

No. 555

RECEIVED

1989 APR 26 PM 4:09

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



ENROLLED

Committee Substitute for
SENATE BILL NO. 555

(By Senator Loehr, et al)



PASSED April 8, 1989

In Effect 90 days from Passage

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 555

(SENATORS LOEHR, WARNER, HYLTON, HOLLIDAY, WAGNER
AND FELTON, *original sponsors*)

[Passed April 8, 1989; in effect ninety days from passage.]

AN ACT to amend chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-five, relating to creating the West Virginia Industrial Road Partnership Act of 1989; setting forth legislative findings; defining terms; allowing companies to apply for a road to be designated an "industrial road"; funding for the construction or upgrading of the industrial road; requiring the commissioner of the department of highways to establish a program for designating industrial roads and providing criteria therefor; creation of a special revenue fund; powers of the commissioner; expiration of the article; authorizing the commissioner to promulgate rules; and severability.

Be it enacted by the Legislature of West Virginia:

That chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-five, to read as follows:

**ARTICLE 25. THE WEST VIRGINIA INDUSTRIAL ROAD PARTNER-
SHIP ACT OF 1989.**

§17-25-1. Legislative finding.

1 The Legislature hereby finds that the continued and
2 future success of the coal industry is greatly depen-
3 dent upon a quality network of roads and highways.
4 Critical market forces make it imperative for such a
5 road system to be constructed and maintained. It is the
6 responsibility of the state and all industry to form a
7 partnership to accomplish this goal. "Industrial roads,"
8 for the purposes of this article, may be construed to
9 include a single bridge or combination of bridges.

§17-25-2. Definitions.

1 (a) "Company" means an individual, partnership or
2 corporation licensed under the laws of the state of
3 West Virginia and engaged in any industrial business.

4 (b) "Industrial road" means a public road of ten
5 miles or less in length which is vital to transporting of
6 coal, or a road, which upon the designation of the
7 commissioner, is determined to be vital to one or more
8 companies.

9 (c) "Commissioner" means the commissioner of the
10 department of highways.

11 (d) "Cost" means all funds needed to do engineering,
12 right-of-way acquisition, construction or upgrading.
13 Upgrading does not mean normal routine maintenance.

14 (e) "Department" means the department of
15 highways.

16 (f) "Upgrading" means any work on a highway or
17 bridge which is not routine maintenance.

§17-25-3. Application to designate industrial road.

1 Any company may apply to the commissioner to
2 have a certain road designated an industrial road. The
3 commissioner shall develop an application form. In
4 such application the company shall agree to pay to the
5 department one half of the amount of money needed
6 to bring such road up to the standards needed to

7 become an industrial road. All construction or upgrad-
8 ing to be performed under this article shall be bid out
9 to an independent contractor in such a manner as
10 prescribed in this code. Upon approval of the applica-
11 tion by the commissioner the company shall transfer
12 to a special revenue account for the department of
13 highways in the state treasury as set forth in this
14 article a sum equal to one half of costs needed to
15 upgrade or construct the road to standard or the
16 company shall deliver to the commissioner a ²irrevocable *See*
17 letter of credit drawn on a bank chartered by the
18 state of West Virginia or the federal government in an
19 amount equal to such cost: *Provided*, That the com-
20 pany shall transfer the moneys before any construc-
21 tion or upgrading is contracted for.

22 The department shall then begin the process as
23 outlined in this code to upgrade or construct such
24 public road.

§17-25-4. Industrial roads; how designated.

1 The commissioner shall promulgate rules establish-
2 ing a program for designating industrial public roads
3 in the state. The criteria for such designation shall
4 include:

5 (a) The economic impact of such road on the coal or
6 other companies which use such public road;

7 (b) The impact on the citizens which use the road in
8 their daily business; and

9 (c) The cost of any improvements which would be
10 necessary to bring the road up to standard versus the
11 benefits.

12 The commissioner shall publicize the program and
13 allow any company to make such application.

§17-25-5. Standards to be established by commissioner.

1 The commissioner shall establish standards for
2 construction and upgrading of industrial roads. In the
3 design of these standards, he shall consult with
4 representatives or organizations which represent
5 companies. The standards shall provide for:

6 (a) Each road to be at least sixteen feet in width in
7 addition to any berms or shoulders;

8 (b) Design and construction to handle the weight of
9 coal and other industrial trucks and equipment as
10 transported by the companies;

11 (c) Giving the citizens of the area a better road to
12 travel;

13 (d) Having adequate drainage; and

14 (e) Any other feature which the commissioner
15 determines is necessary to carry out the goals of this
16 article.

§17-25-6. Special revenue fund created.

1 There shall be created in the state treasury a special
2 revenue fund to be known as the "Industrial Road
3 Construction Fund." The fund shall receive all funds
4 contributed by companies for the construction of
5 approved roads. Only moneys needed to pay the costs
6 of the roads shall be withdrawn, however, the com-
7 missioner may use any moneys generated by any
8 earned interest to offset his administrative costs in
9 administering this article.

§17-25-7. Powers of the commissioner.

1 In addition to all other powers conferred upon the
2 commissioner under other provisions of this code, the
3 commissioner shall have all powers necessary to carry
4 out the construction, planning or development of any
5 industrial road provided for by this article.

§17-25-8. Expiration of article.

1 This article shall expire on the thirty-first day of
2 December, one thousand nine hundred ninety-two,
3 unless reauthorized by the Legislature of the state of
4 West Virginia: *Provided*, That if the governor feels the
5 continuation of this article, before the above menti-
6 oned date, would cause a hardship, he may cancel the
7 program. However, any project which is approved by
8 the commissioner shall be completed.

§17-25-9. Rules.

1 The commissioner shall have the authority to pro-
2 mulgate rules to effectuate this article.

§17-25-10. Severability clause; interpretation.

1 The provisions of this article are severable and if
2 any of its provisions shall be held unconstitutional, the
3 decision of the court shall not impair the remaining
4 provisions of this article. This article shall be con-
5 strued liberally.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederic L. Parm
.....
Chairman Senate Committee

F. L. Satter
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Isold C. Melles
.....
Clerk of the Senate

Donald L. Hoop
.....
Clerk of the House of Delegates

Sam A. Furman
.....
President of the Senate

Bob O'Call
.....
Speaker House of Delegates

The within *is approved* this the *26th*
day of *April*, 1989.

Yastou Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/24/89

Time

2:45