WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

ENROLLED

SENATE BILL NO. 291

(By Senator Pass, et al.)

PASSED APRIL 12, 1997

In Effect NINETY DAYS FROM PASSAGE
ENROLLED

Senate Bill No. 291

(BY SENATORS ROSS, DITTMAR, LOVE, WIEDEBUSCH, BALL, MCKENZIE AND BUCKALEW)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-three, article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections thirty-five and thirty-six, all relating to toll bridges; authorizing municipalities to maintain ownership of toll bridges under certain circumstances; establishing permissible uses of tolls collected; and requiring municipalities retaining bridges to provide for their maintenance and inspection.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that
said article be further amended by adding thereto two new sections, designated sections thirty-five and thirty-six, all to read as follows:

ARTICLE 17. TOLL BRIDGES.

§17-17-23. When tolls to cease.

1 Except as otherwise provided in section thirty-five of this article, when the particular bonds issued for any bridge or bridges and the interest thereon shall have been paid, or a sufficient amount shall have been provided for their payment and shall continue to be held for that purpose, and there are no operating or maintenance expenses outstanding, and any advances made from the state road fund toward the construction, operation and maintenance of such bridge or bridges shall have been repaid, the authority operating such bridge or bridges shall cease the collection of tolls for the use thereof:

Provided, That the commissioner may, in his discretion, continue thereafter tolls for a period sufficient to accumulate sufficient funds to pay for major maintenance and repairs foreseeable as being needed on such bridge or bridges in the immediate future: Provided, however, That tolls may be imposed or reimposed on any such bridge or bridges in the manner provided in section twenty-three-b of this article. Thereafter, and as long as the cost of maintaining, repairing and operating such bridge or bridges is being provided for through means other than tolls, no tolls shall be charged for transit thereover and such bridge or bridges shall be free: Provided further, That notwithstanding any other provision of law, if any portion of the cost of construction of a toll bridge is financed, with the aid of federal funds under federal-aid road legislation and the share of the cost of such bridge borne by the state or its subdivisions shall have been repaid from tolls, or a fund sufficient for such repayment shall have been provided or set aside for that purpose, tolls for the use of such bridge shall cease and such bridge shall thereafter be maintained and operated as a free bridge.

§17-17-35. Authorization for municipalities to maintain own-
ership of and continue charging tolls for toll bridges upon the payment of all bonds issued to acquire and construct or refinance the bridge and the interest thereon; permitted use of tolls collected.

1 Any municipality which owns and operates a toll bridge as of the first day of January, one thousand nine hundred ninety-eight, may, at the sole discretion of the municipality, and upon adoption of a resolution to such effect by the council of such municipality and subject to the requirements of section thirty-six of this article, retain ownership of the toll bridge and may establish and retain toll charges for the use thereof after all bonds issued for the acquisition and construction of the bridge, all bonds issued to refinance such bonds and all interest on such bonds have been paid or such payment has been provided for by defeasement or otherwise. All such tolls collected after a municipality determines to maintain ownership of a toll bridge and the bonds issued for the acquisition and construction of such bridge or issued to refinance such bonds and all interest thereon have been paid or such payment has been provided for by defeasement or otherwise, shall be applied first to provide a fund sufficient to pay the cost of maintaining, repairing, operating and demolishing such bridge pursuant to section thirty-six of this article, and thereafter, for any legal purpose of the municipality. Collected tolls remaining after providing for the payment of the cost of maintaining, repairing, operating and demolishing such bridge may be pledged or otherwise encumbered to effectuate any municipal purpose.

§17-17-36. Maintenance of bridges retained by municipalities after repayment of indebtedness thereon; inspections by commissioner; bridge maintenance fund.

1 (a) Prior to a municipality retaining ownership of a bridge pursuant to section thirty-five of this article, the municipality shall notify the commissioner in writing of its intent to do so. Upon receipt of such notice, the com-
missioner shall make an initial inspection of the bridge to
determine what repairs, replacements, improvement and
additions are necessary to place the bridge in a safe and
efficient condition for use of the public, cause an estimate
of the cost of such and shall also provide an estimate of
the amount of funds required annually to maintain the
bridge after completion of initial improvements. The
commissioner shall appoint an engineer to inspect the
bridge and to consult and assist the commissioner in
making findings. The cost of the engineer's service shall
be paid by the municipality.

(b) The municipality shall make the improvements to the
bridge that are determined to be necessary by the commis-
sioner. The commissioner may make periodic inspections
during construction of improvements and at the comple-
tion of any improvement project. The commissioner shall
report on each inspection to the municipality and include
identification of any deficiencies with recommended
action to correct the deficiencies. The municipality shall
reimburse the commissioner for inspections and reports.

(c) The municipality shall establish a separate fund,
designated as the "bridge maintenance fund". Proceeds in
the fund shall be expended for the purpose of improve-
ments and maintenance of the bridge in a safe and effi-
cient condition for use by the public. Upon the initial
inspection of the bridge by the commissioner pursuant to
subsection (a) of this section, the municipality shall
deposit in the fund an amount equal to the estimate of the
commissioner for the costs of the initial improvements to
the bridge made pursuant to subsection (a) of this section.
Upon completion of the initial improvements, the munici-
pality shall maintain an adequate balance of moneys in
the fund sufficient to maintain the bridge annually, as
determined by the commissioner pursuant to subsection
(a) of this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

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 approved... this the... day of... 1997.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/23/97
Time 2:00 PM