent and approval
shall be given only if the public interest shall be served thereby.

Sec. 44. **Authority to Contract with other Governmental Agencies.**—The state road commissioner is authorized to enter into agreements with municipalities, counties or other political subdivisions of the state, or with the federal government or any agency thereof, respecting the financing, planning, establishment, improvement, maintenance, use, regulation or vacation of controlled-access facilities or other public ways to facilitate the establishment of such controlled-access facilities.

Sec. 45. **Local Service Roads.**—In connection with the development of any controlled-access facility the state road commissioner is authorized to plan, designate, establish, use, regulate, alter, improve, maintain and vacate local service roads and streets or to designate as local service roads and streets any existing road or street, and to exercise jurisdiction over said local service roads as a part of the state road system, in the same manner as is authorized over controlled-access facilities under the terms of this article, if, in his opinion, such local service
11 roads and streets are necessary or desirable. Such local
12 service roads or streets shall be of appropriate design,
13 and shall be separated from the controlled-access facility
14 proper by all devices designated as necessary or desirable
15 by the commissioner.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 16th day of March 1953.

Governor