

SB 764

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# 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

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SENATE  
MARCH 13 1998

## 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)

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

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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; competi-  
tive bidding on contracts.**

1 (a) (1) The parkways authority is hereby authorized to  
2 fix, revise, charge and collect tolls for the use of each  
3 parkway project and the different parts or sections  
4 thereof, and to fix, revise, charge and collect rents, fees,  
5 charges and other revenues, of whatever kind or character,  
6 for the use of each economic development project or  
7 tourism project, or any part or section thereof, and to  
8 contract with any person, partnership, association or  
9 corporation desiring the use of any part thereof, including  
10 the right-of-way adjoining the paved portion, for placing  
11 thereon telephone, telegraph, electric light, power or other  
12 utility lines, gas stations, garages, stores, hotels, restau-  
13 rants and advertising signs, or for any other purpose  
14 except for tracks for railroad or railway use, and to fix the  
15 terms, conditions, rents and rates of charges for such use.  
16 Such tolls, rents, fees and charges shall be so fixed and  
17 adjusted in respect of the aggregate of tolls, or in respect  
18 of the aggregate rents, fees and charges, from the project  
19 or projects in connection with which the bonds of any  
20 issue shall have been issued as to provide a fund sufficient  
21 with other revenues, if any, to pay: (A) The cost of main-  
22 taining, repairing and operating such project or projects;  
23 and (B) the principal of and the interest on such bonds as  
24 the same shall become due and payable, and to create  
25 reserves for such purposes. Such tolls, rents, fees and  
26 other charges shall not be subject to supervision or  
27 regulation by any other commission, board, bureau,  
28 department or agency of the state. The tolls, rents, fees,  
29 charges and all other revenues derived from the project or  
30 projects in connection with which the bonds of any issue  
31 shall have been issued, except such part thereof as may be  
32 necessary to pay such cost of maintenance, repair and  
33 operation and to provide such reserves therefor as may be

34 provided for in the resolution authorizing the issuance of  
35 such bonds or in the trust agreement securing the same,  
36 shall be set aside at such regular intervals as may be  
37 provided in such resolution or such trust agreement in a  
38 sinking fund which is hereby pledged to, and charged  
39 with, the payment of: (i) The interest upon such bonds as  
40 such interest shall fall due; (ii) the principal of such bonds  
41 as the same shall fall due; (iii) the necessary charges of  
42 paying agents for paying principal and interest; and (iv)  
43 the redemption price or the purchase price of bonds  
44 retired by call or purchase as therein provided. The use  
45 and disposition of moneys to the credit of such sinking  
46 fund shall be subject to the provisions of the resolution  
47 authorizing the issuance of such bonds or of such trust  
48 agreement. Except as may otherwise be provided in such  
49 resolution or such trust agreement, such sinking fund shall  
50 be a fund for all such bonds without distinction or priority  
51 of one over another. The moneys in the sinking fund, less  
52 such reserve as may be provided in such resolution or trust  
53 agreement, if not used within a reasonable time for the  
54 purchase of bonds for cancellation as above provided,  
55 shall be applied to the redemption of bonds at the redemp-  
56 tion price then applicable.

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

65 (B) Upon the effective date of this act, the parkways  
66 authority shall seek authorization from the federal  
67 highway administration, the state department of transpor-  
68 tation and the trustee under any trust indenture or  
69 agreement existing as the result of the issuance of any  
70 revenue bonds under the provisions of this article to issue

71 additional revenue bonds in a total amount not to exceed  
72 six million dollars for the purpose of funding projects of  
73 the Hatfield-McCoy regional recreation authority. Upon  
74 the agreement of all of such entities that the parkways  
75 authority be authorized to do so, as certified to the  
76 parkways authority, the governor and the joint committee  
77 on government and finance, the parkways authority is  
78 authorized to issue additional revenue bonds in a total  
79 amount not to exceed six million dollars. The proceeds of  
80 the revenue bonds shall be used to fund projects of the  
81 Hatfield-McCoy regional recreation authority. Each  
82 issuance of such revenue bonds and the application of the  
83 proceeds thereof shall be subject to each condition,  
84 restriction or other provision of this article applicable to  
85 the issuance of parkway revenue bonds. In the event the  
86 agreement is not certified as required by this subsection,  
87 and until the same is certified, the parkways authority  
88 shall pay two hundred fifty thousand dollars to the  
89 Hatfield-McCoy regional recreation authority in the fiscal  
90 year ending the thirtieth day of June, two thousand, and  
91 in each fiscal year thereafter, for a total of four consecu-  
92 tive years, for the purpose of funding projects of the  
93 Hatfield-McCoy regional recreation authority. These  
94 amounts shall be paid in quarterly installments from  
95 remaining balances in each such fiscal year of revenues  
96 received from economic development projects and tourism  
97 projects as determined in the manner provided in para-  
98 graph (A) of this subdivision.

99 (b) The parkways authority shall cause, as soon as it is  
100 legally able to do so, all contracts to which it is a party  
101 and which relate to the operation, maintenance or use of  
102 any restaurant, motel or other lodging facility, truck and  
103 automobile service facility, food vending facility or any  
104 other service facility located along the West Virginia  
105 turnpike, to be renewed on a competitive bid basis. All  
106 contracts relating to any facility or services entered into  
107 by the parkways authority with a private party with

108 respect to any project constructed after the effective date  
109 of this legislation shall be let on a competitive bid basis  
110 only. If the parkways authority receives a proposal for the  
111 development of a project, such proposal shall be made  
112 available to the public in a convenient location in the  
113 county wherein the proposed facility may be located. The  
114 parkways authority shall publish a notice of the proposal  
115 by a Class I legal advertisement in accordance with the  
116 provisions of article three, chapter fifty-nine of this code.  
117 The publication area shall be the county in which the  
118 proposed facility would be located. Any citizen may  
119 communicate by writing to the parkways authority his or  
120 her opposition to or approval to such proposal within a  
121 period of time not less than forty-five days from the  
122 publication of the notice. No contract for the development  
123 of a project may be entered into by the parkways author-  
124 ity until a public hearing is held in the vicinity of the  
125 location of the proposed project with at least twenty days'  
126 notice of such hearing by a Class I publication pursuant to  
127 section two, article three, chapter fifty-nine of this code.  
128 The parkways authority shall make written findings of  
129 fact prior to rendering a decision on any proposed project.  
130 All studies, records, documents and other materials which  
131 are considered by the parkways authority in making such  
132 findings shall be made available for public inspection at  
133 the time of the publication of the notice of public hearing  
134 and at a convenient location in the county where the  
135 proposed project may be located. The parkways authority  
136 shall promulgate rules in accordance with chapter twenty-  
137 nine-a of this code for the conduct of any hearing required  
138 by this section. Persons attending any such hearing shall  
139 be afforded a reasonable opportunity to speak and be  
140 heard on the proposed project.

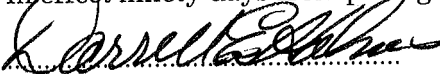
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman Senate Committee

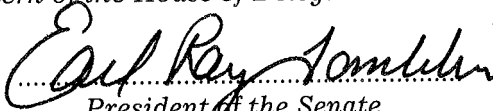
  
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Chairman House Committee

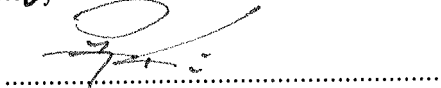
Originated in the Senate.

In effect ninety days from passage.

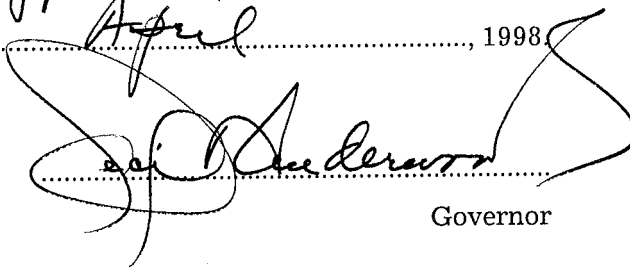
  
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Clerk of the Senate

  
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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 ..... approved ..... this the ..... 8<sup>th</sup> .....  
day of ..... April ..... 1998.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/98

Time 10:58am