WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED
Committee Substitute for
SENATE BILL NO. 388

(By Senator Wagner, et al.)

PASSED March 12, 1994
In Effect 90 days from Passage
AN ACT to amend and reenact sections three and twenty-three, article sixteen-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to creation of the West Virginia parkways, economic development and tourism authority; increasing the membership of the authority; meetings of the authority; execution of surety bonds by members; payment of the members expenses; and requiring expenditure of eighty percent of rents, fees, charges and other revenues within a seventy-five air mile radius of the turnpike.

Be it enacted by the Legislature of West Virginia:

That sections three and twenty-three, article sixteen-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 16A. WEST VIRGINIA PARKWAYS, ECONOMIC DEVELOPMENT AND TOURISM AUTHORITY.

§17-16A-3. Dissolution and termination of West Virginia turnpike commission; West Virginia parkways, economic development and tourism authority generally.

On and after the first day of June, one thousand nine hundred eighty-nine, the West Virginia turnpike commission is hereby abolished in all respects, and there is hereby created the "West Virginia Parkways, Economic Development and Tourism Authority", and by that name the parkways authority may sue and be sued and plead and be impleaded. The parkways authority is hereby constituted an agency of the state, and the exercise by the parkways authority of the powers conferred by this article in the construction, reconstruction, improvement, operation and maintenance of parkway, economic development and tourism projects shall be considered and held to be an essential governmental function of the state.

The West Virginia parkways, economic development and tourism authority shall consist of seven members, including the transportation secretary, who shall serve as chairman of the parkways authority, and six members, including no less than one from each of the counties which have land bordering parkway projects, appointed by the governor, by and with the advice and consent of the Senate. The appointed members shall be residents of the state, and shall have been qualified electors in the state for a period of at least one year next preceding their appointment. Upon the effective date of this legislation, the governor shall forthwith appoint six members of the parkways authority for staggered terms. The terms of the parkways authority members first taking office on or after the effective date of this legislation shall expire as designated by the governor at the time of the nomination, one at the end of the first year, one at the end of the second year, one at the end of the third year, one at the end of the fifth year, one at the end of the sixth year and one at the end of the seventh year, after the first day of June,
36 one thousand nine hundred eighty-nine. As these
37 original appointments expire, each subsequent
38 appointment is for a full eight-year term. Any mem-
39 ber whose term has expired shall serve until his or
40 her successor has been duly appointed and qualified.
41 Any person appointed to fill a vacancy shall serve only
42 for the unexpired term. Any member is eligible for
43 reappointment. Each appointed member of the park-
44 ways authority before entering upon his or her duties
45 shall take an oath as provided by section five, article
46 IV of the constitution of the state of West Virginia.

47 The parkways authority shall elect one of the
48 appointed members as vice chairman and shall also
49 elect a secretary and treasurer who need not be
50 members of the parkways authority. Four members of
51 the parkways authority constitute a quorum and the
52 vote of a majority of members present is necessary for
53 any action taken by the parkways authority. No
54 vacancy in the membership of the parkways authority
55 impairs the right of a quorum to exercise all the rights
56 and perform all the duties of the parkways authority.
57 The parkways authority shall meet at least monthly
58 and either the chairman or any four members shall be
59 empowered to call special meetings for any purpose or
60 purposes: Provided, That notice of any meeting shall
61 be given to all members of the parkways authority not
62 less than ten days prior to the special meetings.

63 On or about the first day of July, one thousand nine
64 hundred ninety-four, the governor shall appoint, with
65 the advice and consent of the Senate, four additional
66 members, one each from McDowell county, Monroe
67 county, Summers county and Wyoming county, to
68 serve on the authority, for a total of eleven members.
69 Upon the increase in the number of the members of
70 the authority to eleven, six members constitute a
71 quorum and the vote of a majority of members
72 present shall be necessary to call a meeting or for any
73 other action taken by the parkways authority. Each of
74 the additional members shall serve for a full eight-
75 year term from the date on which he or she is
76 appointed.
Before the issuance of any parkway revenue bonds or revenue refunding bonds under the provisions of this article, each appointed member of the parkways authority shall execute a surety bond in the penal sum of twenty-five thousand dollars and the secretary and treasurer shall execute a surety bond in the penal sum of fifty thousand dollars, each surety bond to be conditioned upon the faithful performance of the duties of his or her office, to be executed by a surety company authorized to transact business in the state of West Virginia as surety and to be approved by the governor and filed in the office of the secretary of state.

The members of the parkways authority are not entitled to compensation for their services, but each member shall be reimbursed for his or her actual expenses necessarily incurred in the performance of his or her duties. All expenses incurred in carrying out the provisions of this article are payable solely from funds provided under the authority of this article and no liability or obligation shall be incurred by the parkways authority hereunder beyond the extent to which moneys have been provided under the authority of this article.

§17-16A-23. Special highway fund; appropriations from fund.

(a) There is hereby created a special fund in the state treasury which shall be designated and known as the “West Virginia special highway fund”. The special highway fund shall consist of: (i) All funds allocated and disbursed to the state department of highways by the parkways authority, including without limitation the proceeds of any parkway revenue bonds or revenue refunding bonds issued by the parkways authority pursuant to section eleven, twenty-one or twenty-two of this article, in repayment of the amount of state funds used to upgrade the West Virginia turnpike to federal interstate standards; (ii) any appropriations, grants, gifts, contributions or other revenues received by the special highway fund from any source; and (iii) all interest earned on moneys held in the fund. When
any funds are received by the state department of highways from the parkways authority pursuant to this section, they shall be paid into the state treasury by the commissioner of the department of highways and credited to the special highway fund, and shall be disbursed in the manner set forth in subsections (b) and (c) of this section. The special highway fund shall not be treated by the auditor and treasurer as part of the state road fund or as part of the general revenues of the state.

(b) The governor has authority to transfer to the insurance fund created in section eight, article fifteen, chapter thirty-one of this code, on any date or dates after the enactment of this section, up to thirty-five million dollars of the funds received or earned by the special highway fund, which funds may be used and applied by the West Virginia economic development authority in the manner and to the extent set forth in article fifteen, chapter thirty-one of this code. On or before the thirty-first day of December, one thousand nine hundred ninety-four, the economic development authority shall retransfer to the special highway fund the thirty-five million dollars advanced to the insurance fund pursuant to this section. All interest earned on the thirty-five million dollars while being held in the insurance fund shall remain in, and be the property of the insurance fund: Provided, That on and after the first day of July, one thousand nine hundred ninety-two, the governor has the authority to transfer six million dollars from the insurance fund created in section eight, article fifteen, chapter thirty-one of this code to a special fund hereby created in the state treasury and designated "the West Virginia economic development fund". Expenditures from the fund shall be made only in accordance with appropriations by the Legislature.

(c) Upon the transfer of thirty-five million dollars to the insurance fund as provided in subsection (b) of this section, the Legislature shall annually appropriate all or any part of the balance of the funds deposited in the special highway fund for the construction, reconstruc-
tion, improvement, maintenance or repair of any
parkway project or projects: Provided, That all of the
funds shall be appropriated to: (i) The upgrading or
addition of interchanges; (ii) the construction of
expressways or feeder roads; or (iii) the upgrading or
construction of information centers, visitors' centers,
rest stops, or any combination thereof, and that all
such feeder roads, expressways, interchanges, inform-
ation centers, visitors' centers or rest stops shall
connect to the West Virginia turnpike or be within
seventy-five air miles of the West Virginia turnpike as
it existed on the effective date of this legislation, or
any subsequent expressway, turnpike or feeder road
constructed pursuant to this subsection: Provided,
however, That at least eighty percent of that portion
of the special highway fund consisting of rents, fees,
charges and revenues from parkway projects, not
otherwise allocated pursuant to section thirteen of this
article, shall be expended within seventy-five air miles
of the West Virginia turnpike as it existed on the
effective date of this legislation, or of any subsequent
expressway, turnpike or feeder road constructed
pursuant to this subsection: Provided further, That
nothing herein shall affect expenditures pursuant to
any contract or commitment made prior to the effec-
tive date of this legislation. The appropriation of funds
pursuant to this subsection shall be expended on more
than one project.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is disapproved this the 30th day of 1994.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/18/94
Time 4:40 PM