WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

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ENROLLED

HOUSE BILL No. H.353

(By Mr. Delegate Reese and Ryan)

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Passed March 12, 1988

In Effect Ninety days from Passage
AN ACT to amend and reenact section two, chapter one hundred seventy-six, acts of the Legislature, regular session, one thousand nine hundred eighty-five, as last amended and reenacted by chapter one hundred fifty-two, acts of the Legislature, regular session, one thousand nine hundred eighty-seven; and to amend chapter one hundred seventy-six, acts of the Legislature, regular session, one thousand nine hundred eighty-five, by adding thereto a new section, designated section two-a, all relating to the New River Parkway Authority; authorizing the parkway authority to set performance standards for land-use regulations along the parkway corridor; and requiring governmental entities within the corridor to adopt and enforce such standards.

Be it enacted by the Legislature of West Virginia:

That section two, chapter one hundred seventy-six, acts of the Legislature, regular session, one thousand nine hundred eighty-five, as last amended and reenacted by chapter one hundred fifty-two, acts of the Legislature, regular session, one thousand nine hundred eighty-seven, be amended and reenacted; and that chapter one hundred seventy-six, acts of the Legislature, regular session, one thousand nine hundred eighty-five, be amended by adding thereto a new section, designated section two-a, all to read as follows:

NEW RIVER PARKWAY AUTHORITY.
§2. Members; appointment; powers and duties generally; officers; bylaws; rules and regulations; compensation.

(a) The authority consists of nine voting members and four to six ex officio nonvoting members.

(b) Three voting members shall be appointed by the Mercer County Commission. Three voting members shall be appointed by the Raleigh County Commission. Three voting members shall be appointed by the Summers County Commission. No more than two of the three voting members appointed by a county commission may be members of the same political party, which said members shall not be elected to, appointed to or hold any other public office during their tenure as members of said authority. The regular term of a voting member shall be three years, provided that the terms of the voting members initially appointed by a county commission are as follows: One member shall be appointed for a term of one year, one member shall be appointed for a term of two years and one member shall be appointed for a term of three years. Should a vacancy occur, the person appointed to fill the vacancy shall serve only for the unexpired portion thereof. All voting members are eligible for reappointment. Any voting member may be removed for cause by the appointing county commission.

(c) The ex officio nonvoting members are the commissioner of highways or his designee, the director of natural resources or his designee, the commissioner of agriculture or his designee, the commissioner of commerce or his designee, and, if they choose to serve, the district engineer of the Huntington District of the United States Army Corps of Engineers or his designee and the superintendent of the New River Gorge National River or his designee. Any designee serving as a nonvoting member may be removed at the will and pleasure of the officer designating the member.

(d) Each voting member of the authority may be compensated monthly by the county commission which appointed such member in an amount to be fixed by said
(e) There shall be an annual meeting of the authority on the second Monday in July in each year and a monthly meeting on a day and at such time as the authority may designate in its bylaws. A special meeting may be called by the president, the secretary or any three voting members of the authority and may be held only after all voting and nonvoting members are given notice thereof in writing. Five voting members constitute a quorum for all meetings. At each annual meeting of the authority, it shall elect a president, vice president, secretary and treasurer. The authority shall adopt such bylaws. Rules and regulations are necessary for its own operation and management. The authority has all but only those powers necessary, incidental, convenient and advisable for the following purposes:

(1) The preparation of a plan or plans for the New River Parkway;

(2) Advocating actions consistent with that plan or its provisions to or before any governmental entity or any private person or entity; and

(3) Otherwise acting in an advisory capacity with regard to any aspect of the New River Parkway upon or without request to any governmental entity or private person or entity. The authority shall not own or hold any real estate or real property and shall not operate or maintain the parkway.

§2a. Setting of minimum standards for the regulation of the use of property within the parkway corridor; definition of corridor; presentation of standards to governmental entities; requirement that governmental entities adopt and enforce standards.

(a) The authority may develop and set for land-use regulations minimum performance standards which are necessary to implement the authority’s plan or plans and which are consistent with the purpose of this chapter. Such standards shall apply to the New River Parkway corridor. For purposes of this chapter, “New River Parkway Corridor” or “corridor” means that area within
five hundred feet of either side of the roadway. Areas which the standards may address include:

1. Buffer areas between the roadway and paved parking areas;
2. Landscaping or vegetation requirements;
3. Land coverage, frontage, setback, design and building height for new structures;
4. Siting of new structures to enhance the scenic qualities of the parkway and avoid visual intrusions;
5. Design and placement of on-site advertising signs along the parkway;
6. The dumping or storing of refuse to prevent deterioration of the natural or traditional parkway scene; Provided, That such standards shall not discourage constructive development and uses of such property which are consistent with the purpose of this chapter; and
7. Any other area, if regulation over such area is consistent with the purpose of this chapter. Standards which are developed by the authority shall not apply to structures on property owned in the corridor existing prior to the effective date of this section.

(b) Upon the development of standards, the authority shall present such standards to relevant governmental entities within the corridor. Such presentation shall include relevant findings as to whether the plans of development which relate to counties or municipalities within the corridor conform with the authority's performance standards, as well as specifications of each, if any, deviation from the performance standards.

(c) Within thirty days of the presentation of the authority's minimum performance standards, the relevant governmental entities shall adopt and enforce such standards in the corridor.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within __________________________ approved this the 30th day of __________________________ 1988.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/22/88
Time 11:18 A.M.