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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 258

(By Senator WHITLOW, ET AL)



PASSED MARCH 9, 1995
In Effect 90 days from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 258

(SENATORS WHITLOW, HELMICK, ROSS AND SHARPE,
original sponsors)

[Passed March 9, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, four, five and six, article three-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the creation of an industrial access road fund and providing funding therefor; specifying purposes for which moneys from the fund may be used; requiring that counties and municipalities guarantee proposed projects; specifying the criteria upon which the highways commissioner is to base his or her decision to allocate funds; approval of division of highways of proposed industrial access highway; request for funds by resolution of governing body of county or municipality; consultation by the division of highways; restrictions on use of the fund; limits on amount of funds to be allocated; disbursements from the fund; and annual audit of the fund.

Be it enacted by the Legislature of West Virginia:

That sections one, two, four, five and six, article three-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 3A. INDUSTRIAL ACCESS ROAD FUND.

§17-3A-1. Industrial access road fund created; construction guarantees by municipalities and counties.

1 (a) Any other provision of this code notwithstanding,
2 there is hereby created in the state treasury the "indus-
3 trial access road fund", hereinafter referred to as "the
4 fund". There shall be deposited into the fund three
5 fourths of one percent of all state tax collections which
6 are otherwise specifically dedicated by the provisions of
7 this code to the state road fund or such percentage of
8 those tax collections that will produce three million
9 dollars for each fiscal year. At the end of each fiscal
10 year, all unused moneys in the fund shall revert to the
11 state road fund.

12 (b) The moneys in the fund shall be expended by the
13 division of highways for constructing and maintaining
14 industrial access roads within counties and municipali-
15 ties to industrial sites on which manufacturing, distribu-
16 tion, processing or other economic development activi-
17 ties, including publicly owned airports, are already
18 constructed or are under firm contract to be constructed.
19 In the event there is no industrial site already con-
20 structed or for which the construction is under firm
21 contract, a county or municipality may guarantee to the
22 division of highways by bond or other acceptable device
23 that an industrial site will be constructed and if no
24 industrial site acceptable to the division of highways is
25 constructed within the time limits of the bond, such
26 bond shall be forfeited.

§17-3A-2. Division of highways to determine construction of industrial access roads.

1 In determining whether or not to construct or improve

2 any industrial access road and in determining the nature
3 of the road to be constructed, the division of highways
4 shall base its decision on the costs of the industrial
5 access road in relation to the volume and nature of the
6 traffic to be generated as a result of developing the
7 industrial site within the total industrial area. In
8 making a decision on any industrial site, the total volume
9 of traffic to be generated shall be considered in regard to
10 the overall cost of the project. The division of highways
11 shall consult and work in cooperation with the West
12 Virginia development office in determining the use of
13 industrial access road funds.

14 Prior to a formal request for the use of moneys from
15 the fund to provide access to new or expanding indus-
16 trial sites, the location of the industrial access road shall
17 be submitted for approval of the division of highways.
18 The division of highways shall consider the cost of the
19 industrial access road as it relates to the project's
20 location and as it relates to the possibility of future
21 extensions of the road to serve other possible industrial
22 sites as well as the future development of the surround-
23 ing area.

24 Prior to the allocation of moneys from the fund for the
25 construction or maintenance of an industrial access road
26 to an industry proposing to locate or expand in a county
27 or municipality, the governing body of the county or
28 municipality shall, by resolution, request moneys from
29 the fund and shall be responsible for the preliminary
30 negotiations with the industries and other interested
31 parties. The division of highways shall be available for
32 consultation with the governing bodies of the counties or
33 municipalities and other interested parties and may
34 prepare surveys, plans, engineering studies and cost
35 estimates for the proposed industrial access road.

§17-3A-4. Restrictions on use of fund.

- 1 (a) The fund may not be used for the adjustment of
- 2 utilities or for the construction of industrial access roads

3 to schools, hospitals, libraries, armories, shopping
4 centers, apartment buildings, government installations
5 or similar facilities, whether public or private. The fund
6 may not be used to construct industrial access roads on
7 private property.

8 (b) Moneys from the fund may not be allocated until
9 the governing body of the county or municipality certi-
10 fies to the division of highways that the industrial site is
11 constructed and operating or is under firm contract to be
12 constructed or operated, or upon the presentation of
13 acceptable surety in accordance with section one of this
14 article.

15 (c) Not more than three hundred thousand dollars of
16 unmatched moneys from the fund may be allocated for
17 use in any one county in any fiscal year. The maximum
18 amount of unmatched moneys which may be allocated
19 from the fund is ten percent of the fair market value of
20 the designated industrial establishment. The amount of
21 unmatched funds allocated may be supplemented with
22 additional matched moneys from the fund, in which case
23 the matched moneys allocated from the fund may not
24 exceed one hundred fifty thousand dollars, to be mat-
25 ched equally from sources other than the fund. The
26 amount of matched moneys which may be allocated from
27 the fund over and above the unmatched funds may not
28 exceed five percent of the fair market value of the
29 designated industrial site.

30 (d) Funds may only be allocated to those items of
31 construction and engineering which are essential to
32 providing an adequate facility to serve the anticipated
33 traffic. Funds may not be allocated for items such as
34 storm sewers, curbs, gutters and extra pavement width
35 unless necessary to extend or connect an existing access
36 road.

§17-3A-5. Disbursements from fund.

1 Any claim of a contractor or others, not otherwise

2 provided for, for labor done or for materials, services or
3 supplies furnished to the division of highways pursuant
4 to the provisions of this article shall be audited by the
5 commissioner of the division of highways. If the com-
6 missioner determines that the claim is valid and correct,
7 the commissioner shall issue a requisition of the division
8 upon the state auditor therefor, showing the nature of
9 the claim and specifying whether the claim is for labor
10 done or materials, services or supplies furnished for the
11 construction or maintenance of state roads, or for other
12 purposes, and the auditor shall issue his or her warrant
13 upon the state treasurer therefor. The treasurer shall
14 issue the warrant to the person, firm or corporation
15 entitled thereto out of the funds in the treasury provided
16 for that purpose. The cost of acquiring a right-of-way
17 shall be paid out of the fund.

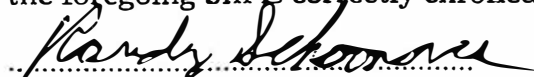
**§17-3A-6. Annual audit to be made of receipts and expendi-
tures of fund.**

1 The Legislature, acting through the joint committee on
2 government and finance, shall cause an annual audit to
3 be made by a resident independent certified public
4 accountant of all books, accounts and records relating to
5 all receipts and expenditures of the fund. The commis-
6 sioner shall make available to the independent auditor or
7 auditors performing the audit all of the division's books,
8 accounts and records pertaining to all moneys received
9 and expended. The auditor or auditors performing the
10 audit shall make available annually the audit report with
11 copies thereof to the members of the Legislature, the
12 governor, the commissioner of the division of highways,
13 the secretary of state, the state treasurer, the attorney
14 general and the state auditor. The audit report shall be
15 available to the public in the office of the secretary of
16 state.

17 The Legislature, acting through the joint committee on
18 government and finance, shall obtain the services of a
19 resident independent certified public accountant for this

20 purpose, the cost of which shall be payable out of funds
21 appropriated by the Legislature. Any audits of the funds
22 which have been made by any official auditing agency of
23 the United States government shall be accepted in lieu of
24 the state audit.

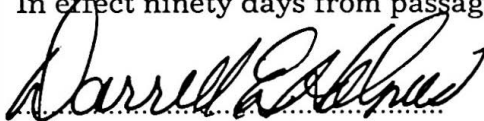
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



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Chairman Senate Committee

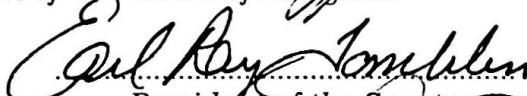

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 17th
day of March, 1995


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/16/95

Time 10:35 am