WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998

ENROLLED

SENATE BILL NO. 764

(By Senator CRAIGO, et al.)

PASSED March 14, 1998

In Effect 90 Days From Passage
ENROLLED

Senate Bill No. 764

(BY SENATORS CRAIGO, ANDERSON, BAILEY, CHAFIN, HELMICK, JACKSON, LOVE, MACNAUGHTAN, PLYMALE, PREZIOSO, SHARPE, WALKER, BOLEY, DUGAN, MCKENZIE, MINEAR AND SPROUSE)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section thirteen, article sixteen-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to funding of projects of the Hatfield-McCoy regional recreation authority from proceeds of parkways authority's economic development projects and tourism projects; and duty of parkways authority to seek authorization to issue additional revenue bonds.

Be it enacted by the Legislature of West Virginia:

That section thirteen, 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-13. Tolls, rents, fees, charges and revenues; competitive bidding on contracts.

1 (a) (1) The parkways authority is hereby authorized to fix, revise, charge and collect tolls for the use of each parkway project and the different parts or sections thereof, and to fix, revise, charge and collect rents, fees, charges and other revenues, of whatever kind or character, for the use of each economic development project or tourism project, or any part or section thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, telegraph, electric light, power or other utility lines, gas stations, garages, stores, hotels, restaurants and advertising signs, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls, rents, fees and charges shall be so fixed and adjusted in respect of the aggregate of tolls, or in respect of the aggregate rents, fees and charges, from the project or projects in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay: (A) The cost of maintaining, repairing and operating such project or projects; and (B) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls, rents, fees and other charges shall not be subject to supervision or regulation by any other commission, board, bureau, department or agency of the state. The tolls, rents, fees, charges and all other revenues derived from the project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be
provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of: (i) The interest upon such bonds as such interest shall fall due; (ii) the principal of such bonds as the same shall fall due; (iii) the necessary charges of paying agents for paying principal and interest; and (iv) the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. The moneys in the sinking fund, less such reserve as may be provided in such resolution or trust agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable.

(2) (A) In fiscal year one thousand nine hundred ninety-eight, after the parkways authority has met or provided for the satisfaction of each requirement imposed by the provisions of subdivision (1) of this subsection, the parkways authority shall pay two hundred fifty thousand dollars to the Hatfield-McCoy regional recreation authority from any remaining balance of revenues received from economic development projects and tourism projects.

(B) Upon the effective date of this act, the parkways authority shall seek authorization from the federal highway administration, the state department of transportation and the trustee under any trust indenture or agreement existing as the result of the issuance of any revenue bonds under the provisions of this article to issue
additional revenue bonds in a total amount not to exceed
six million dollars for the purpose of funding projects of
the Hatfield-McCoy regional recreation authority. Upon
the agreement of all of such entities that the parkways
authority be authorized to do so, as certified to the
parkways authority, the governor and the joint committee
on government and finance, the parkways authority is
authorized to issue additional revenue bonds in a total
amount not to exceed six million dollars. The proceeds of
the revenue bonds shall be used to fund projects of the
Hatfield-McCoy regional recreation authority. Each
issuance of such revenue bonds and the application of the
proceeds thereof shall be subject to each condition,
restriction or other provision of this article applicable to
the issuance of parkway revenue bonds. In the event the
agreement is not certified as required by this subsection,
and until the same is certified, the parkways authority
shall pay two hundred fifty thousand dollars to the
Hatfield-McCoy regional recreation authority in the fiscal
year ending the thirtieth day of June, two thousand, and
in each fiscal year thereafter, for a total of four consecu-
tive years, for the purpose of funding projects of the
Hatfield-McCoy regional recreation authority. These
amounts shall be paid in quarterly installments from
remaining balances in each such fiscal year of revenues
received from economic development projects and tourism
projects as determined in the manner provided in para-
graph (A) of this subdivision.

(b) The parkways authority shall cause, as soon as it is
legally able to do so, all contracts to which it is a party
and which relate to the operation, maintenance or use of
any restaurant, motel or other lodging facility, truck and
automobile service facility, food vending facility or any
other service facility located along the West Virginia
turnpike, to be renewed on a competitive bid basis. All
contracts relating to any facility or services entered into
by the parkways authority with a private party with
respect to any project constructed after the effective date of this legislation shall be let on a competitive bid basis only. If the parkways authority receives a proposal for the development of a project, such proposal shall be made available to the public in a convenient location in the county wherein the proposed facility may be located. The parkways authority shall publish a notice of the proposal by a Class I legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code. The publication area shall be the county in which the proposed facility would be located. Any citizen may communicate by writing to the parkways authority his or her opposition to or approval to such proposal within a period of time not less than forty-five days from the publication of the notice. No contract for the development of a project may be entered into by the parkways authority until a public hearing is held in the vicinity of the location of the proposed project with at least twenty days' notice of such hearing by a Class I publication pursuant to section two, article three, chapter fifty-nine of this code. The parkways authority shall make written findings of fact prior to rendering a decision on any proposed project. All studies, records, documents and other materials which are considered by the parkways authority in making such findings shall be made available for public inspection at the time of the publication of the notice of public hearing and at a convenient location in the county where the proposed project may be located. The parkways authority shall promulgate rules in accordance with chapter twenty-nine-a of this code for the conduct of any hearing required by this section. Persons attending any such hearing shall be afforded a reasonable opportunity to speak and be heard on the proposed project.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]

Clerk of the Senate

[Signature]

Clerk of the House of Delegates

[Signature]

President of the Senate

[Signature]

Speaker House of Delegates

The within approved this the 8th day of 1998.

[Signature]

Governor